

all our refineries are owed Rs. 15,000 crores, and we do not want to discuss it, and if the I.O.C. comes and borrows Rs. 1,000 crores on commercial paper today, what happens to the interest rates that are spiralling in market and how do we propose to control the inflation thereafter? That is all I want to ask.

SHRI P. CHIDAMBARAM: If the Oil Pool Account is not addressed, the oil companies will have to borrow in the market because that deficit has to be financed by somebody. It has to be borrowed in the market. Borrowing in the market will indeed crowd out other borrowers. Interest rates also will not suffer. We are fully aware of that. But all that I said was, not that the Government will not address the issue; all that I said was, the Budget is not the place to address that issue.

SHRIMATI RENUKA CHOWDHURY: You are just splitting hair.

SHRI P. CHIDAMBARAM: I said, the Government will address the issue. The Government will address that issue. When the Government addresses the issue, as a leading member of the United Front, Mrs. Chowdhury's party's view will also be reflected while we address that issue.

THE DEPUTY CHAIRMAN: The House is adjourned for lunch for one hour.

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

The House reassembled after lunch at twenty-five minutes past two of the clock, **THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI)** in the Chair.

Seeking Disapproval of the National Environment Appellate Authority Ordinance 1997

**STATUTORY RESOLUTION
AND**

**THE NATIONAL ENVIRONMENT
APPELLATE AUTHORITY BILL, 1997**

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): Now, we will take up Statutory Resolution by Shri Satish Agarwal and the National Environment Appellate Authority Bill 1997 together.

SHRI VAYALAR RAVI (Kerala): Sir, I am on a point of order. I am on a point of order. Please give me one minute.

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): What is your point of order?

SHRI VAYALAR RAVI: There is a provision in article 123 of the Constitution. As you know very well, it should be used only in an extreme situation or on a rare occasion. I quote: "If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require." We are having a list of 13 Ordinances which have been issued ... (Interruptions)... Let me formulate. I am raising a very important issue.

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): This issue has already been raised. I think it would be replied to by the hon. Minister. You have raised your point of order ... (Interruptions)...

SHRI VAYALAR RAVI: Mr. Vice-Chairman, Sir, I want your ruling on this. Either you have to make a rule or the Chairman has to make a rule so that it is not repeated. That is my point. Finally, the Minister is going to give a reply. But so far as the ruling is concerned, it should

be given by you or the Chairman.

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): So far as a ruling is concerned, we expect that Ministers would abide by the spirit of the Constitution. Now, Mr. Satish Agarwal ...*(Interruptions)*... Now, let us proceed.

SHRI V. NARAYANASAMY (Pondicherry): Mr. Vice-Chairman, Sir, as a Member of this House, while referring to the Ordinance, you have also made the same observation. We agree with you. Therefore, we want your ruling on this.

SHRI VAYALAR RAVI: Mr. Vice-Chairman, Sir, you can even refer this matter to the Chairman for a ruling. Even the Telecom Bill and the Sugar Bill have been deferred in accordance with a ruling given by this House. So, I would only quote one sentence and sit down. Even the Chairman of this House may take note of it. Sir, this Constitutional provision is used in exceptional circumstances. Today this Government has issued 13 Ordinances. If they have issued 2 or 3 Ordinances, I can understand. But others are not at all important. I remember on many occasions you have raised this very important issue, especially on the Telecom Bill, from this side. I only want to quote from what the first Speaker of the Lok Sabha said. He upheld the dignity of the House. Mr. Mavalankar was an eminent Speaker. He said, "The issue of an Ordinance is undemocratic and cannot be justified except in cases of extreme urgency or emergency. We as first Lok Sabha, carry a responsibility of laying down traditions. It is not a question of present personnel in the Government but a question of precedents; and if this ordinance issuing is not limited by convention only to extreme and very urgent cases, the result may be that, in future, the Government may go on issuing Ordinances giving Lok Sabha no option but to rubber-stamp the Ordinances."

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): You have made your point. Now, I don't think anything else ...*(Interruptions)*...

SHRI VAYALAR RAVI: Mr. Vice-Chairman, Sir, is this House a rubber-stamp? We will not allow this Government to by-pass the Parliament. I want the Chairman of this House to take note of it. We are not a rubber-stamp.

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): We would not like the Government to bypass the Parliament on that matter. Now, we have our book entitled "Rajya Sabha at work" which deals with the rules and procedure of the Upper House. Why should you refer to the other book until and unless absolutely called for?

SHRI SATISH AGARWAL: Now, we have our book entitled "Rajya Sabha at work?"

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): Now, we have another volume "Rajya Sabha at work". I think normal recourse for us will have to be to that rules book and also as a guidance book.

SHRI VAYALAR RAVI: I was only quoting.

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): You have quoted very aptly. I have no doubt that the Minister would also mention about it. But the views expressed by many Members and by Mr. Vayalar Ravi repeatedly should be taken into account and should be kept in view.

SHRI SATISH AGARWAL (Rajasthan): Mr. Vice-Chairman, Sir, I move:

That this House disapproves of the National Environment Appellate Authority Ordinance, 1997 (No. 12 of 1997) promulgated by the President on the 30th January, 1997.

Mr. Vice-Chairman, Sir, though I have

moved such statutory resolutions practically on every ordinance only to draw the attention of the Government to the objection, which has been recently raised by my esteemed colleague, Mr. Vayalar Ravi, we have supported the spirit of the Bill. But, we have condemned this Government for resorting to issuance of ordinances, which amounts to a gross violation of Article 123 of the Constitution as well as the various directions given by the Chair from time to time regarding the issuance of ordinances. I am one with Mr. Vayalar Ravi so far as this tendency is concerned. It has to be curbed drastically. Really it is very surprising that for this Budget session, which is primarily meant for transacting financial business, we have to deal with legislative business, and that too in the form of ordinances and that too in such a hurried manner that we are not getting sufficient time to debate and discuss the provisions of these Bills in greater detail. Apart from that, the issuance of an ordinance and its being replaced by a Bill, deprives the Standing Committee of Parliament of its opportunity to debate the provisions of the Bill. Normally a fresh Bill should have been referred to a Standing Committee for a greater detailed scrutiny, but unfortunately, but for our obligation to get the ordinance through, the Government will repromulgate the ordinance, if it is not passed by the House or not converted into an Act of Parliament. That is why while sometimes we support the spirit of the Bill, the provisions of the Bill, as we have done in the case of the National Highways and in the case of the National Ports yesterday, we move this resolution in order to impress upon the Government of the day that this tendency to resort to issuance of ordinances is deplorable, is undesirable, is undemocratic, is unparliamentary and it is a gross abuse of the powers vested in the Government to get ordinances issued through the President of India.

Sir, with these observations on the Resolution that I have already moved, I would like to say a few things more.

This is a new piece of legislation of its own kind. I welcome the spirit of the move. But, according to me, it would have been better had this particular Bill been transmitted to the Standing Committee for a very indepth scrutiny of the various provisions of the Bill. This seems to me, an ill-drafted Bill. So, naturally the provisions in the ordinance also are ill-drafted. For example, I would like to know from the hon. Minister, Prof. Saifuddin Soz, who has recently taken over a Minister in charge of the Ministry of Environment, and who happens to be a good friend of mine for two decades, whether he has established this Authority. This Ordinance was issued on 30th of January. The hon. Minister was sworn in probably thereafter. So, I cannot accuse him on that score. It is written here that it shall come into force at once. Since this Ordinance came into force on 30th of January, 1997, I would like to know from him whether he has established the National Environment Appellate Authority as mentioned in Section 3. If not, what has he done under the law, which authorises him to establish this Authority, which authorises him to appoint the Chairman, the Vice-Chairman and other Members of the Authority. So far, from 30th of January till the end of March, practically two months have passed. Has he taken any step in that direction? Has he selected the Chairman? Has he selected the Vice-Chairman? Has he selected the other three Members? This is the information that I want from him. If he has not done any of these things, where was the justification for writing that this Ordinance will come into force at once? 'At once' means the urgency is so great and it has to be operative from the 30th of January, 1997. If no steps have been

taken even to establish the authority and to appoint the Chairman and other members of the authority, where is the justification for issuance of the Ordinance? I would like to know this from the hon. Minister.

Apart from this, there are certain other objections which I have regarding certain provisions of the Bill. I note with pleasure there are some good provisions that have been incorporated, probably for the first time, in this particular Bill. They are with regard to the suspension of the Chairman or the Vice-Chairman or other members for misconduct. Mr. Vice-Chairman, I very much appreciate the incorporation of such a provision in this Bill. The Government must have the authority to suspend anybody for misconduct after an appropriate inquiry. These provisions have been laid down here. I even go to the extent of saying that it looks very ridiculous that somebody is convicted by a court of law under the TADA and he is sitting here as a Member of Parliament. I would go to the extent of suggesting an amendment in the Constitution that if somebody is convicted by a court of law and sentenced to imprisonment, then he should also be suspended from the services of the House. This is very essential. A time has come now when a lot of people of the previous Government, half of them, are on bail. Many of them are in the dock. Some of them have been convicted and that too, under the TADA. This is the appropriate time for Parliament to give a thought to it.

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): Let us confine ourselves to this Bill, Mr. Agarwal.

SHRI SATISH AGARWAL: Now, so far as this is concerned, ...*(Interruptions)*

SHRI JOHN. F. FERNANDES (Goa): There has been no final judgement. ...*(Interruptions)*

THE VICE-CHAIRMAN (SHRI TRILOKINATH CHATURVEDI): I

have already requested the Member. *(Interruptions)* Before you stood up, I have said that.

SHRI SATISH AGARWAL: I fail to understand why 70 years of age has been kept for the Chairman and only 65 years of age for the other members of this Appellate Tribunal.

Now, in one case, you have provided, you have provided under clause 11, that the time-limit for filing an appeal is 30 days which can be condoned up to 90 days. Okay. But then, in the subsequent sub-clause you say that the authority shall dispose of the appeal within 90 days from the date of filing of the appeal. The words "filing of the appeal" should not be there then. If the delay period is condoned by the Appellate Authority, these words should not be there. They have been given the powers to condone the delay in filing the appeal up to 90 days. Supposing on the 90th day, the appeal is admitted, but the appeal has been filed 90 days earlier or 80 days earlier, how can it be disposed of within 90 days? The words should not be "within 30 days from the date of the order". Instead, the provision should have been "...shall be disposed of within 90 days from the date of admission of the appeal". When the appeal is admitted by the Appellate Authority, then you can prescribe the 90 day-period. For filing an appeal, the period is 30 days, no doubt. But it can be condoned up to 90 days. Supposing the Appellate Authority, in its wisdom, deems it proper to condone the delay of 85 days in filing the appeal, then how can the appeal be disposed of within 90 days? I think there is some drafting lacuna in it. That should be looked into.

