

मेनुफेक्चरर उस स्टैंडर्ड के मुताबिक होना चाहिए, वरना सजा मिलेगी। इससे आगे भी जो और नये स्टैंडर्ड बनाए जाएंगे, मेनुफेक्चररज उनके मुताबिक मशीनें तैयार करेंगे।

यह भी कहा गया है कि यूजर और एम्प्लायर पर पाबन्दी क्यों हो। छोटी-छोटी मशीनों को बनाने वाले छोटे नये मेनुफेक्चररज खड़े हो सकते हैं और वगैर लाइसेंस और रजिस्ट्रेशन के मशीनें बना सकते हैं। यह पाबन्दी इसलिए लगाई गई है कि किसान सब-स्टैंडर्ड और सस्ती मशीनों का ईस्तेमाल न करें। इसके लिए पाबन्दी लगाई गई है कि उस मशीन का ईन्सपेक्शन हो सकता है, उसका रजिस्ट्रेशन कराना पड़ेगा, सार्टीफिकेट लेना पड़ेगा, जिस तरह कि मेनुफेक्चरर सार्टीफिकेट देगा कि उसने मशीन स्टैंडर्ड के मुताबिक बनाई है और वह उसकी सेफटी का जिम्मेदार है। यह देखा जायेगा कि मेनुफेक्चरर लाइसेन्स है या नहीं और उसका सार्टीफिकेट ठीक है या नहीं यूजर और एम्प्लायर पर भी कुछ जिम्मेदारी डालनी होगी, ताकि कोई घर बैठकर अपनी मशीन न बना ले, जो कि खतरनाक हो।

श्री डागा ने एक बड़ी समझ की बात कही है कि पार्लियामेंट में बिल के जो कायदे रखे जाते हैं, उनके लिए एक पीरियड होता है। मकसद तो हमारा यही है। लेकिन अगर ड्राफ्टिंग में थोड़ी कमी रह गई है, तो ला मिनिस्टर साहब बैठे हुए हैं, उनके नोटिस में यह बात आ गई है और वह ड्राफ्टिंग की कमी को पूरा कर देंगे। इसमें कोई दिक्कत की बात नहीं है।

मैं उम्मीद करता हूँ कि आनरेबल मैम्बरज के सारे शको-शुवहात दूर हो गए होंगे और अब इस बिल को पास किया जाएगा।

MR. DEPUTY SPEAKER : The question is :

“That the Bill, as amended, be passed.”

The motion was adopted.

19.40 hrs.

DELEGATED LEGISLATION PROVISIONS (AMENDMENT) BILL.

MR. DEPUTY SPEAKER : We go to the next item. We have agreed to pass two very very small bills. So, I seek your co-operation.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI JAGAN NATH KAUSHAL) : I beg to move :

“That the Bill to amend certain Acts to implement the recommendations of the Committees on Subordinate Legislation regarding publication and laying of rules and other delegated legislation, as passed by Rajya Sabha, be taken into consideration.”

Hon. Members are fully aware of the recommendations of the Committees of the Houses on Subordinate Legislation with regard to provisions providing for delegated legislation. A number of Acts passed by parliament in the past which provide for the making of rules, regulations and other forms of subordinate legislation do not comply with these recommendations. Either they do not contain a provision for the laying of such rules, regulations or other forms of subordinate legislation before the Houses of Parliament or they do not expressly provide for the publication of the same or contain provisions for laying on lines which are different from the latest formula on the subject as approved by the Committee on

Subordinate Legislation. The Committee have, from time to time, been deprecating the delay in implementing their recommendations and have been emphasising that the administrative Ministries concerned with different enactments should take necessary steps for amending the same suitably in conformity with their recommendations. In the past, when some Bills for amending individual Acts for implementing the recommendations of the Committees came up for consideration, suggestions were made that it would be better to bring forward a comprehensive legislation covering the various enactments which require similar amendments. The Bill before the House is the result of the efforts made by my Ministry in this direction.

The Bill covers only the 50 enactments specified in the Schedule thereto. Nearly 150 enactments remain to be amended on similar lines. Action is being taken separately for covering these remaining enactments. Efforts are being made by my Ministry to cover the remaining enactments which require similar amendments as expeditiously as possible, and I hope that I will be able to come up with another comprehensive Bill early in the next session.

MR. DEPUTY SPEAKER : Motion moved :

"That the Bill to amend certain Acts to implement the recommendations of the Committees of Subordinate Legislation regarding publication and laying of rules and other delegated legislation, as passed by Rayja Sabha, be taken into Consideration."

Mr. Mohendra Ngangom.

