

जा सकती है। एक ही निवेदन है कि जो सरकारी कामकाज है, लेजिस्लेटिव काम है उसकी ओर भी अगर सदन ध्यान देता रहे तो अच्छा है।

उपसभाध्यक्ष (श्री टी.एन.चतुर्वेदी): हम उसी पर जा रहे हैं।

GOVERNMENT BILL

The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Bill, 2002

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND FAMILY WELFARE (SHRI A. RAJA): Sir, I beg to move for leave to introduce a Bill further to amend the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1964.

The question was put and the motion was adopted

SHRI A. RAJA : Sir. I introduce the Bill.

The Prevention of Money Laundering Bill, 1999 (Contd.)

THE VICE-CHAIRMAN (SHRI T.N. CHATURVEDI): Now, we resume the discussion on the Prevention of Money Laundering Bill, 1999.

श्री श्याम लाल (उत्तर प्रदेश): माननीय उपसभाध्यक्ष महोदय, मनी लांडरिंग बिल पर कल मैंने अपने कुछ विचार रखे और कुछ विचार आज रखने शेष हैं।

मान्यवर, इस मनी लांडरिंग बिल का सीधा- साधा अर्थ धन शोधन अथवा धोने से है। हम कपड़ों को धुलाई करने के लिए देते हैं तो कपड़ों की लान्द्री में देते हैं। इसका सीधा-साधा अर्थ गंदगी को साफ़ करना है।

मान्यवर, विधि व्यवस्था के विपरीत आचरण करके धन कमाने की जो प्रक्रिया है उसको अपराधिक प्रवृत्ति से धन कमाना कहते हैं। आज हम देख रहे हैं इसके कई स्वरूप हैं। तरह तरह की विभिन्न व्यवस्थाएं हैं जिनके माध्यम से धन संग्रहीत किया जाता है और उस धन को सही धन के रूप में परिवर्तित करने की जो व्यवस्था है, उस पर प्रतिबंध लगाने के लिए यह बिल लाया गया है।

मान्यवर, इस बात की पुष्टि इससे होती है कि 23 साल पहले पूरे विश्व कि लोगों ने जो विचार रखे, जो सोचा- समझा उनके लिए पेरिस में एक बैठक की। यह बैठक 14 जुलाई से लेकर 16 जुलाई, 1989 तक चली। 40 बिंदुओं की उसमें सिफ़ारिश की गयी और मेरे ख्याल से इसके बाद इसी संदर्भ में संयुक्त राष्ट्र महासंघ के 17वें अधिवेशन में 23.12.90 को एक संकल्प एस 17/2 लिया गया और यह 8 से 10 जून, 1990 के दौरान की बैठक में स्वीकार किया गया।

मान्यवर, हमारे देश में जब इसकी आवश्यकता महसूस हुई तो लोक सभा में 1999 में यह विधेयक प्रस्तुत किया गया और राज्य सभा में जब प्रस्तुत किया गया तो यह प्रवर समिति को सौंप दिया गया। इसमें 10 सदस्यों की कमेटी बनायी गयी। इसकी पहली बैठक 23.12.99 को हुई, दूसरी बैठक 24.1.2000 को हुई। कुल मिलाकर 6 बैठक हुई। वहां इसका जो प्रारूप स्वीकार किया गया वह हमारे सामने है।

मान्यवर, इसमें कुछ प्रावधान किए गए हैं। इस प्रारूप के खंड 3 में धन शोधन का अपराध जिसकी सीमा में आता है उसका कुछ विवरण दिया गया है। “क” में यह दिखलाया गया है – किसी आगम को अर्जित करना, स्वामित्व रखना, अंतरण करना, “ख” में दिखलाया गया है- जानबूझकर अपराध द्वारा धनार्जन करना, “ग” में दिखाया गया है- अपराध से आगमों को छिपाना।