Then, you have mentioned at one place that these matters of environment have assumed huge proportions during the last several years on account of some social activists who are very active in the field of environment. A lot of public interest litigations have been filed in the High Courts and the Supreme Court whereby

directions have been issued for dismantling some industries or for relocation of some industries. For example, in Delhi itself, and in Rajasthan also, there have been cases where the industries located in the mining areas, forest areas, have been asked to vacate those areas. Now, there is a forum for appeal against those orders....

But not against the orders of the High Court or the Supreme Court. What will happen to that? How will you rectify that position? The orders are already there. Something has to be done that way. Hereafter, there is no prohibition. You have simply said that no court shall take cognizance hereafter. Courts means, not the High Courts or the Supreme Court under article 226 or article 32 of the Constitution. The High Court is not debarred, the Supreme Court is not debarred and cannot be debarred by a statute. That is a constitutional provision. If somebody approaches the High Court or the Supreme Court under a Public Interest Litigation that a particular Government—the Central Government or the State Government—is not taking appropriate action with regard to the polluting industries which are spoiling the environment, they should be shifted from that place to another place. Now, so far as my understanding of the law goes, one cannot file a civil suit according to the provisions contained herein. But definitely, under articles 226 and 32 of the Constitution of India, any citizen or any social activist organisation can approach the High Court or the Supreme Court regarding relief with regard to environmental problems. That is very much there and that problem is not going to be solved by this Bill. There will be a funny situation, that is, the same matter being taken to the Appellate Tribunal, where a High Court or a Supreme Court Judge is also the Chairman, and the same matter being agitated in the High Court or the Supreme Court. There is no provision whereby you have mentioned that all cases pending in the high Courts or the Supreme Court, involving

environmental issues, shall stand transferred to the Appellate Tribunal. You have not made that provision. You have made a provision in the Central Administrative Tribunal's Act, that all matters pending in the High Courts, service matters of the Central Government employees, shall stand transferred to the Central Administrative Tribunal, under the 1985 Act. You have not made a similar provision here. They do not stand transferred. So, simultaneously, on the same issue, they may be very few, of course, the matter may be pending in the High Court, and if the Appellate Tribunal is seized of the matter in another form, that is, through an appeal, there may be contradictions, contradictory judgments and conflicting judgments. You have not taken precaution with regard to that thing. May I know from the hon. Minister about the rules? Apart from the establishment of the Authority and the appointment of the chairperson and the members, what about the rules? Have you framed the rules? You have mentioned in clause 22 that the Central Government, may by notification, make rules for carrying out the provisions of this Ordinance. Now, unless the rules are framed, the provisions cannot be carried out. It is under the rules that certain matters have to be specified, and those matters have to be specified in the rules. So, unless the rules are made, how do you propose to implement the provisions of this Ordinance? You cannot do so, and more particularly, I say so, on the understanding because those rules have to be laid on the Table of the House under clause 22, sub-clause 3. Had the rules been framed, they would have been laid on the table of the House, and then the Members would have got an opportunity to make amendments in those rules. Since they have not been laid on the Table of the House, hence I say that the rules have not yet been framed. If that be the position, then the provisions are not workable because in the various provisions, you have

mentioned, "as specified in the rules." So, where are the rules? If the rules are not there, specification is not there. If the specification is not there, the whole machinery cannot function. The machinery cannot function because you have not appointed the Judges. In this way, the issuance of an Ordinance is nothing but a tendency to resort to Ordinance-raj, which I deplore in no uncertain terms. Since my hon. colleague, Shri Narendra Mohan, is going to speak on the Bill, I would like to conclude. In brief, I once again request the hon. Minister to clearly answer the queries which I have raised while moving my Resolution and then saying something about certain matters that I have said on the merits of the Bill. I move my Resolution and request the hon. Members, at least, to condemn the tendency of issuing Ordinances. thank you very much.

THE MINISTER OF ENVIRONMENT AND FORESTS (PROF. SAIFUDDIN SOZ): Mr. Vice-Chairman, I beg to move:

That the Bill to provide for the establishment of a National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 and for matters connected therewith or incidental thereto, as passed by Lok Sabha, be taken into consideration.

In doing so, I submit that this Bill seeks to fulfil an urgently felt need for some mechanism for effective and expeditious disposal of appeals against the decisions of competent authorities under the environment (Protection) Act, 1986 giving environmental clearances to developmental projects.

Hon. Members are aware that conservation and protection of the environment has been the cornerstone of our culture and traditions. Our Constitution was one of the firsts to acknowledge the importance of environmental conservation. The Constitution also makes it a fundamental duty of every citizen to protect and improve the environment.

The basic principle guiding us is "Sustainable Development". This implies social and economic betterment that satisfies the current needs without foreclosing options for the future or compromising the ability of future generations to meet their own needs. The principle entails a balanced relationship between short-term uses of our environment and the maintenance and enhancement of long-term productivity.

Very importantly, environment protection also has to be directed by the "precautionary principle". According to this principle, the causes of environmental degradation have to be anticipated to ensure the necessary preventive steps. Environmental clearances address this aspect. Such clearances are issued by the Ministry of Environment and Forests in accordance with the Environmental Impact Assessment Notification of 1994. Expert Committees appraise projects to ensure that they comply with pollution control, social and economic consequences. The appraisal, among other things, includes impact assessment on livestock, wildlife, agriculture and forests. The Appraisal Committees, each headed by a non-official Chairman, includes experts from the concerned disciplines besides representatives of NGOs.

At the same time, the need was felt of having a mechanism independent of the Ministry of Environment and Forests to deal with appeals against environmental clearance decisions. This appellate mechanism would also give effect to the principles enunciated by the Supreme Court in various public interest litigations

involving environmental protection issues. This will lead to increased transparency and greater accountability, concerns which have so often been expressed by the hon. Members. Significantly, the expeditious redressal of public grievances would greatly reduce delays in project implementation. In this background, an Ordinance was promulgated for the establishment of a National Environment Appellate Authority to deal with appeals against the grant of environmental clearances to developmental projects.

Mr. Vice-Chairperson, the National Environmental Appellate Authority Bill has now been brought to this House for consideration and passing. The Bill seeks to replace the aforesaid Ordinance.

I would now like to highlight briefly the main aspects of the Bill seeking establishment of the Appellate Authority. The Authority shall comprise of a Chairperson, Vice-Chairperson and other Members, not exceeding three. A person shall not be qualified for appointment as Chairperson unless he has been a Judge of the Supreme Court or Chief Justice of a High Court.

The Office of the Vice-Chairperson will be held by a person who has for at least two years been a Secretary to the Government of India or has held any other post under the Central or a State Government carrying a scale of pay which is not less than that of a Secretary to the Government of India; and has adequate knowledge and experience in administrative, legal, managerial or technical aspects of problems relating to the environment.

A person shall not be qualified for appointment as a Member unless he has professional knowledge of a high standard and practical experience in the relevant areas of expertise pertaining to conservation, environmental management, law, planning and development.

Hon. Members must have observed

that the composition of the Authority is such that it can impart the necessary legal and judicial erudition to the appeal process, blended with expertise related to environmental issues, both technical and managerial.

The Chairperson, the Vice-Chairperson and other Members shall hold office for a term of three years, but shall be eligible for reappointment for another three years. The Chairperson shall not hold office after attaining the age of seventy years. The Vice-Chairperson and the other Members shall not hold office after the age of sixty-five years.

Hon. Members would also like to know the class of persons who will have a right to appeal to the Appellate Authority. This includes: any person who is likely to be affected by the grant of environmental clearance; any person who owns or has control over the project with respect to which an application has been submitted for environmental clearance; any association of persons, whether incorporated or not, likely to be affected by such order and functioning in the field of environment; ... (Interruptions)...

श्री मूलचन्द मीणा (राजस्थान): प्वाइंट आफ आर्डर।

PROF. SAIFUDDIN SOZ: I am not yielding, Sir. He can raise it after I finish my speech.

श्री मूलचन्द मीणा: मेरा प्वाइंट आफ आर्डर है।

उपसभाध्यक्ष (श्री त्रिलोकी नाथ चतुर्वेदी): आपकी समस्या क्या है? इसमें प्वाइंट आफ आर्डर क्या है?

श्री मूलचन्द मीणा: अभी जब इस सदन के सदस्य सिबे रज़ी जी लंच ले रहे थे तो उनकी श्वास नली में एक तेज़ पत्ता पहुँच गया और इससे उनको सांस लेने में बहुत तकलीफ हुई। उनकी ऐसी हालत हो गई कि उनकी डेथ भी हो सकती थी। उनको हम हॉस्पिटल ले गए लेकिन वहाँ पर कोई व्यवस्था नहीं, कोई सिस्टम नहीं। इमरजेंसी के डॉक्टर ने कहा कि उनको वार्ड 6 में ले जाएं।

SHRI SATISH AGARWAL: Sir, it is a very serious issue.

उपसभाध्यक्ष (श्री त्रिलोकी नाथ चतुर्वेदी): मीणा जी, आपने बहुत गंभीर समस्या को तरफ ध्यान दिलाया है। मंत्री जी, आप तुरन्त हेल्थ मिनिस्टर साहब को हिदायत करें, वेंकटरमन जी, आप हेल्थ मिनिस्टर को हिदायत करें कि माननीय सदस्य को तुरन्त ही...

SHRI SATISH AGARWAL: He should come back to the House and inform us.

श्री मूलचन्द मीणा: हम वहां एक घंटे बैठे रहे लेकिन उनको कोई डाक्टर देखने के लिए नहीं आया।...

उपसभाध्यक्ष (श्री त्रिलोकी नाथ चतुर्वेदी): इस तरह की समस्या पिछले दिनों...

श्री मूलचन्द मीणा: पार्लियामेंट मेंबर के साथ जब इस तरह की हरकत की जाती है तो आम जनता के साथ क्या व्यवहार होता होगा।

उपसभाध्यक्ष (श्री त्रिलोकी नाथ चतुर्वेदी): आपने बहुत ही गंभीर समस्या की तरफ ध्यान दिलाया है और मैं निवेदन कर रहा हूँ कि मंत्री जी तुरन्त ही इसकी पूरी व्यवस्था करावें और कृपया यह भी कहें कि आगे के लिए भी ठीक व्यवस्था की जाए और उसके बाद यहां भी बता दीजिए कि उचित व्यवस्था कर दी गई है, अस्पताल में उचित व्यवस्था कर दी गई है।

खान गुफरान जाहिदी (उत्तर प्रदेश): व्यवस्था तो यहां होनी चाहिए, सेटल गवर्नमेंट को यहां पर करनी चाहिए। यहां पर भी व्यवस्था कोई अच्छी नहीं है।

उपसभाध्यक्ष (श्री त्रिलोकी नाथ चतुर्वेदी): अभी मैंने यह बात कही है कि मंत्री जी यहां आकर सूचना दें कि क्या कर रहे हैं क्योंकि इस मामले पर सदस्य उत्तेजित हैं। सदन के अन्दर उत्तेजित वह पहले भी थे। सोज साहब अब आप अपनी बात कहें।

PROF. SAIFUDDIN SOZ: I am sorry, Sir. The concern of the House will be conveyed to the concerned Minister immediately.

