

[Shri H. N. Bahuguna]

be created are proposed to be awarded to persons belonging to Scheduled Castes/Scheduled Tribes.

The places where such agencies are now proposed to be given to persons belonging to Scheduled Castes/Scheduled Tribes are Bangalore, Betul or Balaghat, Greater Bombay (2), Baroda, Calcutta, Chandigarh, Cuddapah or Anantpur, Delhi, Gauhati, Jaipur, Kanpur, Khanpur or Udipl, Madras, Mahad, Moradabad, Mysore, Nagpur, Nanded, Patna, Pune (2), Raigarh and Surat.

I would solicit the cooperation of the Hon'ble Members in achieving our objective of deconcentration of ownership.

15.56 hrs.

#### STATEMENT RE. POLICY ON SICK INDUSTRIES

THE MINISTER OF INDUSTRY (SHRI GEORGE FERNANDES): If you permit me, I may lay the statement on the Table of the House.

MR. DEPUTY SPEAKER: Yes.

THE MINISTER OF INDUSTRY (SHRI GEORGE FERNANDES): I beg to lay the statement on the Table of the House.

#### Statement

The phenomenon of industrial sickness, both in large and small scale industry, has become increasingly common in the last few years. While such sickness in industry may arise on account of diverse reasons, the common effects of such sickness are hardship and unemployment to the labour engaged in the industrial unit and waste of national resources. It is, therefore, considered essential not only to devise suitable means for dealing effectively with sick industrial undertakings but also to set up

suitable arrangements for monitoring and detecting industrial sickness at an early stage.

2. The Management of an industrial undertaking should normally be expected to be primarily responsible for sound and honest management of the undertaking and for prevention of sickness. Where managements are either unwilling or unable to perform their role, the financial institutions and the Government have to intervene to fulfil their larger social responsibility of ensuring efficient use of national resources. Industrial sickness, arises not only from factors outside the control of the management but also owing to grossly incompetent or dishonest management; and the treatment of industrial sickness, therefore, will have to take into account the nature of the sickness as well as the causes thereof.

3. It is also to be recognised that the revival of a sick industrial undertaking cannot be the responsibility of any single agency, and that it can be achieved effectively only by an appropriate sharing of the burden and responsibility by all concerned including the Central Government, the State Governments, the labour, financial institutions, banks, management and the shareholders.

4. Government's policy towards the prevention and treatment of industrial sickness will be guided by the following considerations:—

(1) On the preventive side, it is considered that closer and more vigilant involvement of the financial institutions in the units with management of doubtful competence or integrity will be essential. Financial institutions will jointly set up a group of professional directors who will be full time employees of the institutions and who could be nominated on the Board of Directors of companies with doubtful management and in which the institutions have a substantial stake. These directors will report to

the institutions on the measures that should be taken to prevent sickness. If any such director comes across features of a company's operation which gives cause to suspect malpractice or gross incompetence, he would report to the financial institutions for further investigation. The concerned institution will then report the matter to an inter-institutional group under the Chairmanship of Industrial Development Bank of India. If this group comes to the conclusion that the management has acted in a patently incompetent manner or has indulged in malpractice, all the institutions and the commercial banks should take a decision that this unit or any other unit under the same management will not be extended financial assistance until the management is changed.

(2) In the case of industrial units that are already sick the following options will first be explored before the question of take over of management under the Industries (Development and Regulation) Act, is considered:

(a) Rehabilitation through State Governments and financial institutions who would provide both financial and managerial support with suitable restructuring of management wherever necessary. In cases where co-ordinated action is necessary for the revival of the unit outside the framework of the Industries (Development and Regulation) Act, the concerned administrative Ministry will take the initiative to co-ordinate the arrangements.

(b) Proposals, if any, for the merger of the sick unit with a healthy unit in the private sector will be examined by the Specified Authority under the Income Tax Act, 1967 with reference to the guidelines on the subject.

(3) It is only where neither of the above two alternative courses of action is feasible or desirable that action under the Industries (Development and Regulation) Act will be considered.

(4) In order to examine all the alternative courses of action open and to decide on the most suitable measures that could be taken it is proposed to set up a Screening Committee under the Chairmanship of Secretary (Industrial Development) with representatives of the Finance Ministry, Reserve Bank of India, Financial Institutions and the administrative Ministry relating to the sick undertaking.

(5) In considering the possibility of take over of management under the Industries (Development and Regulation) Act the Screening Committee will take into account the following factors:

- (i) further capital investment required in relation to the number of persons employed in the unit;
- (ii) the investment required for the rehabilitation of the sick unit in relation to the cost of putting up a new plant with the same capacity.
- (iii) the possibility of the undertaking becoming commercially viable in the foreseeable future. "Viability" would be judged after taking into account the likely contribution to be made by labour, State Governments and financial institutions for meeting past liabilities and for viable operation of the unit after take-over;
- (iv) the co-operation of the State Governments, labour, management, shareholders and financial institutions would also be a relevant factor.

(6) It will be the clear understanding that where the management of a

[Shri George Fernandes]

sick undertaking is taken over under the Industries (Development and Regulation) Act, the unit will not be handed back to the same management.