SHRI MOHENDRA NGANGOM (Inner Manipur) : There can be no two opinion about the need of this piece of legislation as the Hon. Minister has put it and it is the result of efforts of the Committee on Subordinate Legislation of which Mr. Daga was the Chairman.

Fortunately enough the doctrine of separation of powers has not been carried too far in our country and quite rightly so, it will be seen from the study of the Constitution that our Constitution provides a full chapter, being Chapter IV which enjoins on the State to secure social, economic and political justice. In other words, a duty is cast by virtue of Chapter IV of our Constitution. In a parliamentary democracy as all of us claim, we are wedded to Parliamentary democracy. So, it is an admitted fact, not an assumption, that there should be effective and productive parliamentary control over delegated legislation which has perhaps not been done in right earnest for over years as given in the introduction to the 19th Report of the Committee on Subordinate Legislation presented on May 10th this year. It reveals that there are a large number of legislations or recommendations. I think, this point has been conceded by the Hon. Minister also. So, we are starting with a big heap of backlog.

Now, it will be pertinent for me to point out that we are in a very fast progressing and advancing society. We are supposed to think of some advance legislation in order to cope with the necessities of an advancing society willy-nilly. So, at a time, when such an exigency is present in our society, we are again burdened with a backlog of so many Acts and legislations.

The Hon. Minister stated that his Ministry will be looking into it. I think, mere looking into will not do. Some sort of incentives should be given to the team. With all respect to experts, I may be allowed to refer to a certain mention by an eminent jurist in a book about the effective control. He says, "If effective controls are not enforced, expert public servants may become masters of people." I think, this eminent jurist must have borrowed this term from another book or writer, because these words are put within inverted commas. It is very apt because this position is vindicated by the report of the Committee on Subordinate Legislation.

It is also understood that recommendations of the Committee on Subordinate

Legislation or any other committee are not mandatory. Nevertheless, they are in most cases complied with and implemented. But here is a case where a lot of recommendations have not been implemented. The Hon. Member, Mr. Mool Chand Daga, laments in his introduction that even in the case of implementation, the Committee is not informed. Perhaps, the people who are supposed to inform feel that it is not obligatory on their part to inform the respective committee. That is the position. I am to hope that this fact shall be looked into in the days to come.

In the Schedule appended to the Bill, one finds that there is a list of 50 Acts. Without going into the details of each of the Acts, I would like to point out the term which has been used in each of the recommendations "shall be laid as soon as may be after it is made." Now, the question is, here is a mandatory term "shall be laid." But the question is, when? It is governed by a non-mandatory, term "as soon as may be after it is made." The question is not that of placing or laying before the House.

The question is when they are going to make. Still a long rope is given to those who are supposed to make those rules; whether it is the Ministry of Law or some other Ministry, that matters very little. If some specified powers are given, that also may become futile in the hands of those who are, if not callous, in the habit of overlooking things.

Nevertheless, I do support this Bill.

Before concluding, I would like to impress upon you that in this fast progressing and advancing society, let us also think of making rather some advanced legislation. It is not a question of merely clearing a big heap of back log.

श्री मूलचन्द डगा (पाली) : उपाध्यक्ष महोदय, एक बात मैं यह कहना चाहता हूँ कि पार्लियामेंट अपनी पावर्स किसी को नहीं देती है।

Parliament never abdicates its powers.

जब एक बिल यहां से पास हो जाता है और उसके अन्तर्गत हम पालिसी फ्रेम करते हैं, तो उसका कम्पलीमेंटेशन रूल्स, बाई-लाज आदि फ्रेम करने का अधिकार हम सबोर्डिनेट आथेरिटीज को देते हैं। उस एक्ट का जो स्कोप है, उसके अन्दर रूल्स और बाई-लाज बनाए जाते हैं। अब हमारा काम यह रहता है कि उन रूल्स और रेगुलेशन्स को कब एग्जामिन करें। आज कितना गलत काम हो रहा है। हमारी पार्लियामेंट की मेज पर हर साल साढ़े तीन हजार कानून उप-नियम, नोटीफिकेशन्स, बाई-लाज रखे जाते हैं और ज्यों ही वे पब्लिश होते हैं, वे कानून बन जाते हैं। किसी को कुछ मालूम नहीं कि कब कानून बन गया। आजकल यह हो रहा है और हमारी पार्लियामेंट इतनी तेजी से काम करती है लेजिसलेशन को पास करने में और मेरे ख्याल में यह सुपर-फास्ट ट्रेन से भी ज्यादा तेज जाती है और इस तरह के लेजिसलेशन का परिणाम क्या होता है। अगर आप किसी पढ़े-लिखे आदमी से पूछें, तो उसको भी मालूम नहीं है कि कानून क्या है, कोई उनके बारे में जानता नहीं है।

Anybody who is sitting in Parliament, can frame law. Law can be passed. But how it will be implemented, nobody knows.