उपसभाध्यक्ष (श्री त्रिलोकी नाथ चतुर्वेदी): आप उनको कहें कि इसके लिए कोई परमानेंट व्यवस्था होनी चाहिए।

PROF. SAIFUDDIN SOZ: The class of persons who will have a right to appeal to the Appellate Authority also includes

the Central Government, where the environmental clearance is granted by the State Government; and the State Government, where the environmental clearance is granted by the Central Government; and the concerned local authorities.

Mr. Vice-Chairman, we are conscious that many of those who will appeal to the Authority for redressal of grievances will be from the relatively deprived sections of society. There is also the need for expeditious disposal of appeals. Therefore, the imperative of making procedure simpler. Hence, our insistence in the Bill that the Authority shall not be bound by the procedure laid down in the Code of Civil Procedure, but shall be guided by the principles of natural justice. The Authority shall have powers to regulate its own procedure, but also enjoy the powers vested in civil court. The Authority shall fix the places and times of its enquiry.

Mr. Vice-Chairman, the National Environment Appellate Authority Bill is a very important initiative in our quest for sustainable development and the preservation of our ecology and natural resources. This social legislation provides a greater voice to our citizens in the adjudication of matters pertaining to the environment. Hon. Members will agree with me that the essential objective of sustainable development is to provide further opportunities to our citizens for enhancing their well-being to reach their potential. The Bill is a step in this direction. With these words, I commend the Bill for consideration and passing.

The questions were proposed.

SHRI SATISH AGARWAL: Mr. Vice-Chairman, Sir, I would request the Minister to clarify some of the basic points.

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): Mr.

Minister, would you like to clarify some points now?

PROF. SAIFUDDIN SOZ: Sir, since both the items have been taken up together, it will be proper if I reply after the discussion is over. The hon. Member, Shri Satish Agarwal, is a learned Member. I will answer all the points which he has raised.

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): It is true. But would you like to say something about appointments or rules? You can do it later also.

PROF. SAIFUDDIN SOZ: I will answer all the points at the close of the debate.

श्री नरेन्द्र मोहन (उत्तर प्रदेश): उपसभाध्यक्ष जी, मैं आपका आभारी हूँ कि आपने मुझे अवसर दिया। हमारे नेता सतीश अग्रवाल जी ने बड़े बुनियादी सवाल किए हैं और मैं उन बुनियादी सवालों का समर्थन करते हुए उनमें एक बात आगे जोड़ना चाहता हूँ कि आखिर कब तक इस प्रकार की बातों की जाएंगी जो संविधान विरोधी हैं। आपने जो स्टेटमेंट explaining the circumstances which necessitated the promulgation जो किया है उसमें कहा है कि—

“The matter was very urgent”.

लेकिन उसके बाद भी 30 जनवरी को आपने आर्डिनेंस बना दिया। आज तक न तो कोई नियुक्ति हुई है, न कोई इसके बारे में जानकारी है, न कोई आपके पास प्रस्ताव है इस प्रकार के लगभग दो महीने बीत गए हैं। इन दो महीनों में आपने क्या किया। इसके बारे में सदन को जानने का अधिकार है। मुझे लगता है कि बिल का इशदा कितना ही अच्छा हो लेकिन सरकार का इशदा कोई बहुत नेक हो इन्वायरनमेंट के प्रति, पर्यावरण के प्रति यह मैं नहीं कह सकता। जिस प्रकार से पिछले 11 वर्षों में पर्यावरण कानून की उपेक्षा हुई है वह साग देश जानता है। इस देश में पर्यावरण कानून की उपेक्षा हमारे मंत्रियों ने की है। जिस प्रकार से हिमाचल प्रदेश में पर्यावरण की उपेक्षा करके कानून को उपेक्षा करके लोगों ने अपने होटल बनवा लिए, जिस प्रकार से पर्यावरण की उपेक्षा करके नैनीताल में गडबड़ियाँ हुईं या जिस प्रकार से पर्यावरण की उपेक्षा करके हिमाचल में, शिमला में गडबड़ियाँ हुईं, ये कोई छिपी बातें नहीं हैं। कानून का खुला उल्लंघन मंत्रियों ने किया है। कुछ सांसदों ने किया

है, ऐसे दलों के सांसदों ने जो सत्ता में भी रहे हैं। यह दुख की बात है। इस प्रकार से एक मुख्य बात मंत्री जी से मैं आपके माध्यम से कहना चाहता हूँ कि यह जो पर्यावरण का कानून है वह देश में सही ढंग से लागू हो इसके लिए कोई व्यवस्था क्यों नहीं सोची जाती है। अपीलेंट अथॉरिटी बना देने मात्र से पर्यावरण का कानून देश में सही ढंग से लागू नहीं होगा।

उपसभाध्यक्ष जी, कानून बना है और अपील करने का कानून बना दिया गया है इससे कोई पर्यावरण का प्रदूषण रुकने वाला नहीं है। गंगा प्रदूषण योजना को देख लीजिए। क्या गंगा का प्रदूषण रुक गया है या कोई अच्छा पानी गंगा नदी में बहने लगा है। कहीं पर कोई भी पर्यावरण प्रदूषण की समस्या रुकने नहीं है और न ही ऐसी संभावनाएं दिखाई देती हैं निकट भविष्य में कि हम पर्यावरण पर नियंत्रण कर सकेंगे कुछ सरकार का जैसा इशदा है। इस पर्यावरण नियंत्रण कानून के तहत विचार होना चाहिए था। उचित तो यह था कि मंत्री जी पूरी एक-एक समीक्षा करते कि हम 11 वर्षों में अपने देश के पर्यावरण की रक्षा क्यों नहीं कर सके। जब 1986 में पर्यावरण नियंत्रण कानून बना था तब कहा गया था: “Whereas a decision was taken at the United Nation's Conference on the human environment health at Stockholm in June 1972 in which India participated to take appropriate steps for the protection and improvement of the human environment.”

अब पूछा जाए कि इतनी बड़ी-बड़ी बातें करके तो कानून बनाया गया और इसके बाद उसको अमल में बिल्कुल भी नहीं लाया गया। जो 1986 में कानून बना था वह भी बड़ा आधा-अधूरा था। उपसभाध्यक्ष जी, उदाहरण स्वरूप एन्वायरनमेंट की जो परिभाषा की गई थी तब भी उसी समय इस बात की बड़ी आलोचना की गई थी। उस में कहा गया था कि इसमें केवल वाटर, एअर और लैंड के बारे में है।

“Environment includes water, air and land and the inter-relationship which exists between water, air and land.”

लेकिन ध्वनि की बात छोड़ दी गई। ध्वनि प्रदूषण भी उतनी ही एक विकट समस्या है। ध्वनि प्रदूषण के बारे में राष्ट्र संघ चिंतित है और सारे देशों की मानवता चिंतित है, लेकिन अजीब बात है कि ध्वनि प्रदूषण के बारे में

भारत सरकार को कोई चिंता नहीं है और न ही जब यह एक मौका मिला था पर्यावरण मंत्री को इसके बारे में जांच करने का तो वह ध्वनि प्रदूषण की ओर भी सोचते। बड़ी अजीब बात है कि ऐसे महत्वपूर्ण मामले पर एक बड़े सतही ढंग से सोचने की कोशिश की गई। उपसभाध्यक्ष जी, मैं आपके माध्यम से जानना चाहूंगा कि भारत सरकार ध्वनि प्रदूषण को रोकने के लिए कुछ कानून बनाने की बात सोच रही है या उसके बारे में कुछ सोच रही है या नहीं सोच रही है? वैसे इसकी चर्चा जब एजीव गांधी प्रधान मंत्री थे उस समय भी उन्होंने की थी। संसद में भी इस बात का आश्वासन दिया गया है कि ध्वनि प्रदूषण को रोकने के लिए कानून बनाया जाएगा। पर आज तक उसके बारे में कुछ नहीं किया है। एक हम एपीलेट अथॉरिटी बना करके सोचते हैं कि पर्यावरण सुधर जाएगा और वह भी मानवीय पर्यावरण सुधर जाएगा। यह संभावना मुझे नहीं दिखाई देती है। सब से बड़ी समस्या यह है कि उपसभाध्यक्ष जी, आपके माध्यम से मैं बताना चाहूंगा कि पर्यावरण के मामले में जो व्यवस्था बनी हुई है, जो ढांचा बना हुआ है, वह बहुत दोषपूर्ण है। जो स्टेट पोल्यूशन बोर्ड्स हैं वे लगभग डीफैक्ट पड़े हुए हैं। बहुत से राज्यों में खानापूरी करने के लिए केवल स्टेट पोल्यूशन बोर्ड बना दिए गए हैं। उनके पास न कोई प्रोपर स्टाफ है, न उन पर कोई देख-रेख है, न उनका कोई नियन्त्रण है। दो-एक राज्यों को छोड़ कर सारे देश में स्टेट पोल्यूशन बोर्ड जो हैं बिल्कुल नकारा की तरह काम कर रहे हैं और सेंट्रल पोल्यूशन बोर्ड की भी यही स्थिति है। यह टिप्पणा मेरी नहीं है, ऐसी ही टिप्पणी सर्वोच्च न्यायालय ने भी की और इसीलिए सर्वोच्च न्यायालय को बार-बार पर्यावरण के मामले में हस्तक्षेप करना पड़ रहा है। मैं पूछना चाहता हूँ भारत सरकार से और वर्तमान मंत्री जी से कि आखिर यह क्या स्थिति है कि सेंट्रल पोल्यूशन बोर्ड भी बिल्कुल एक डीफैक्ट की तरह क्यों काम कर रहा है और विभिन्न राज्यों के जो पोल्यूशन बोर्ड हैं और राज्य सरकारें जो हैं वे पर्यावरण के मामले में इतनी उदासीन क्यों हैं? इतना महत्वपूर्ण मामला है। हम अन्तर्राष्ट्रीय सम्मेलनों में जाते हैं, हमारे मंत्री जी जाते हैं और बड़ी-बड़ी बातें करते हैं, लेकिन जब भारत में इसकी चर्चा होने की बात आती है, व्यवस्था करने की बात आती है, ढांचा बनाने की बात आती है तब हम उसमें बिल्कुल पिछड़ जाते हैं या नकारा साबित होते हैं।

मैं एक बात और बताना चाहूंगा। मंत्री महोदय जी को मालूम होगा कि हमारे यहां एक बहुत बड़ी समस्या पर्यावरण के क्षेत्र में भ्रष्टाचार की है और यह भ्रष्टाचार

स्टेट पोल्यूशन बोर्ड्स में भी और सेंट्रल पोल्यूशन बोर्ड में भी है। उपसभाध्यक्ष जी, उधर कुछ बात-चीत ज्यादा हो रही है... (व्यवधान)

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): Mr. Singla, a reference was made to noise pollution. So, will you allow the hon. Member to continue his speech?