(7) Subject to the above consideration the Screening Committee may recommend initial take-over of management and the subsequent course of action in the following types of cases:—

- (i) Where a unit employs more than 500 persons and has fixed assets of not less than Rs. 1 crore;
- (ii) Where financial institutions, particularly the Industrial Reconstruction Corporation of India Limited or State Governments recommend to the Government that a unit should be taken over and that the financial institutions or the State Government concerned would take the full responsibility for providing the necessary management and finances to the concerned unit; and
- (iii) In exceptional cases where the take-over of the unit is considered necessary in the national interest.

The take-over of management would normally be limited to a maximum period of three years within which the further course of action will be decided upon and implemented.

8. After take-over of management under the Industries (Development and Regulation) Act, the following options will be open:

- (i) Under the provisions of the Industries (Development and Regulation) Act, the industrial unit could be sold as a running concern.
- (ii) A reconstruction of the undertaking could also be done under the provisions of the Industries

(Development and Regulation) Act. Such reconstruction would include restructuring the capital by writing down the share value, conversion of loans to equity, acquisition of shares by Government, constitution of new Board of Directors etc.

(iii) The merger of unit with a public sector undertaking could also be considered.

(iv) Nationalisation of the undertaking would also be considered in appropriate cases.

9. The Department of Industrial Development will set up a separate cell to process applications for take-over of management under the Industries (Development and Regulation) Act for monitoring action after take-over of management and for preparing reviews for the Screening Committee.

10. Sick units in the small scale sector will be given special attention. State Finance Corporations and commercial banks will be asked to devise a scheme for rehabilitation of sick industries in the small scale sector and assistance given by them for the revival of such units will be eligible for refinancing by the Industrial Reconstruction Corporation of India Limited or the Industrial Development Bank of India at a concessional rate of interest.

11. Government and other purchasers of the Products of small scale industry will be directed to settle dues of small scale units on priority basis and commercial banks will be asked to ensure that credit given to large scale units for working capital is applied first towards meeting dues of small scale suppliers.

12. In order to protect the investment of technical entrepreneurs in cases where small scale units promoted by them are forced to close down for reasons beyond the control of the entrepreneur, the possibility of evolving a suitable scheme of risk insurance

for safeguarding the interest of the entrepreneur will be examined.

13. We hope that the implementation of the above policy will not only help the orderly revival of the sick units both in the large and small scale sector but also protect employment and the investment of public resources in these undertakings. The success of the Policy will naturally depend on the co-operation that we get from the State Government, the labour, the financial institutions and others. It is also our hope that with their help the incidence of sickness in industry can be reduced and dishonest management suitably dealt with under this policy.

14. I seek the support of all sections of this House for this policy.

SHRI JYOTIRMOY BOSU (Diamond Harbour): I made a request...

SHRI GEORGE FERNANDES: I told you, Mr. Jyotirmoy Bosu, that we will look into the matter of Bata Shoe Company.

SHRI VAYALAR RAVI (Chirayinkil): I also told him about the taking over of Mahuva....

SHRI GEORGE FERNANDES: We will examine that also.

MR. DEPUTY SPEAKER: Shri Shanti Bhushan

SHRI JYOTIRMOY BOSU: When will you look into that.

SHRI GEORGE FERNANDES: We will look into that immediately.

15.57 hrs.

#### CONSTITUTION (FORTY-FIFTH AMENDMENT) BILL\*

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI SHANTI BHUSHAN): I beg to move

for leave to introduce a Bill further to amend the Constitution of India.

MR. DEPUTY-SPEAKER: Motion moved:

"That leave be granted to introduce a Bill further to amend the Constitution of India".

PROF. P. G. MAVALANKAR rose

MR. DEPUTY SPEAKER: Yes, you wanted to oppose.

PROF. P. G. MAVALANKAR: I wrote to the Speaker about Shri Fernandes's statement when he made a policy statement. I would like him to go into the case of Ahmedabad Lakshmi Cotton Mill which is closed for the last nearly one year and another mill Krishan Kumar Mill at Mahuva. It is lying sick for so many years.

MR. DEPUTY-SPEAKER: Are you now going to oppose Mr. Shanti Bhushan's Bill which is sought to be introduced?

PROF. P. G. MAVALANKAR: Yes, Sir.

MR. DEPUTY-SPEAKER: You go back to something else.

PROF. P. G. MAVALANKAR: Mr. Deputy Speaker, Sir, I rise to oppose the introduction of this Bill, because I consider this as my duty to do so. It is because, Sir, my conscience tells me that one part of this provision of this Constitution (Forty-Fifth) Amendment Bill is so wrong in principle and so obnoxious in practice that although the other parts of the Bill are extremely good and I welcome them warmly—I must take this opportunity, Sir, of rising and opposing the Bill which my esteemed friend the Law Minister has brought forward.

My basic objection is this. Since the Constitution (Forty-second) Amendment Bill is so notorious and

\*Published in Gazette of India Extraordinary Part II, section 2, dated 15-5-1978.