तो यह ला कैसा होगा। इस तरह से सारी पावर्स व्यौरोक्रेसी अपने हाथ में ले लेती है और हमारे राइट्स पर एन्क्रोच करती है हर जगह। यहां तक कि यह एक्सेस पावर्स ले लेती है। अभी ना मिनिस्टर इसका जवाब देंगे।

He will stand and defend. I know he is a competent person. Everybody in this House lays down..... He does not look to the papers read out. What are laid down? Nobody goes into the rules. Papers are laid down. It is the same thing. It is very good!

जो मैसेज हैं, जो गांवों में रहते हैं, अरूणाचल प्रदेश में रहते हैं, उनको कैसे इसके बारे में पता होगा।

Nobody goes into those rules and regulations.

MR. DEPUTY SPEAKER : When you were the Chairman of the Subordinate Legislation Committee, you also submitted reports.

SHRI MOOL CHAND DAGA : I submitted not less than 30 reports and that is because of these reports. They are very good reports.

यह जो कुछ भी बिल आया है, यह उसी का परिणाम है। यह कहने में कोई फायदा नहीं है।

I have examined not less than 100 Secretaries.

मैं किस तरह से किया है, यह मुझे मालूम है, लेकिन हो क्या रहा है। स्टेट्स में कानून बनते हैं। बीस साल के बाद कानून बनते हैं। यह वहां का रिकार्ड है। कानून बनने के बाद जो उसका इम्प्लीमेंटेशन होता है वह भी एक बहुत बड़ी बात होती है। आपका पंचायत एक्ट है उसमें सेक्शन तो मी है लेकिन उसके रूल्स होंगे चार सौ। इतना बड़ा आपका कानून बनेगा।

आपकी पब्लिक अण्डरटेकिंग्स हैं ये कम्पनी ला से गाईड होती हैं। इन्होंने एक एम्पायर खड़ी की हुई है। इन पब्लिक अण्डरटेकिंग्स के बाई लाज, रूल्स, रेगुलेशंस और सर्विस रूल्स अलग हैं। आप एक बैंक मैनेजर का कमरा देखिये। उसमें दो लाख रुपये का फर्नीचर लगा होगा। एक मिनिस्टर के कमरे में इतना फर्नीचर नहीं होगा। वह कहेगा कि ये तो मेरे

बाई-लाज हैं, मैं अपने बाई लाज से ही गाईड होता हूँ।

ये कम्पनियां कम्पनी एक्ट के नीचे काम करती हैं। वे गवर्नमेंट के ट्रस्ट्स हैं, उनमें गवर्नमेंट का इन्वेस्टमेंट हुआ है लेकिन उनके लाज को सबोर्डिनेट लेजिस्लेशन कमेटी नहीं देख सकती। हम उनके रूल्स को एग्जामिन नहीं कर सकते, क्योंकि वे इंडीपेंडेंट हैं। हम कहते हैं कि हमारी दौलत है, हमारा पैसा इसमें लगा है। सारे बैंक रिजर्व बैंक से पैसा लेते हैं लेकिन उनके रूल्स एण्ड, रेगुलेशंस को हम टच नहीं कर सकते। अभी भी इस एक्ट में यह कमी रह गई है। हमको यह जानना चाहिए कि आखिर इनके रूल्स, रेगुलेशंस और बाई लाज जो हैं वे सब हमारे कंसेप्ट के मुताबिक हैं या नहीं।

हमारे रूल्स एण्ड रेगुलेशंस को पहले ड्राफ्ट फार्म में हमारी कमेटी को कंसीडर करना चाहिए। जितने भी रूल्स, रेगुलेशंस और बाई लाज बनें वे लोकल लेंगुएज में पब्लिश होने चाहिए। कोई रूल्स अगर अण्डमान निकोबार आईलैंड के लिए बनते हैं तो वहां की लेंगुएज में भी उन्हें पब्लिश किया जाना चाहिए जिससे कि वहां के लोग समझ सकें। होता यह है कि अब इलेक्ट्रिसिटी कनेक्शन मेरे घर में लग गया है। अब कानून में क्या लिखा हुआ है वह मुझको मालूम नहीं है। इसलिए जो लोग कानूनों से अफेक्ट होते हैं उनसे भी कानून बनाते समय सलाह ली जानी चाहिए और पहले ये कानून ड्राफ्ट फार्म में बनने चाहिए। अगर ड्राफ्ट फार्म में सबोर्डिनेट कमेटी उनको देख ले तो वे रूल्स ज्यादा इफेक्टिव होंगे।