श्री नरेन्द्र मोहन: महोदय, मैं आपके माध्यम से मंत्री जी से बताना चाहूंगा कि राज्य सरकारों में जो इस प्रकार की उदासीनता है पर्यावरण के मामले में उसके बारे में वह क्या कुछ सोच रहे हैं कि क्या करेंगे? अब उत्तर प्रदेश में बहुत से क्षेत्रों में वन काट डाले गए। गढ़वाल में वन काट डाले गए, नैनीताल के क्षेत्र में वन काट डाले गए। वहां वनों का क्षेत्र कम हो गया है। अब यह जो हुआ है इसके पीछे एक माफिया वर्ग सक्रिय है। इस के पीछे राजनीतिज्ञों के साथ माफिया वर्ग की सांठ-गांठ है। अब क्या कर रहा है सेंट्रल पोल्यूशन बोर्ड? क्या कर रही है भारत सरकार इस प्रकार के मामलों को लेकर? राजस्थान में रेगिस्तान बढ़ता जा रहा है, अरावली की पहाड़ियां सूखी होती जा रही हैं, क्या कर रही है भारत सरकार? क्या कर रहा है हमारा पर्यावरण कानून? कोई तो जवाब देगा इसका? क्या स्थिति हो गयी है? हमारे देश में जो वनों का क्षेत्रफल है, वह क्यों कम होता जा रहा है? महोदय, सर्वोच्च न्यायालय को हस्तक्षेप तभी करना पड़ा जब देखा गया कि मध्यप्रदेश और पूर्वोत्तर राज्यों में वनों की अवैध कटाई बहुत अधिक हो रही है। तब कहीं जाकर सर्वोच्च न्यायालय ने हस्तक्षेप किया। यह कार्य तो भारत सरकार का था। यह कार्य तो सेंट्रल पोल्यूशन बोर्ड को देखने का था जिस पर दायित्व है पर्यावरण की रक्षा करने का। तो क्या भारत सरकार का जो पर्यावरण संबंधी कानून है, वह इतना लचर है, इतना कमजोर है कि बार-बार सर्वोच्च न्यायालय को निर्देश देने पड़ेंगे तभी हम जागेंगे? यह एक विचारणीय प्रश्न है जिस का जवाब हमारे मंत्री जी को देना चाहिए और सदन को विश्वास में लेना चाहिए कि क्या कठिनाई है? क्यों हमारा ढांचा या जो व्यवस्था है, वह इतनी कमजोर हो गयी है? महोदय, केवल अपीलेट अथॉरिटी बना देने से कुछ नहीं होगा। अपील कौन करेगा? किन मामलों में अपील होगी या केवल आशय यही है कि जो बड़े-बड़े उद्योगपति हैं उन के मामले अगर उलझ जाएं और उन पर कोई अंकुश लग जाए तो वे वहां पहुंच जाएं। लेकिन अगर उद्देश्य यह है जैसी कि घोषणा की गयी है कि देश में पर्यावरण कानून सही ढंग से लागू हो तो मंत्री जी आप

को बहुत से व्यवस्था संबंधी सुधार करने पड़ेंगे, कानून में बहुत सी ऐसी नई धाराएं जोड़नी पड़ेंगी ताकि लोग पर्यावरण के साथ खिलवाड़ न कर सकें।

महोदय, भारत में एक अरसे से पर्यावरण के साथ खिलवाड़ हो रहा है और निजी क्षेत्र में तो थोड़ा-बहुत भय हो, लेकिन दुख की बात यह है कि सार्वजनिक क्षेत्र के उद्योग पर्यावरण को चिंता नहीं करते। तब बड़ा दुख होता है। महोदय, अभी तक हमारे देश के जो बड़े-बड़े सार्वजनिक क्षेत्र के इस्पात कारखाने हैं, उन्होंने भी पर्यावरण कानून के तहत वायु प्रदूषण को रोकने के लिए जो संयंत्र लगाने थे, वह नहीं लगाए हैं। उत्तर प्रदेश या जहां-वहीं भी विद्युत का उत्पादन कोयले से होता है वहां किस तरह से प्रदूषण होता है, उपसभाध्यक्ष महोदय इस की जानकारी आप को है, लेकिन वहां कोई संयंत्र लगा दिए गए हैं और पर्यावरण को प्रदूषित होने से रोकने की चेष्टा की गयी हो, सार्वजनिक क्षेत्र में ऐसी कहीं कोई बात सामने नहीं आ रही है। उपसभाध्यक्ष महोदय, देखने की बात यह है कि निजी क्षेत्र तो जैसा है, वैसा है, लेकिन सार्वजनिक क्षेत्र के उद्योग गड़बड़ी कर के बच जाते हैं। उन पर कोई अंकुश है। महोदय, मिर्जापुर में जो सार्वजनिक क्षेत्र का सीमेंट का कारखाना है वहां भयंकर प्रदूषण होता है, लेकिन उसे रोकने के लिए सरकार की ओर से कोई व्यवस्था नहीं की गयी है और न सेंट्रल पोल्यूशन बोर्ड ने कोई दबाव बनाया है कि वहां स्थिति ठीक हो सके। परिणाम यह होता है कि उस से मजदूरों का स्वास्थ्य खराब होता है, स्थानीय जनता का स्वास्थ्य खराब होता है और उन को यक्षमा सरीखे, ब्रॉन्काइटिस सरीखे और अस्थमा सरीखे रोग घेर लेते हैं। अब यह स्थिति है तो कैसे मान लिया जाए कि केवल एक अपीलैट अथॉरिटी बना देने से यह सब ठीक हो जाएगा। आप का इरादा क्या है? क्या आप वास्तव में ऐसा सोचते हैं कि पर्यावरण में सुधार हो, वायु-प्रदूषण जो हो रहा है, वह समाप्त हो जाय और जो जल-प्रदूषण हो रहा है वह समाप्त हो जाय, अगर ऐसा है तो आप को कठोर कानून बनाने होंगे। साथ में जो भ्रष्टाचार है, चाहे वह राज्य स्तर पर हो या केन्द्र स्तर पर हो, उसे दूर करना होगा।

उपसभाध्यक्ष महोदय, ऐसा लगता है कि जो कानून बनाए गए हैं, उस में जो अवकाश प्राप्त सचिव है भारत सरकार के, मंत्री जी को उन को नौकरी देने की ज्यादा चिंता है। तो यह समझ नहीं आता कि हर बात में सेक्रेटरी को क्यों लाया जाता है कि वह उस का उपाध्यक्ष बना दिया जाए। मुख्य बात यह है कि अगर उस सचिव को वास्तव में पर्यावरण की समस्या का दो वर्ष या चार

वर्ष का अनुभव है तब तो उसे वहां लाया जाय। एक ओर तो आप कहते हैं कि हम उन्हें मेंबर बनाएंगे जो कि पर्यावरण विशेषज्ञ हों, दूसरी ओर एक आई०ए०एस० की डिग्री लग गयी और उस को हर मामले में मान लिया गया कि वह विवेक-संपन्न हो गया?

केवल आई०ए०एस० की डिग्री लग जाने से या सचिव बन जाने से उसमें सारी योग्यता नहीं आ जाती। आप इसमें यह स्पष्ट करिए कि केवल उन्हीं व्यक्तियों को आप अपीलैट अथॉरिटी में मेंबर बनाएंगे, जिन्होंने वास्तव में पर्यावरण के क्षेत्र में काम किया हो, पर्यावरण के मामले जिन्होंने निपटाए हों। अगर ऐसा करेंगे, तब तो बात समझ में आती है, लेकिन any Secretary of the Government of India can become a member of the Appellate Authority. यह बात समझ में नहीं आती। इस पर आपको विचार करना चाहिए। यह उचित नहीं है।

महोदय, अभी जितने भी आर्डिनेंस आए हैं, हरेक में यही भूल हुई है। आपने मान लिया है कि आई०ए०एस० जो हैं, वे सर्व-विशेषज्ञ, सर्व-गुण संपन्न हैं। ऐसा नहीं होना चाहिए। होना तो यह चाहिए कि अगर उसके पास विशेष योग्यता है तो अवश्य उसको स्थान देने की चेष्टा करें, लेकिन अकारण ऐसे व्यक्ति, जो जिदगी भर कभी रहे नहीं पर्यावरण में और सड़नटली अवकाश प्राप्त करते ही जोड़ जुगाड़ लगा लिया, उपाध्यक्ष बन गए, अध्यक्ष बन गए। यह बात समझ में नहीं आती है। इस पर कुछ रोक लगानी पड़ेगी, इसमें कुछ सोचना पड़ेगा।

उपसभाध्यक्ष (श्री त्रिलोकी नाथ चतुर्वेदी): आप संक्षेप में अपनी बात कहें क्योंकि आपकी पार्टी के एक महोदय और भी बोलना चाहते हैं।

श्री नरेन्द्र मोहन: सर, मैं दो मिनट में अपनी बात पूरी करके खत्म करता हूँ। आपने यह बात कही थी, लोक सभा में भी कही थी कि आप उन्हीं को मेंबर बनाएंगे, who will have the professional knowledge of high-standing and practical experience. आप देख लें अपनी लोक सभा की स्पीच को। अगर वास्तव में यह बात है कि anybody who will be a member will have professional knowledge of high standing and practical experience, तो फिर उसी को ही मेंबर बनाया जाए, अकारण के लोगों को उसमें न डाला जाए।

महोदय, एक बात और मैं यह कहना चाहता हूँ कि जो कुछ इधर आपके ओब्जेक्ट हैं इस पर्यावरण कानून के संदर्भ में, उसको लेकर आपको न सिरे से एक

विचार करना चाहिए और इसके लिए उचित यही होगा कि शीघ्र से शीघ्र एक पूरा बिल नया लाया जाए, तभी जाकर बात बनेगी और तभी सुधार होगा।

मैं आपका आभारी हूँ कि आपने मुझे समय दिया। धन्यवाद।

SHRI V. NARAYANASAMY (Pondicherry): Mr. Vice-Chairman, thank you very much for giving me an opportunity to speak on this Bill. The hon. Minister who has taken over as the Minister of Environment and Forests has got a lot of impetus to work in this Ministry because I know him as a Member of my Committee, and he had been taking a lot of interest in this subject. Sir, this is a very good Bill in which some clarifications have to be given by the hon. Minister. Sir, the Ministry of Environment and Forests was formed with a noble idea of containing pollution in various cities and rural areas of our country and for the purpose of regulating the industrial development in our country.

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): Mr. Narayanasamy, there is an announcement by the Minister.

THE MINISTER OF SURFACE TRANSPORT (SHRI T.G. VENKATRAMAN): Sir, Syed Sibtey Razi is being taken care of. He has been shifted to a nursing home and he is all right.

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): Is he now feeling comfortable? Is he out of danger?

SHRI T.G. VENKATRAMAN: Yes, Sir. He is being taken care of. The foreign body has been taken out of his wind-pipe and he is quite all right.

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): That is a matter of satisfaction, but in future, please ensure that hospital arrangements, etc., are such that they can be taken to emergency expeditiously.