अब इसमें मैं यह कहना चाह रहा हूँ कि हमारे यहां धन दोहन की कई प्रक्रियाएं हैं। हम अपने देश के अंतर्गत जो व्यवस्था करते हैं उसमें गलत ढंग से धन कमाने में पहले से डकैती और लूट चली आ रही है। अब यहां पर एक नया रूप फ़िरौती ने से लिया है। दूसरा एक स्वरूप है किडनैपिंग करना। ये सारी चीजें आती हैं जैसे हमारे देश की रत्नजडित मूर्तियां हैं उनकी तस्करी हुई। यहां के हमारे वन्य जीव, जिसमें हिरन आते हैं, सांप आते हैं, ऐसे-ऐसे जीवों की हत्या करके उनके बेशकीमती चमड़ों को बेचा गया। इसके अलावा मान्यवर, हमको थोड़ा सा ख्याल है कि यहां से कछुए और मेंढक तक विदेश में तस्करी के माध्यम से भेजे गए। इसके अलावा मान्यवर, हमको थोड़ा सा ख्याल है कि यहां से कछुए और मेंढक तक विदेश में तस्करी के माध्यम से भेजे गए। इसके अलावा नशीली दवाएं, जैसे पोस्त है, अफ़ीम है और अफ़ीम का रूप आगे बढ़ कर हेरोइन तक चला जाता है, तो हेरोइन तक की तस्करी इस देश से हुई। इतना ही नहीं, इसके अलावा बहुत सी बेशकीमती चीजें, जैसे सिल्क है, ऐसी बहुत सारी चीजों की तस्करी भी हो रही हैं। यही नहीं, यहां से मजदूरी की तस्करी हुई, बाल श्रमिकों की तस्करी हुई, हमारे यहां से युवतियों तक की तस्करी हुई, जो किसी से छिपा नहीं है। इसके लिए इस देश में तरह- तरह के धंधे और हथकंडे अपनाए गए हैं और वे करने वाले कौन हैं, मैं यह कहना चाहूंगा कि चोरी और आपराधिक प्रवृत्ति से जो धन दोहन करके पहले इस देश में छिपाया जाता था आज वह विदेशों में छिपाया जाता है। आपके पास ऐसा कोई कानून नहीं है जिसके माध्यम से जो स्विटजरलैंड के बैंकों में पैसा जमा है उसकी सरकार जानकारी कर सके। ऐसी कोई व्यवस्था नहीं है कि हमारा भारतीय रिजर्व बैंक उस पर कोई काबू पा सके। अब यह जो विधेयक लाया गया है इसके अंतर्गत यदि यह सारी व्यवस्था है कि इस देश में जो घटनाएं घट रही हैं, आपराधिक प्रवृत्ति से धन कमाने का जो धंधा यहां चालू है, फ़र्टी नोटों को बाजार में संचालित करना, बैंकों के माध्यम से उनकी सही नोटों में परिवर्तित करा लेना, मुद्रा –स्फीति को बढ़ाना, ये तमाम धंधे हैं जिन्होंने देश की आर्थिक स्थिति को डावांड़ोल कर दिया है, अस्थिर कर दिया है, तो निश्चित तौर पर इस विधेयक को कड़ाई से लागू करने की आवश्यकता है। मान्यवर, मैं यह कहना चाहूंगा कि जो तथाकथित तस्कर हैं, तथाकथित माफ़िया हैं और तथाकथित ऐसे लोग हैं जो विदेशों में आपार सम्पत्ति जमा किए हुए हैं, उनको भी इसके दायरे में लाने की आवश्यकता है और कानून बनाने की आवश्यकता है। अब विदेशों में जिनको पैसा है या तो वे स्वेच्छा से उसकी जानकारी भारत सरकार को दे दें या भारतीय रिजर्व बैंक को उसकी सूचना दे दें और अगर ऐसी

कोई व्यवस्था नहीं है तो इसके लिए कानून बनाने की जरूरत है ताकि विदेशों में जो पैसा जमा है वह हमारे देश में आए और भारत को हम कर्ज मुक्त कर सकें। आज इस कड़ाई की बहुत आवश्यकता है और देश इसके लिए व्याकुल है। इस समय हमारे देश की इतनी सम्पत्ति विदेशों में जमा है और हमारा देश कर्जाई हो रहा है। ये सारी चीजें हैं।

उपसभाध्यक्ष (श्री टी.एन. चतुर्वेदी): श्यामलाल जी, मुझे आपको याद दिलाना है कि कुल 35 मिनट का समय है, इसलिए आप समाप्त करें, क्योंकि आपके यहां से आपकी पार्टी के दो लोग और बोलेंगे।