इर्रीगेशन के रूल्स हैं। जो लोग इर्रीगेशन करते हैं उन्हें उन रूल्स के बारे में पता ही नहीं होगा। अब इंजीनियर बांस हजार रुपये

जुर्माना भी कर दे तो देना पड़ेगा। देने वाला जानता ही नहीं कि कानून क्या है।

जो भी रूलस और रेगुलेशंस या बाई लाज बने उन्हें सवोरडिनेट लेजिस्लेशन कमेटी ड्राफ्ट फार्म में स्क्रुटिनाइज करे ताकि यह पता लग सके कि वे एक्ट के मुताबिक बन रहे हैं या नहीं। उसके बाद ही रूलस और रेगुलेशंस इफेक्ट में आएँ।

20.00 hrs.

यह इम्प्लीमेंट कैसे होगा? बिल तो आप लाए लेकिन इम्प्लीमेंटेशन के लिए रूलस दीजिए ताकि हमको मालुम हो कि यह कैसे इम्प्लीमेंट होगा अभी एक बिल में एग्रीकल्चर मिनिस्टर ने जवाब दे दिया कि स्टैंडर्ड की मशीनरी बनेगी। इसके लिए नोटीफिकेशन निकाल दिया था, उसको देख लीजिए। सबने कह दिया कि ठीक है। बड़ा आदमी कभी गलती नहीं करता। या तो भगवान गलती नहीं करता और या यहाँ बैठे हुए मंत्री गलती नहीं करते। इनको कुछ नहीं कहना चाहिए। कहा गया है कि "राजा कभी गलती नहीं करता।"

How this Act is going to be implemented? By what machinery, by what rules and how it will be implemented? The person who will apply his mind to the Bill will look to the rules and the bye-laws. These are rules which will affect, by and large, the people. And so, we must fight it out.

लेकिन ये कहेंगे कि नहीं, यह पासिबल नहीं है। आप जितने भी रूलस बनाते हैं उनका क्या होता है। आज थ्रेशर का एक्ट बन गया। रेडियो पर आ जाएगा कि ऐसा कानून बन गया है। बड़ी तारीफ हो जाएगी। लेकिन

इम्प्लीमेंटेशन कैसे होगा, यह मालूम किसी को नहीं है। 6 महीने रूलस की पब्लिसिटी हो गई और कानून बन गया। कानून गांव में नहीं पहुंचेगा और इन्स्पेक्टर अपना काम शुरू कर देगा। तमिलनाडु में वह कानून लागू हो जाएगा पर वहां के गांवों में नहीं पहुंचेगा। गांव में रहने वाले आदमी के पास कानून नहीं पहुंचेगा लेकिन वह ला बन जाएगा।

As soon as it is published in the Gazette, it becomes a Law.

जो रूलस रेगुलेशन बनते हैं उनका क्या होता है। आप यह कानून लाए, बड़ा अच्छा किया। उसकी तारीफ की गई। लेकिन मैं कहता हूँ कि इसमें कुछ इस प्रकार की बातें और होती तो अच्छा होता।

MR. DEPUTY SPEAKER : You have made very valuable points. Let the Minister reply now.

SHRI SATYASADHAN CHAKRA-BORTY (Calcutta South) : We can take this on Monday.

MR. DEPUTY SPEAKER : On Monday, there are some other Bills.

SHRI SATYASADHAN CHAKRA-BORTY : He is repeating it.

MR. DEPUTY SPEAKER : That is what I am saying. Mr. Daga, you have made that point. He will now reply. You must also give him time to reply.

Why you go on repeating the same point?

SHRI MOOL CHAND DAGA : It is not the same point, Sir. Kindly try

to understand me. (*Interruptions*) Not a single point has been repeated. I will never repeat any point. Please hear. For Heaven's sake, don't say like that. What is happening in these rules and regulations is this. You first delegate your power to the particular officials who will frame certain orders. He will sub-delegate the power to someone else. That should not allowed. Take for instance a Controller. He will frame certain rules. He is nobody to frame the rules.

वे जो आपके रूल्स बनते हैं, उसमें आफिसर्स को आप पावर्स दे देते हैं।

MR. DEPUTY SPEAKER : Let him now reply. Mr. Daga, You go on repeat same point.

SHRI MOOL CHAND DAGA : No, Sir. I have said that they should not be given any further delegation.