SHRI T.G. VENKATRAMAN: Sir, he was immediately taken care of and was attended to. He is quite all right now. He is recovering.

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): Thank you very much.

SHRIMATI URMILABEN CHIMAN-BHAI PATEL: Who, Sir?

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): Syed Sibtey Razi. Mr. Narayanasamy, you please continue.

SHRI V. NARAYANA SAMY: Unfortunately, Sir, the Bills which have been passed in an enthusiasm have not been properly implemented. Though the Central Government is the nodal agency for the purpose of regulating the environmental activities in the country and directing the State Governments or even advising the State Government to implement various laws, it has failed in its duty. The reason is that in our country, there are clusters of industries in one area and there are no industries in other areas. We find that those areas which have clusters of industries are polluted. The common man has no remedy. The people who are living in and around these industries have no remedy except going to the court and getting a direction from the court. We found in several cases of industrial pollution, including aquaculture which is the latest example, some organisation or some individual had to go to the court. They proved their case in the court. Thereafter, the Ministry started to act. Sir, as far as the State Governments are concerned, I am sorry to say that their Pollution Control Boards have not been doing their job properly. The system of single window clearance was brought in because many clearances had to be taken. One of these clearances was from the point of view of environment. The Environment Departments in the various States are working according to the wishes of their political bosses. That is

the basic problem which has to be addressed to by the hon. Minister. These Departments do only those things which the political party in power desires them to do. They do not have the technical expertise. This is the basic problem which we are facing today. The State Pollution Control Boards are flouting the rules and are giving licences to various industries. Now, this Bill will take care of all these things. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): Mr. Narayanasamy, in view of the heavy schedule, I would request you to be brief....*(Interruptions)*...

SHRI V. NARAYANASAMY: Sir, I will abide by your direction. Sir, I would like to quote clause 11 of the Bill which say, "Any person aggrieved by an order granting environmental clearance in the areas in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards..." In this connection, I would like to say—I do not know how far this interpretation is correct—that with regard to a single major industry whether it is in the public sector or the private sector, a person cannot have relief. The person will get relief only when it is a cluster of industries and he can go to the National Environment Appellate Authority. I would like to know from the Minister: if there is any major industry which is creating pollution, in that case, can a person go to this Authority to get relief? There is one more doubt which has arisen in my mind with regard to the appointment of the Chairman of this Authority. They have prescribed many qualifications for the Vice-Chairman that he should be Secretary to the Government; he should have specific knowledge about administrative matters, etc., etc. For Chairperson, what is the qualification? I would like to know whether they are going to specify it in the rules. Sir, the Chairperson of the Board

would be an important person. he should have some specialised knowledge about environmental issues. But, the Bill is silent on this aspect. If this is not mentioned in the Bill, the Chairperson will have to depend on the Vice-Chairman and other Members of the Authority who may be having specialised knowledge of the subject. I do not know who drafted this Bill. In this Bill they have specified the qualifications of the Vice-Chairman and other Members, but they have not mentioned the qualifications for the Chairperson. I would like the Minister to clarify this point.

Sir, I was told—I do not know how far it is correct—that on aquaculture the Government would be bringing forward a Bill. I do not know what they are going to do. The Supreme Court came heavily on the Government and said that within 500 mtrs. of CRZ— aquaculture activities should not be there. What happened? The Government of India was grouping in the dark. The Marine Product Export Development Authority, the Ministry of Agriculture, the Law Ministry and various other Ministries were together and ultimately I was told that they were bringing forward some Bill by which they were going to save the aquaculture industry. Sir, I would like to submit that as far as aquaculture industry is concerned, people stated it in a big way four or five years back. They have invested a huge amount. The NABARD has given Rs. 4,000 crores for the development of aquaculture. Apart from that, banks have given more than Rs. 2,000 crores by way of loans to these people, to these farmers, the people doing aquaculture. Ultimately, what happened? The Supreme Court's directive came, to the effect that by 31st March, all the ponds have to be demolished.

You are proposing to bring forward a Bill now. I do not know whether it would be opposed by your coalition partners. I do not know how far it is going to serve

the purpose. But what has been the reason? It is because of the failure on the part of the State Governments, as well as failure on the part of the Ministry of Environment in having proper guidelines relating to the coastal regulation zone. Who is to be blamed? It is not the farmer who is to be blamed. It is the Ministry of Environment and the State Governments which have to be blamed. They did not draft any legislation, or, lay down the guidelines, for the purpose of regulating the aquaculture activity in the coastal areas.

Then, there are a number of voluntary organisations. There is the NEERI and similar organisations. They are the champions of environment protection. Some of them are good. At the same time, there are organisations which are there only for name-sake. The point is, we have to strike a balance. Some of them are experts. On the other hand, some of them set up such organisations, with different motives. I would give you an example.

One farmer in Tamil Nadu went to the Supreme Court on this aquaculture issue. He was funded, financed, by the various militant organisations. It was because, they wanted the coastal area to be kept free; they did not want the coastal area to be occupied, they wanted it to be barren, so that they could continue with their terrorist activities there. The hon. Minister should know because he comes from a terrorist State. He should, therefore....

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): Not a terrorist State, Mr. Narayanasamy. There was a problem there. They had some problem which they have overcome. Mr. Minister, I have clarified. In his exuberance, he has made the statement. He does not mean it.

PROF. SAIFUDDIN SOZ: Sir, it should not go on record. It should not form part of the record.

THE VICE-CHAIRMAN (SHRI

TRILOKI NATH CHATURVEDI): He does not mean it.

SHRI V. NARAYANASAMY: It was a terrorist-infested area. I correct myself.

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): And it has been overcome.

SHRI V. NARAYANASAMY: Sir, in the coastal areas, in the Indian Ocean, there is a large presence of militants. What these militants do is, they get some people to file cases against those who have set up aquaculture farms. Thereby, they want to prevent that area from being utilised for aquaculture. Sir, today, what is the position? Foreign exchange of the order of Rs. 3,000 crores which the country has been getting through this aquaculture has been lost. The Government is not getting anything.

Therefore, Sir, I want the hon. Minister to revamp the Environment Ministry. Also, you should implement the Acts which are in force. You should activate the State Governments, with a view to ensuring the strict implementation of the Acts which are there, at the State-level. But what is happening now is that whenever there is a problem, when people make a hue and cry, the Environment Ministry wakes up. Then they go for a remedy. When people go to the court, you start acting. I know umpteen number of cases where the Environment Ministry has failed to discharge its duty, when the State Government did not implement the Act.

Sir, I would say that this Bill is not going to serve the larger interests of the society. As I said, there are some bogus organisations. They file cases just to stop industries from functioning. That is also there.

SHRI JOHN F. FERNANDES: Extortion.

SHRI V. NARAYANASAMY: As has been rightly pointed out by my hon. friend, these people are indulging in extortion. They extort money from many

for these industrialists. They make the industrialists pay huge amounts in order that they are able to run the industry. Thereafter, they withdraw the petition. This is also going on. All these things are happening because of the failure on the part of the Environment Ministry and the different State Governments.

Therefore, Sir, it is high time. What is happening is...

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): You have said about what is happening. Your have to wind up now.

SHRI V. NARAYANASAMY: I am going to say one more thing-as to what is happening. One more thing I am going to say.

SHRI T.G. VENKATRAMAN: Things always happen.

SHRI V. NARAYANASAMY: The Minister is saying something. That is also happening.

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): Both of you are neighbours.

SHRI V. NARAYANASAMY: Sir, officials from the Environment Ministry go abroad. They attend seminars. They get to know a lot of things. But it is not being used. Whatever discussions take place in international conferences, whatever new technology has been developed, for the purpose of environment protection, is not being used here. Then why should you spend such huge amounts? Why should you spend so much money and send your officials abroad? I am told, some of the officials frequently go abroad.

Sir, these are the areas. I know the hon. Minister has just settled down. Therefore, I do not want to burden him. I can tell him as to what other things he can do. As a Member earlier, he was very vocal. I would like the hon. Minister to clarify some of the important points which I had raised. For example, I raised the point about the qualifications for the

office of the Chairperson. Then, what are the industries which are classified? Then, what are the industries which are classified?

Secondly, there is an increasing awareness about environment and the need to protect it. Simultaneously, there is also an increasing tendency on the part of industrialists as well as other people to show total disregard for environmental and other considerations and for ecological balance. What sort of nature and environment are we going to give to our progeny just for the sake of profit and greed that we have?

The third thing is the increasing sense of complacency in the Government, in the Department. There is corruption, particularly in the Department of Environment. They are supposed to be watchdogs of environment, but, unfortunately, corruption has been rampant in this Department.

First of all, I welcome this because of two reasons, as I understand them. Probably, the Appellate Authority will reduce the burden on the civil courts. Number two, it may reduce the delays in decision-making. Number three, it will give finality to decisions that are handed over by the Appellate Authority.

But, Sir, I have got a few reservations and a few observations to make on this Bill, going into it in a little detail

The hon. Member, Mr. Mody, mentioned the main problem.

One important aspect is, the public sector industries are the most polluting industries. They violate environmental laws like anything. Neither the Environment Ministry nor the State Government has any control over them. Ultimately, they think that they are the monarchs. You take the Madras Refineries, or you take the Cochin Refineries. They are polluting the coastal areas. There are so many other public sector industries. Therefore, Sir, it is high time the hon. Minister woke up and directed his Ministry officials to check

water pollution, air pollution and ground pollution that is taking place. By that we will be able to save this country.

Now, today, we find that environment is one of the major problems facing this country because multinationals are coming here for starting a lot of chemical industries in this country because other countries are not allowing them to start those industries there. You are liberal with some of them. You are giving licences freely for hazardous industries. If a local person wants to start an industry, controlling pollution, you are not allowing him.

Therefore, Mr. Minister, you take care of these things and see that if a Bill is brought, it should be able to protect the people and even industrialists for that matter, you should draw a line on which you have to act.

thank you.

DR. Y. RADHAKRISHNA MURTY (Andhra Pradesh): Sir, first of all, I want to say that I am sorry to see that this new Government has also inherited this Ordinance habit from its predecessor. Actually there was no need for the Ordinance like this because there was no urgency here.

Secondly, in the statement explaining the circumstances necessitating the promulgation of the National Environment Appellate Authority Ordinance, it is stated that it was necessary for quick redressal of public grievances and, secondly, for setting up an authority for granting environmental clearances to developmental projects under the provisions of the Environment Protection Act. It is not enough to say "developmental projects." Sometimes, legal luminaries read in between the lines. It should be not only developmental projects but also related matters.

The next point I want to mention is that this concern for environment has been there in the last quarter of the century, unfortunately. It started in 1972

with the United Nations Organisation hosting a conference on Human Environment. India is a signatory to that. It has taken us 14 years to bring in an Act for protection of the environment. That was in 1986. Then, much polluted water has flown through the Ganga. Now, after ten years, we are thinking of the Appellate Authority and to make an Act for that. Clause 3(2) says that the headquarters will be at Delhi. I have got my strong disapproval on this particular point, because Delhi is already an overcrowded city with a lot of Central Government offices located there. It is posing a problem of dangerous pollution levels. So, why not locate it at a Central place in India so that the problems of the people coming from distant places like Kanyakumari for small thing are also obviated? I would suggest to the hon. Minister to think over it and locate it at a Central place in India or probably in my state.