श्री श्यामलाल : ठीक हैं, मैं कन्क्लूड कर रहा हूँ। मान्यवर, इस विधेयक के चौथे खंड में धन शोधन के लिए दंड की प्रक्रिया है जिसमें 5 लाख रुपये तक जुर्माना और कम से कम तीन वर्ष से सात वर्ष तक के कारावास की सजा है। धन शोधन के अपराध हेतु कुर्की व नीलामी की भी व्यवस्था है। इस विधेयक के माध्यम से यह व्यवस्था भी की गई है कि निदेशक के स्तर से सहायक निदेशक के स्तर तक के अधिकारी इसमें होंगे। न्यायिक अधिकारी भी इसमें होंगे। तीन सदस्यों की समिति होगी। यह जो तीन सदस्यीय समिति होगी इसमें सीमा शुल्क और केन्द्रीय उत्पाद शुल्क सेवाओं का एक सदस्य होगा जो संयुक्त सचिव स्तर से नीचे का नहीं होगा। दूसरा सदस्य ऐसा होगा जो भारतीय लेखा परीक्षक और लेखा सेवा में सदस्य के रूप में रहा हो और जिसने तीन वर्ष तक संयुक्त सचिव स्तर तक काम किया हो। तीसरा सदस्य चार्टर्ड एकाउंटेंट होगा जिसे दस साल का अनुभव होगा। कल हमारे साथी ने चिंता व्यक्त की थी कि उसके न्याय के लिए कौन सी व्यवस्था होगी। महोदय, न्याय दिलाने के लिए यह जो समिति बनेगी, मेरे ख्याल से यह सही निर्णय ले सकेगी और ऐसी आपराधिक प्रवृत्ति में संलग्न लोगों के विरुद्ध दण्डात्मक प्रक्रिया अपनाई जा सकेगी। साथ ही देश में बढ़ते हुए अपराध जिस ने देश को गरीबी की खाई में धकेल दिया है और कर्ज की गुलामी में जकड़ दिया है, उस पर अंकुश लगाने में यह विधेयक सक्षम होगा। इन्हीं शब्दों के साथ मैं इस विधेयक का समर्थन करता हूँ।

THE VICE-CHAIRMAN (SHRI T.N. CHATURVEDI): Shri. C. Ramachandraiah. Mr. Ramachandraiah, you have 13 minutes.

SHRI C. RAMACHANDRAIAH (Andhra Pradesh): Sir, I will abide by the time-limit. Mr. Vice-Chairman, Sir, I am happy that this august House is discussing the Prevention of Money-Laundering Bill. In a way, by passing this legislation, the Government is fulfilling its obligation to wipe out corruption, in all its forms. At the same time, it is also fulfilling international obligation that our country holds. It will help the world community. Sir, this menace has assumed gigantic proportions, all over the world, and, much more so, in developing countries like India. It will be no exaggeration to say that if only the Third World countries had overcome corruption and dishonesty, these countries would have automatically graduated to the most developed countries of the world. If at all there is any reason why most of the developing countries are not able to take full advantage of its human and physical resources, in my opinion, it is the corruption, dishonesty and

nothing else, India itself has been one of the biggest victims of these evils. It is estimated that, in India, the circulation of black money is more or less equal to the circulation of white money. Virtually, a parallel economy is prevailing. In spite of the efforts that were initiated by the Government of India during the past five decades, after achieving Independence, we have not been able to effectively deal with the menace of black money. Globally also, I believe that slush-money generated by those engaged in illicit trafficking in narcotic drugs, psychotropic substances, trafficking in women, arms and other dangerous weaponry is of substantial quantity. And, so much so, that the working paper of the IMF has termed this as a 'Gross Criminal Product' and estimated it to be of the order of \$ 590 billions to \$1.5 trillions. I think, it works out to 2-3 per cent of the world GDP. It goes without saying that this money which is called the crime money, would go on multiplying thereby producing tremendous cascading effect on many other areas like terrorism, smuggling, hawala operations, mafia gangsterism, etc. Unless this menace, which has assumed global proportions, is adequately combated, it may pose a serious threat not only to financial systems of the developed countries, but also to their integrity, sovereignty, the very morale fabric and value systems of the nations themselves. At the international level, many efforts have been initiated to combat this menace. Some time in 1989, the G-7 countries, the most developed countries of the world, constituted a Committee after the Financial Action Task Force on Money Laundering, which went through its ill-effects, and made 40 recommendations. Sir, in this direction, progress, to a certain extent, has certainly been made, particularly, in those countries which have introduced anti-money laundering measures. But, the problem has, by no means, been - I can say -- resolved. The facilities and the methods used by the launderers are changing all the time. Their ingenuity is such that they are trying to overcome whatever legislation is made to prevent it in various countries. They are trying to circumvent the preventive measures that are put in place. So, Instead of Introducing the illegally obtained cash into the country's financial system, they move to other countries where no questions are on asked its source or origin,