MR. DEPUTY SPEAKER : Mr. Daga, you will allow the Minister to reply. Now the Minister.

SHRI JAGAN NATH KAUSHAL : Sir, this Bill is of a totally non-controversial nature and with all humility and respect I would say that the number of points which are being made by the Hon. Members do not arise out of the present legislation. The legislation which I have brought forward concerns that wherever no provision is made in any Act for laying rules and regulations on the floor of the legislature, it should be provided in each and every Act. Well, we have bowed down to the very valuable suggestion of the Committee on Subordinate Legislation. The Committee had said that all administrative Ministries should see that in every Act which they are administering there should be a provision for publication of the rules and there should be a provision for laying them on the floor of the legislature for a particular number of days. Each Ministry then was trying to bring forward a legislation but Hon. Members asked as to why you are bringing these legislations everytime. Why not bring then in a comprehensive legislation. We accepted it and that job has

fallen to the lot of my Ministry although in fact, it is the job of each administrative Ministry to come forward with that amended legislation.

Now, Sir, I have done a good job. I have consolidated fifty Acts and I have said in my opening speech that 150 Acts still remain and I will try to bring forward the same type of legislation in the next Session of Parliament so that all the Acts are covered by this provision.

Now, Sir, Mr. Daga has said that the rules should be first published in a draft form. Then he says that there should be no power of delegated legislation because, he says, that power is exercised by the bureaucrats and then when they begin to exercise the power they further sub-delegate the power. Sir, these are matters of general importance. These are matters which do warrant consideration but with utmost respect, I will repeat that they do not arise out of the present legislation.

I thought, the Members would only say, "Well, Law Minister whatever you have done we are thankful to you. Please do the rest of the job." And I thought that this Bill, without any controversy, will go through. But still I am thankful to the Hon. Members for giving the suggestions. As I have said we keep all the suggestions which the Hon. Members give in mind and we try to act upto them.

Sir, about the suggestion that so much of legislation is taking place, so many rules are being framed and so many rules and regulations are being framed that nobody knows what is happening. Sir, I cannot help anybody.

There is a presumption in law that everybody is supposed to know the law. If you take away this presumption then there will be complete chaos. No machinery has been provided for telling a particular law to all people who are affected by that law. There is no such machinery in any civilised world. The only way is to publish it in the official gazette and lay it on the Table of the House.

Sir, my learned friend is right in saying that Parliament should have control over all delegated legislation. This Bill is a step in that direction because wherever such provision was not made we have made the provision. Therefore, I would, with all humility, say that there is no controversy regarding this Bill and the Hon. Members should pass this Bill. I commend it for consideration.

SHRI SATYASADHAN CHAKRABORTY : Sir, I agree with Mr. Daga that delegated legislation is necessary but unchecked and beyond the scrutiny of Parliament then it gives birth to bureaucratic despotism.

SHRI JAGAN NATH KAUSHAL : But once we lay these rules and regulations on the floor of Parliament...

Then, does not the power of Parliament come in ? Parliament examines them and if Parliament makes amendments, then the rules come into force in that amended form. But if Parliament does not either amend the rules or does not abrogate the rules, then the rules become the law. Now, what is the other way ? The other way suggested by Mr. Daga is that the rules must also be framed along with the main Act. Well that probably is expecting too much from the Legislatures. All types of situations cannot be conceived while passing the main Act. So, delegation is necessary. If there is further delegation, the Court strikes down that legislation by saying that this particular rule or this particular law suffers from excessive delegation, then excessive delegation is not permitted by the Courts. But so far as the delegated legislation is concerned which is within the framework of the Act itself, the rules and regulations are within the scope of the delegated legislation.

MR. DEPUTY SPEAKER : The question is :

“That the Bill to amend certain Acts of implement the recommendations of the Committees on Subordinate Legislation regarding publication and laying of rules and other delegated legislation, as passed by

Rajya Sabha, be taken into consideration.”

The motion was adopted.

MR. DEPUTY SPEAKER : Now, we will take up clause by clause consideration of the Bill.

There are no amendments to clause 2. The question is :

“That Clause 2 and the Schedule stand part of the Bill.

The motion was adopted.

Clause 2 and the Schedule were added to the Bill.

MR. DEPUTY SPEAKER : The question is :

“Clause 1, the Enacting Formula and the Title stand part of the Bill.”

The motion was adopted.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI JAGAN NATH KAUSHAL : I move :

“That the Bill be passed”.

MR. DEPUTY SPEAKER : The question is :

“That the Bill be passed”.

The motion was adopted