Clause 5(1) deals with appointment of Chairperson. We have many avenues to reward and rehabilitate the retired Judges. Why not have a sitting Judge of the Supreme Court or the Chief Justice of the High Court to be appointed as Chairman?

Clause 5(3) is regarding the Members. They have suggested three members to be appointed. I somehow think 'three' is a small figure and is also not an auspicious number. It can be increased to 'five' so that we have more democratic, fair and just decisions.

Moreover, it should not be a post for the bureaucrats. As it has been pointed out by some of my colleagues, it should be, "The persons who have already worked on bodies like this." Secondly, it says: "Members with special knowledge and special experience." If only knowledge and experience is the criteria, then only the bureaucrats will come in. I suggest that it should be "Special knowledge in the academic field in the universities or in research institutions." A lot of research work in the field of

environment is going on in research organisations. So, we can have people from there.

I now come to Clause 8(2). It is said: "The Chairperson, Vice-Chairman or a Member shall not be removed from office, except by an order made by the President on the ground of proved misbehaviour or incapacity..." When it is a proved misbehaviour, where is the need to show that there are charges against him and that he should be given a reasonable opportunity to be heard? It is a proved misbehaviour. So, there is no need to go into the whole process. It is a dilatory practice. Probably, it is drafted by some legal luminary. They are expert in such draftings.

Lastly I come to Clause 11(1), which says notification of licence or clearance should be made public. It should be given a wide coverage so that all people interested in the matter know of it and come to them for appeal, if necessary. Very often we find these things are done very clandestinely. If multi-national organisations are involved in some of these industries, they know how to manage these things. Very often these things do not come to the light. So, 90 days' time given is not sufficient. Probably it can be extended to six months to know the realities of these matters. We have many examples about these in our country.

Lastly, Clause 11(2)(c) deals with persons who can appeal. That is the most dangerous part. It is said: "The person likely to be affected or association of persons likely to be affected." So, these are the only categories which can go in for appeal. What about public spirited people or public spirited organisations interested in protection of the environment? Can they go in for appeal? It has not been provided in this. So, when you go to the court, the court will say that you have no *locus standi*. So, I want to emphasise this particular point that

public spirited persons or organisations should have to the right to go in for appeal. This should be incorporated in the Bill.

Sometimes, there is a fight between MNCs and small environment organisations. It is an unequal fight between them. Some protection should be given to these people. I do not know how they will provide it in this Bill. I request the hon. Minister to go into it and make some provision for that.

With these suggestions and observations, I support the Bill.

Thank you.

SHRI JOHN F. FERNANDES: Mr. Vice-Chairman, Sir, I think, this Bill or this Ordinance which the hon. Minister has moved is in pursuant to the judgement of the hon. Supreme Court. The hon. Supreme Court gave a green judgement, saying that environment-fragile areas in this country should be prevented from destruction and that no appeals or legal remedies should lie pending in courts.

I raised a Special Mention on the 21st of December. We are facing a major problem in my State. We have mining there which is controlled by a few private mine-owners who were there during the colonial rule, the Portuguese rule. They have been allowed to continue their activity by our Government also. We have a big problem because whenever a private mine-owner does his mining activity, he will look to maximum profitability. He will not think of the environment. He will not think of the people. He will not think of the paddy fields and the green lands.

So, though I have a reservation as far as the Ordinance is concerned, I welcome this Bill. I don't think that we should appreciate the Ordinance. I have mentioned yesterday only that Bills are drafted by the bureaucracy and brought to Parliament. The hon. Members of this House are called "law-makers." We do not make law. If we

had made laws, how did we not provide the Appellate Authority in the principal Act of 1986? When you drafted the Environment Protection Act, 1986, why did you not make that provision?

To our great disadvantage, about three years back powers were given to the Standing Committees of Parliament to debate all these Bills. But, again, the bureaucracy plays the same trick. Bills are brought in the form of ordinances. So, that privilege is denied to Parliament. Some Members have mentioned that when the bureaucrats bring such Bills to Parliament, they also see to it that wherever such authorities are created, they are employed in them. I am coming to the provisions of this Bill.

I say it is a good Bill because it has come as a result of a judicial appeal. I am not talking of a medical appeal but a judicial, public interest litigation. I think, it is appropriate. Indiscriminate destruction of environment is done basically by multinational houses or industries and also the Government. The Government is the main violator of the provisions about environment because it has major projects.

For example, in my State, there is the Konkan Railway. I have been raising in this House that they have gone to an environmentally fragile area and that they cannot complete the Konkan Railway. I have raised this matter in this House for the last four or five years. The Railway Minister announced the Date of inauguration nine times. Again he has announced the other day that it would be inaugurated in July. I don't think so. You have spoiled the environment completely. You cannot build tunnels in marshy lands.

Therefore, I want to ask whether this Bill will cover the Government projects or it will cover only private industries. Is that the spirit of the judgement of the hon. Supreme Court? I think, this

has not been made clear. They have mentioned only companies and directors. What about the Government?

Again, Sir, this Bill provides that the Chairman will be a sitting Judge or a retired Judge of a High Court or the Supreme Court. The age has been mentioned. The Vice-Chairman has to be a bureaucrat. It mentions that he has to have legal knowledge. Have you made any provision that in case the Chairman is not there, the Vice-Chairman would be Acting Chairman? And he has to give speaking orders because it is a Constitutional body. All Constitutional bodies have to give speaking orders because they will be litigated upon. The judgments of the Appellate Authority can be litigated upon in the Supreme Court. You have not made a provision for the Vice-Chairman to have a judicial background. Bureaucrats may say, "I am an LL.B. I am an LL.M., and I have a legal background". It is just a legal degree. I think you should make a provision as it is in the other statutes that this gentleman should also have a judicial background because I think he will be the Acting Chairman when the Chairman is not there.

Sir, the hon. minister has mentioned about three members. And for these three positions, bureaucrats are not debarred. I want the Government to give us an assurance that they will be non-officials. In fact, it should have been made an in-built provision. We have many experts in this country. We have professors, we have vice-chancellors; we have environmentalists, NRIs coming from abroad to help us. But not making such a provision, I think the Government will pack the body with its own nominees as they are now packing the boards of Air India and Indian Airlines because they are getting free trips and tickets. Is the Government going to do the same thing here? I want an assurance from the Government that experts who are in the

field should be involved. Bureaucrats may still deem the Secretary of the Environment Ministry an expert on environment. You just appoint him for six months; and some other Government comes; because Governments come in and go out these days. These Secretaries may claim they have this experience. So, I would appeal to the hon. Minister to see that these three members at least are non-officials. You will have a bureaucrat there by appointing him as the Vice-Chairperson. The Government's interests will be protected.

SHRI R.K. KUMAR (Tamil Nadu): It will be a post-retirement sanctuary for bureaucrats.

SHRI JOHN F. FERNANDES: That is why I am saying that there should be an in-built mechanism. I am saying that these Bills are not sent through Parliament but are brought in as Ordinances because they are creating employment for themselves. I have no objection. They can do it. But the spirit of the Bill should be fulfilled. As mentioned at the outset, have they made this provision in the principal Act? Then why do we blame the courts for judicial activism? Here, we have to justify judicial activism.

Mr. Vice-Chairman, Sir, coming to the provisions of the Act, we do not know whether the Government will be under the purview of this provision for infrastructure projects. Maybe they are going to build private roads. They can take them through a short-cut because they will see the maximum profitability. They can take a road even through a bird sanctuary or a wild-life sanctuary. Will Government projects also come under the purview of this Appellate Authority? Will infrastructure projects like dams, projects of the Railways, other major projects also come under its purview? These rules are made for private companies. Now, you have a power house in Delhi at ITO. There is a power house which is causing the maximum pollution to the city of Delhi.

They have smoke billowing which they do not control. They do not use any mechanism. I have suggested many ways to control it. They say that there are no funds. Will the Government also come under the purview of the provisions of this Bill?

Now, they have mentioned only new projects. What about the existing projects? The Government has made a provision that if there are petitions, they are debarred from going to any civil court, they should be brought before this authority. What about the pending cases? Many cases are pending before the various courts. Have you made any provision to transfer them to this authority? Why have you not made it? How about a polluting industry which is already existing? It should also be termed as a new industry. This is something unique that you have brought in. Whenever you file a petition against the giants, naturally, to have justice in this country, you have to haveoney. The people who are appealing against these projects are poor people. They are NGOs. They have no money. Again, you have said that the authority will sit in Delhi. Why don't you make a provision that this authority can sit in all the four zones throughout the country—the north, south, east and the west? Why should they come only to Delhi? Even the Supreme Court, if it so desires, can sit anywhere in the country. Why have you made this provision that they should sit at Delhi only? Is it to create more pollution? I don't think that the people have so much money for litigation. How will they come to Delhi? The advocate at Delhi will cost a lakh of rupees just for one appearance. Some of the hon. Members of this House are also advocates. They charge one lakh of rupees for one appearance whereas the advocates in other States are unemployed. Why don't you shift the seat of the Tribunal from Delhi to somewhere else? (*Interruptions*)

THE VICE-CHAIRMAN (SHRI

TRILOKI NATH CHATURVEDI): We are not identifying the advocates here, for the present.

SHRI JOHN F. FERNANDES: I am submitting that the Appellate Tribunal Authority can sit at different places. Now, the State Governments have the State Pollution Control Boards. But they have no machinery with them. It happened in my State-Goa. The State Pollution Control Board gave a licence for Nylon-66. But the Central Institute said that the certificate given by the State Pollution Control Board, was not proper. Are you going to have an expert committee to advise the Authority or are you going to do the same thing? You don't have an expert committee to advise the Authority and all the judgments of the Appellate Authority will be challenged in the Supreme Court. An appeal can be filed against the decision of the Appellate Authority in the Supreme Court. I request the hon. Minister to clarify these points raised by me. I welcome this Bill, and I think this Bill is going to be very important. With these words, I conclude my speech.

[Vice-Chairman (Shri Md. Salim) in the Chair.]