Sir, it is in this sense that there is an urgency of passing this Bill and to bring about a comprehensive legislation like this that would effectively combat crime and the crime money. The Lok Sabha has already passed this Bill, The Rajya Sabha had referred the matter to the Select Committee, under your able leadership. The Committee has gone through various provisions and has made very good recommendations, most of which have

been incorporated in the revised Bill. The TDP has supported this Bill in the Lok Sabha, and we do so here also. The modifications suggested by the Select Committee to clauses three and four are most welcome, and they will prevent harassment of innocent people. If I am right, the Select Committee has also recommended the exclusion of economic offence and falsification of accounts from the purview of the proposed Bill, as these offences are adequately dealt in the IPC and other Acts. Sir, the offences that have been covered in the Bill have already been covered in various other Acts, such as Prevention of Corruption Act, Prevention of Trafficking in Women, and Prevention of Illegal Arms, etc. So many Acts are there. But the menace, as I have said, has gained such a gigantic proportion that it separately needs a very stringent law.

Sir, the revised definition of the money-laundering is, and I quote. "whosoever directly or indirectly attempts to indulge or knowingly assist or knowingly is party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money-laundering." Thus the addition of the word "knowingly" in the definition of money-laundering is meant to prevent harassment of innocent persons who are *bona fide* and unknowingly dealing with persons who have committed the offence of money-laundering, and enter into transactions with them.

Sir, yesterday, one of the speakers was saying that even the word "unknowingly" has also been added. That is not the case here. The word "unknowingly" has been removed from here.

Sir, the scheduled offence, as per the 'recommendations of the Select Committee, are :

the offences specified under Part A of the Schedule or

the offences specified under Part B of the Schedule, if the total value involved in such offences is Rs. 30 lakhs or more.

Sir, in this connection, I would say that Rs. 30 lakh is a very meagre amount. I think, it should have been increased.

The Bill provides for the attachment and seizure of the properties, confiscation of criminally acquired properties and also punishment by way of imprisonment. Based on the facts available, the officer who has been appointed as in-charge for the implementation of this Bill has also the

authority to deal with any offence as cognizable and consequently treat the same as non-bailable. And officers have been given varied and wide powers — as they are vested with powers as per the provisions of various other Acts — such as search and seizure, arrest, detain, attach properties, etc., etc.

Sir, it goes without saying that the country definitely needs a law for effectively combating the money-laundering activity. Otherwise, there is a serious threat to the political and social fabric of the country. Sir, I have got my own apprehensions with regard to this Bill. The enactment is all right, but the defect lies in preventing its misuse. We have a living example of the POTA, When the POTA enactment was being debated in the House, there too I had advised to the Government to have some inbuilt checks so that it is not * misutilised. I had cautioned that the Government should continuously monitor how the law was being administered so that corrective steps, if found necessary, even in the form of amendment to the Act could be brought about.

Sir, this Bill speaks about the public servants. Even the politicians and elected people are called as public servants. Some of the offences that have been covered under the new Bill talks of public servants taking gratification other than legal remuneration is an offence. Of course, it should be an offence. Taking gratification by corrupt or illegal means to influence public servants should be considered as an offence. Taking gratification for access to personal influence with public servants should also be considered as an offence. But abetment by a public servant as defined in Section 7, 8 and 9 is also considered as an offence. In this connection I give you a practical example. We, the elected representatives of the people, will write to so many officers saying that such and such person has got a grievance; kindly use your good offices and see that justice is done to him or his work is done. But, Sir, we cannot vouchsafe the character of millions of persons who approach us for getting their work done. There is a perception in the country that unless a politician intervenes, nothing can be done. So, even for the things which can be done in an orderly manner, the politicians are being made to intervene. That is the system which has been developed. Everybody has to accept it. In such a scenario, if I write a letter that so and so is coming, he has got this problem, kindly attend to his work or do justice, there will be a problem, Sir, the person who is coming, might have received some gratification. He might be getting the favour from the officer, whom I am writing this letter. I think this kind of abetment is

1.00 P.M.

covered in this Bill. There are a number of examples, but I gave you only one example. It is not only the elected people, but so many other people like the Government servants, who are classified as public servants. Today the Government can assure that we will take all measures not to misuse, but I would ask what happened to Mr. Vaiko's case recently? The Government itself is feeling sorry.