SHRI R. MARGABANDU (Tamil Nadu): Mr. Vice-Chairman, Sir, I thank you for having given me this opportunity to speak. Sir, according to clause 5(1) of the bill, a person shall not be qualified for appointment as a Chairperson unless he has been—(a) a Judge of the Supreme Court; or (b) the Chief Justice of a High Court. According to clause 7, the Chairperson, the Vice-Chairperson or a Member shall hold office as such for a term of three years from the date on which he enters upon his office, but shall be eligible for re-appointment for another term of three years:

“Provided that no Chairperson, Vice-Chairperson or Member shall hold office as such after he has attained,—(a) in the case of the Chairperson, the age of seventy years; and (b) in the case of the

Vice-Chairperson or a Member, the age of sixty-five years.” Under article 124(2) of the Constitution, the retirement age of a Judge Supreme Court is only 65 years. Under article 217 of the Constitution, the retirement age of a Judge of the High Court is 62 years. It has been stated in the Bill that the appointment is for a period of three years. In the case of the Chairman, the age limit is seventy years whereas in the case of the Vice-Chairperson or a Member, the age limit is sixty five- years. Why is it so? Why is a provision of 70 years kept for the Chairman? How can a man of seventy years hold this post? This point has to be clarified. I would like to know as to against which order, the appeal is provided. Is it against the order of the Licencing Authority? I would like to have a clarification on this point. There is an Environment Act, of 1986. A provision in respect of appeal has been provided in that Act. So, instead of bringing this Bill, the Environment Act of 1986 could have been amended and a provision for appeal could have been provided in that Act. The seat of the Authority would be at Delhi. The Authority would be sitting at Delhi and transacting business for the whole of India. My hon. colleague, Mr. John F. Fernandes, referred to this point and said that the aggrieved person will have to come all the way from Kanyakumari to Delhi. In my opinion, the seat of the Authority should be decided keeping in view various zones. Any person suffering from any decision could approach the Authority situated at the State headquarter or at the nearest zone. That provision has to be made.

According to clause 11, the appeal has to be provided before the expiry of thirty days, and not after ninety days. I would like to know as to from which date the appeal has to be provided. Sometimes, a licence issued to a particular person is not within the knowledge of the aggrieved person. He does not know as to whom the licence is granted. When he is not in the know of it, how can he file an appeal within 30 days or even within an

extended period of 90 days? Beyond 90 days, it is completely barred. So, one can keep this licence to his heart and without letting it be known to anybody else, he can start after the expiry of 90 days. There is no provision for making an objection to that. Here I make a suggestion, either the order should be gazetted or it should be published in newspapers so that the person can have knowledge of the fact that within 30 days he can file an appeal. A provision for that has also to be made.

Now I refer to section 11(4) wherein it is stated that the proceedings should be concluded within 30 days. If it is not concluded within 30 days, then what will happen to those proceedings? In section 12(2), you have mentioned certain provisions. In section 12(2), it is stated: "setting aside any order of dismissal of any representation for default or any order passed by it ex-parte, and dismissing a representation for default or deciding it ex parte." In the Civil Procedure Code, a minimum period of 30 days is fixed for setting aside the ex-parte order or for restoring the petition which has been dismissed. If a petition is restored, then how can the proceedings be over within 90 days? If it is not completed within 90 days, what will happen to those proceedings? In the Advocates Act, under the disciplinary proceedings, one year's time is granted. If the proceeding is not over then it should be transferred to the All India Bar Council. In the Advocates Act there is a provision, but in this Act there is no provision at all with reference to what will happen to the proceedings after the expiry of 90 days. Under section 12(1), the Authority is not bound by the procedure laid down in the CPC. In that section it is stated: "The Authority shall be guided by the principles of natural justice and subject to the other provisions of..." It is also stated therein: "The Authority shall have power to regulate its own procedure." What is the procedure that they are going to evolve? One Chairman can evolve his own procedure.

If a new Chairman comes, he can evolve his own procedure. If another Chairman comes, he can also evolve his own procedure. There must be some set of principles which are to be followed. You can say that these are the principles on the basis of which proceedings should be undertaken. No such procedure has been evolved. If a person evolves some procedure and if that is challenged in a court of law, it will delay unnecessarily the whole proceedings. They can be delayed by anybody. As my hon. friend said, any interested person can hold up the proceedings for long and he can see to it that industries do not come up in that place or he can see to it that something is done detrimental to the interests of others. A provision should also be made to prevent such things.

In section 19, just like the Water Disputes Act, there is no provision for executing an order. That is why, in spite of the award passed by the Tribunal, — we are practically experiencing certain difficulties in the case of Cauvery water dispute because there is no provision in the Act for executing that order. That is the position, Sir. Suppose a person violates an order passed by this Authority. How will it be enforced? It will be enforced by whom, that also is not mentioned. There is no provision made in the Act. Likewise, under section 19, he can be punished for seven years. When he violates the order? Once again that man has to be tried through the Criminal Procedure Code where again evidence has to be taken, proceedings have to be initiated. It will take years together. Practically, there is no provision. There is an anomaly in section 19 and that has to be removed.

Sections 7 and 8 of the Environment (Protection) Act states—

"(7) No person carrying on any industry, operation or process shall discharge or emit or permit to be discharged or emitted any environmental pollutant in excess of such standards as may be prescribed."

"(8) No person shall handle or cause to be handled any hazardous substance except in accordance with such procedure and after complying with such safeguards as may be prescribed."

In this case also there is no punishment provision. There is no punishment under the Pollution Control Act. The Central Pollution Control Board and the State Pollution Control Boards are not enforcing the Pollution Control Act. The result is that the Supreme Court and the High Courts have to come heavily upon the industries which are polluting the environment, releasing effluent waters without treating them and causing a lot of health hazards and danger to the land. This can be rectified in this Act. Without this rectification, if it is passed as it is, it will be of no use and it will remain just as a paper in the Statute Book.

उपसभाध्यक्ष (श्री मोहम्मद सलीम): श्री ईश दत्त यादव। आपका चार मिनट का टाइम है।

श्री ईश दत्त यादव (उत्तर प्रदेश): माननीय उपसभाध्यक्ष जी, राष्ट्रीय पर्यावरण अपील प्राधिकरण विधेयक, 1997 की भावना का, उसके उद्देश्यों का मैं समर्थन करता हूँ, लेकिन इस बिल में बहुत से प्रावधान ऐसे हैं, जिससे मैं व्यक्तिगत रूप से सहमत नहीं हूँ और जिसकी ओर हमारे कई माननीय सदस्यों ने भी इशारा किया है।

मान्यवर, पर्यावरण, प्रदूषण इस देश की एक गंभीर समस्या है, लेकिन पर्यावरण या प्रदूषण के नाम पर विकास के कार्यों को रोक देना, दिल्ली के सारे कारखाने बंद कर देना या फर्ज कर लिया जाए, मान्यवर, कलकत्ता के सारे कारखाने पर्यावरण और प्रदूषण के नाम पर बंद कर दिए जाए तो इससे देश के विकास की ओर लोगों की रोजी-रोटी की समस्या खड़ी हो जाएगी। मैं सोच रहा था, मान्यवर, लखनऊ में हजरतगंज से लेकर रेलवे स्टेशन तक 6 किलोमीटर का रास्ता है, जब दिन रहता है, धूप रहती है, वहां इतने आटो-रिक्शा चलते हैं कि उनकी वजह से उस 6 किलोमीटर के रास्ते में इतना अंधेरा रहता है, इतना प्रदूषण रहता है, हमारे उत्तर प्रदेश के बहुत से माननीय सदस्य बैठे हैं, हमारे नेता बैठे हैं जल संसाधन मंत्री जी, हम सब लोगों ने वह देखा है। माननीय गणनाथ सिंह जी ने भी देखा है कि उस 6

किलोमीटर रास्ते में दिन में भी अंधेरा रहता है, प्रदूषण रहता है। तो मैं सोच रहा था कि अगर आटो-रिक्शा बंद कर दिए जाएं तो क्या होगा। इममें वहां लोग भुखमरी के शिकार हो जाएंगे। इसलिए सरकार को इसमें संतुलन का कोई न कोई रास्ता बनाना पड़ेगा कि पर्यावरण भी शुद्ध रहे, प्रदूषण भी न हो, रोजी-रोटी भी लोगों की खतम न हो और विकास का काम भी ठप्प न हो। सरकार के लिए यह काम कठिन होगा, लेकिन इस पर सरकार को सोचना पड़ेगा। मैं समझता हूँ कि पिछली सरकार ने भी इस पर गंभीरता से नहीं सोचा और हमारे मंत्री जी तो अभी नए हैं। मैं चाहूंगा कि इस पर आप गंभीरता से विचार करें कि वन और बाग, जंगल और शेर, दोनों की रक्षा हो जाए।

मान्यवर, प्रदूषण भयंकर रूप से फैला हुआ है। हम चिंतित हैं शहर के प्रदूषण के लिए क्योंकि यहां हम लोग कुछ खाने पीने वाले अच्छे किस्म के लोग हैं, लेकिन गांव के प्रदूषण के लिए कोई चिंतित नहीं है। गांव में आज शुद्ध पेयजल नहीं मिल रहा है, जो बीमारियों और मौत का कारण बना हुआ है। एक बार, मान्यवर, एक कमेटी में मैं आपके बंगाल में गया था। वहां रास्ते में एक गांव में रुकना पड़ा था, जहां हमने देखा कि लोग तालाब का पानी पी रहे हैं। इस पर भी सरकार को गंभीरता से विचार करना चाहिए।

मान्यवर, यह तो उच्चतम न्यायालय ने आदेश दे दिया कि जो पर्यावरण कानून बना हुआ है पहले का, उसमें अपीलेट अथोरिटी का कोई प्रावधान नहीं है, इसलिए अपीलेट अथोरिटी बनाई जाय। उसी का यह सरकार और मंत्री जी अनुपालन कर रहे हैं। मैं समझता हूँ इससे कोई भी अभिप्राय हमारा पूरा नहीं होने वाला है। इसलिए मैं चाहता हूँ कि सरकार इस पर गंभीरता से विचार करे।

4.00 P.M.

मान्यवर, दो प्रावधानों की ओर मैं आपका ध्यान आकर्षित करना चाहूंगा, जिन पर कई माननीय सदस्यों ने अपने विचार व्यक्त किए हैं। एक तो यह जो प्राधिकरण बनेगा, अपील प्राधिकरण, एपीलेट अथोरिटी जो बनेगी, इसमें कह दिया गया है और हमारे साथी श्री फर्नांडिस साहब चले गए हैं, मैं उनकी इस बात से सहमत हूँ कि ब्यूरोक्रेट्स बैठकर कानून को बना देते हैं और हम उसे पास करने के लिए मजबूर हो जाते हैं। मान्यवर, यह प्राधिकरण कोई रिटायर्ड जज को रोजी देने के लिए थोड़े ही बनाया जा रहा है। कह दिया जाए कि जितने रिटायर्ड लोग इस देश में हैं, किसी न किसी निगम में बना दिए

जाएँ, किसी न किसी अधीन में बना दिए जाएँ, तो यह बात अच्छी नहीं है। इस देश के अंदर कानून जानने वाले लोग हैं, बहुत अच्छे लोग हैं, पर्यावरण के विशेषज्ञ लोग हैं, विज्ञान के विशेषज्ञ लोग हैं। तो मेरा कहना यह है कि क्यों नहीं डायरेक्ट रिक्रूटमेंट किया जाता? क्यों नहीं सिटिंग जज को ही बना दिया जाता? अगर सरकार आवश्यकता महसूस करती है कि जो जज है वह ज्यादा काबिल होता है, तो सिटिंग जज को ही क्यों नहीं इसमें ट्रांसफर कर दिया जाता? इसलिए यह जो कानून बनाया गया है—मान्यवर, मैं अपनी पार्टी-लाइन पर नहीं, व्यक्तिगत तरीके से—मैं इसका विरोधी हूँ कि इस तरह के कानून को नहीं बनाना चाहिए, जिसमें यतीमखाना मालूम पड़े। जो रिटायर हो गए, 62 साल की उम्र में रिटायर हो गए—लकवे के शिकार हैं, आंख से दिखाई नहीं देता, दिमाग भी पूरी तरह से काम नहीं करता, लेकिन एक प्राधिकरण है, जिसमें उनका एडजस्टमेंट कर दिया। मैं इसका विरोधी हूँ। मैं चाहता हूँ कि इस देश के अंदर विधि विशेषज्ञ हैं, पर्यावरण विशेषज्ञ हैं, विज्ञान के विशेषज्ञ हैं, इनको इस प्राधिकरण में लिया जाना चाहिए।

दूसरा मेरा निवेदन है, मान्यवर कि इसका ...