SHRI N. JOTHI (Tamil Nadu): Mr. Vaiko has offended the provisions of the POTA; and that is why he was arrested,

THE VICE-CHAIRMAN (SHRI T.N. CHATURVEDI): This is his view.

SHRI C. RAMACHANDRAIAH: Sir, I am quoting a case. I am not criticising you. I am giving a living example to show how the persons who are responsible for the enactment of the law, they themselves are misusing it. *(interruptions)*

SHRI N. JOTHI: It was never misused. It was used for the purpose for which the Act was made, *(interruptions)*

THE VICE-CHAIRMAN (SHRI T.N. CHATURVEDI): Kindly don't enter into an argument, Mr. Chandraiah, kindly sum up and finish.

SHRI C. RAMACHANDRAIAH: Sir, I am not criticising or justifying the actions of the administration in Tamil Nadu. I am just trying to bring to the notice of the Government that there is every possibility of its misuse. Kindly try to provide some internal checks so that such things are not repeated. Stringent provisions have been made under this enactment. A person can be arrested or his property can be confiscated on a mere premise that the property has been acquired out of 'money laundering'. Just on a mere suspicion! What is the recourse he has got? 'He has to go to the Tribunal. Until such time, he should languish in the jail, He cannot go to the court directly. He has to prefer an appeal against the order of the Tribunal to the High Court. Till such time, he will be languishing in the jail. This is the dangerous thing that has been provided. And, the onus lies on the accused to prove his innocence! The onus lies, not on the prosecution, but on the accused. If you entrust it to a small officer, whose behaviour can be easily predicted, who can be very easily influenced by political considerations..... *(Interruptions)*.

SHRI JANARDHANA POOJARY (Karnataka): It is another form of POTA. The burden is on the accused.

[25 July, 2002]

RAJYA SABHA

SHRI C. RAMACHANDRAIAH: But I should support this Bill. Sir. This Bill is needed. But. at the same time, the Government should introduce such provisions as would ensure that the Bill cannot be misused.

Re. Agitation by Fishermen for Implementation of Murari Committee Report

SHRI OSCAR FERNANDES (Karnataka): Sir. before you adjourn the House for lunch, I have a point to raise. Fishermen all over the country are agitating for the implementation of the Murari Committee Report and also about the subsidy on diesel. I think the Government may kindly attend to this grave problem, which is affecting fishermen. Thank you.

SHRI JANARDHANA POOJARY (Karnataka): Sir. I associate myself with him, (*Interruptions*). Thousands of people have come out throughout the country.

SHRI RAJU PARMAR (Gujarat): Sir. I also associate myself with him.

THE VICE-CHAIRMAN (SHRI T.N. CHATURVEDI): Now. the House stands adjourned for an hour.

The House then adjourned for lunch at two minutes past one of the clock.

The House reassembled after lunch at two minutes
past two of the clock.

THE VICE-CHAIRMAN (SHRI RAMA SHANKER KAUSHIK) in the Chair.

SUPPLEMENTARY DEMANDS FOR GRANTS (RAILWAYS) 2002-03

THE MINISTER OF RAILWAYS (SHRI NITISH KUMAR): Sir. I lay on the Table a statement (in English and Hindi) showing the Supplementary Demands for Grants (Railways) for the year 2002-03.

Prevention of Money Laundering Bill, 1999 - (Contd.)

SHRI A. VIJAYA RAGHAVAN (Kerala): Mr. Vice-Chairman, Sir. I thank you for giving me this opportunity to speak on the Prevention of Money Laundering Bill, 1999. First of all, I would like to congratulate the hon. Finance Minister for bringing in this Bill, which is to be passed by this House without any delay, because this is an important Bill, which is related to the safety of our nation, integrity of this nation; and to some extent, this Bill will protect our country from the inflow of dirty money to the hands of