उपसभाध्यक्ष (श्री मोहम्मद सलीम): आप पांच मिनट बोल चुके हैं, समाप्त कीजिए।

श्री ईश दत्त यादव: मान्यवर, मैं केवल दो मिनट और लूंगा।

मान्यवर, आप अनुच्छेद 12 देखें, इसमें मुझे विरोधाभास लगता है, मंत्री जी ने पता नहीं इस पर विचार किया है या नहीं किया है। अगर आप अनुच्छेद 12 का सब-क्लाज़ 1 पढ़ें, तो उसमें लिखा है कि:—

“The Authority shall not be bound by the procedure laid down in the Code of Civil Procedure.”

इसकी बाध्यता नहीं होगी इस प्राधिकरण पर, लेकिन अगर सब-क्लाज़ 2 देखें, तो उसमें है:—

“The Authority shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure...”

इसका अनुपालन नहीं करेंगे। इसमें जो व्यवस्था नहीं दी गई, उसको नहीं मानेंगे, लेकिन इसमें दिया गया है कि अपने अधिकारों का प्रयोग करेंगे। मैं इसको विरोधाभास मानता हूँ। हमारे देश में प्रक्रिया संबंधी जो

कानून अब तक है, सिविल प्रक्रिया संबंधी, हमारे देश में सिविल प्रोसीजर कोड से अच्छा कोई कानून नहीं है, तो क्यों नहीं अपील अधीन उन्हीं प्रोविज़न्स के अनुसार काम करती? एक तरफ तो इस सब-क्लाज़ में कह दिया गया कि उसको मानने के लिए बाध्य नहीं है और दूसरी तरफ कहा गया कि इसमें जो शक्तियां दी गई हैं, जो शक्तियां वर्णित की गई हैं संहिता में, उन शक्तियों का ये प्रयोग करेंगे। इसलिए मैं मंत्री जी से चाहूंगा कि इस पर आप गंभीरता से विचार करें।

मंत्री जी, आपका यह बिल लोक सभा में पास हो गया है और आज इस माननीय सदन में इस पर बहस हो रही है। मैं सत्ता पक्ष का सदस्य हूँ लेकिन फिर भी मैं कहना चाहूंगा कि, मंत्री जी, यह कोई साधारण कानून नहीं है, एक बहुत महत्वपूर्ण कानून आप बनाने जा रहे हैं। इसके द्वारा लोगों के अधिकारों का फैसला होगा कि निहित क्षेत्र में कोई उद्योग प्रदूषण की दृष्टि से चलाया जाए या नहीं या कुछ शर्तों के साथ, कुछ टर्म्स एंड कंडीशन्स के साथ चलाया जाए या न चलाया जाए, इन बातों का यह अपील प्राधिकरण निर्णय करेगा। मैं कहना चाहता हूँ कि आप इस तरह का कानून न बनाएं कि वह हास्यास्पद लगे, वह जानदार न लगे, उसमें जीवन न हो और वह केवल कुछ रिटायर्ड लोगों को रोजी दे, इस उद्देश्य से इस कानून को न बनाया जाए।

इन्हीं शब्दों के साथ मैं इस कानून की भावना का, इसके उद्देश्य का और माननीय सुप्रीम कोर्ट के डायरेक्शन्स का स्वागत करते हुए मंत्री जी से कहना चाहूंगा कि इस बिल के अनुच्छेद 5 और 12 पर आप गंभीरता से विचार करें और इन पर कोई न कोई संशोधन आप प्रस्तुत करें इस सदन के अंदर।

मान्यवर, आपने मुझे बोलने के लिए समय दिया, इसके लिए आपका बहुत-बहुत धन्यवाद।

श्री शिव चरण सिंह (राजस्थान): मान्यवर, इस बिल के पहले जो यह आर्डिनेंस लाया गया है, मैं इसका विरोध करता हूँ। माननीय सतीश अग्रवाल जी ने भी इस पर ऐतराज प्रकट किया है क्योंकि एक महीने पूर्व आर्डिनेंस लाने का कोई औचित्य नहीं था। एक महीने में ये बिल ही ला सकते थे। महोदय, इसकी भूमिका क्या है, इसके बारे में मैं कुछ बताना चाहूंगा। महोदय, आजादी के बाद जब सारी रियासतों को विलीन करके राज्य बनाए गए तो हमारे यहां 1956 में फॉरेस्ट ऐक्ट लाया गया था। वन संपदा राज्य और केन्द्र की सम्मिलित संपत्ति है और फॉरेस्ट डिपार्टमेंट केन्द्र में होता है और राज्यों में होता है। केन्द्र नीति निर्धारित करता था,

राज्य उसको कंट्रोल करते हैं। इसके लिए अलग से फॉरेस्ट सर्विसेज बनीं। हमारे देश की आजादी के बाद 1956 में हमारे यहां जो सिलेबस है, फॉरेस्ट्री में जो ट्रेनिंग दी जाती है देहरादून में और अन्य जगह, वहां इस बात की ट्रेनिंग दी जाती है कि इन वनों को किस प्रकार से ज्यादा से ज्यादा उपयोग में लाया जा सकता है। वन कटाई चाहे वह विम्बर के जरिए हो, चाहे और प्रॉडक्ट्स के जरिए हो, प्रत्येक राज्य का यह उद्देश्य था कि वन संपदा का ज्यादा से ज्यादा उपयोग साधनों की दृष्टि से और आमदनी की दृष्टि से कैसे किया जाए।

महोदय, हमारे वनों का जो सर्वनाश हुआ, उसका सबसे बड़ा कारण यह था कि अंग्रेजों के जमाने में वनों को आमोद-प्रमोद का जरिया माना जाता था। हमारे माननीय मंत्री कश्मीर के रहने वाले हैं जो वन संपदा से भरा पड़ा है। आज कश्मीर की वन संपदा की क्या हालत है? महोदय, मैं राजस्थान का रहने वाला हूँ। राजस्थान की रियासतों के मर्ज होने के बाद जहां पहले 33 प्रतिशत वन थे, उस वन संपदा का दोहन करने के बाद आज हमारी स्टेट में 21 प्रतिशत वन हैं और 9 प्रतिशत एलाईड वन हैं। आप सारे देश के परिप्रेक्ष्य में देखें तो वनों का सर्वनाश हुआ और हमारे सामने एक समस्या आई कि ऐनवायरनमेंट को हम कैसे चैक करें। जब श्रीमती इंदिरा गांधी जी प्राईम-मिनिस्टर थीं, उन्होंने इस जरूरत को महसूस किया। उन्होंने मसूरी, देहरादून, कश्मीर और अन्य प्रांतों के वनों का नाश होते हुए देखा और तब 1980 में फॉरेस्ट कंजर्वेशन ऐक्ट लाया गया। महोदय, 1980 के फॉरेस्ट कंजर्वेशन ऐक्ट लाने के बावजूद हमारे देश की ब्यूरोक्रेसी और हमारे देश की मशीनरी इतनी अकर्मण्य है, फॉरेस्ट डिपार्टमेंट के कर्मचारी इतने अकर्मण्य हैं कि जब फॉरेस्ट कंजर्वेशन ऐक्ट में यह प्रावधान है कि फॉरेस्ट ऐरिया में कोई नॉन फॉरेस्ट ऐक्टिविटीज नहीं होंगी लेकिन ये ऐक्टिविटीज चलती रहीं और आज इससे संबंधित बहुत से मामले जिला अदालतों में, हाई कोर्ट में और सुप्रीम कोर्ट में विचाराधीन हैं।

महोदय, हमारे देश के अंदर एक जबर्दस्त लॉबी है माइनिंग लॉबी। हमारे देश का यह दुर्भाग्य रहा कि टोडरमल के जमाने में जमीन का सैटलमेंट हुआ, रेवेन्यू लैंड का सैटलमेंट हुआ लेकिन हमारे देश की आजादी के पश्चात् भी फॉरेस्ट लैंड का सैटलमेंट नहीं हुआ, माइनेबल ऐरिया का सैटलमेंट नहीं हुआ और माइनिंग वाले फॉरेस्ट में घुसने लगे और फॉरेस्ट वाले रेवेन्यू में घुसने लगे। यह प्रक्रिया हर स्टेट के अंदर हुई। चाहे

आप मध्य प्रदेश जाएं, कर्नाटक जाएं, तमिलनाडु जाएं, सब जगह यही स्थिति है। तब हमारे देश में ऐनवायरनमेंट की बात उठी और अंतर्राष्ट्रीय स्तर पर भी हमारे ऊपर प्रेशर पड़ा। लोग जब बाहर जाने लगे तो उन्होंने देखा कि इंग्लैंड में जब इंडस्ट्रियल डेवलपमेंट हुआ था तो वहां ऐनवायरनमेंट की बात सोची गई, आज अमरीका में इंडस्ट्रियल डेवलपमेंट हो रहा है तो वहां ऐनवायरनमेंट की बात हो रही है, जापान में ऐनवायरनमेंट की बात हो रही है, तब हमारे देश के जो अधिकारी लोग हैं उन्होंने कुछ नकल करने की कोशिश की कि ऐनवायरनमेंट के नाम से कुछ और सर्विसेज बनेंगी और फिर हमारे यहां भी ऐनवायरनमेंट की बात होने लगी। महोदय, 1980 के बाद से बहुत से मामले चाहे वह बिहार स्टेट के हों या राजस्थान स्टेट के हों या यूथो के हों, वे सुप्रीम-कोर्ट और हाई-कोर्ट में चलते रहे। इसी इयूरेशन में 1986 में ऐनवायरनमेंट ऐक्ट की जरूरत महसूस की गई।

हर स्टेट के अंदर एंवायरनमेंट बोर्ड बना और उस बोर्ड में एक टेक्नीकल सर्विसेज का आदमी, इंजीनियर कैडर का और दूसरे कैडर के लोग आए गए। लेकिन यह इनएक्टिव रहा। आज उसका दुष्परिणाम यह हुआ कि आज गंगा प्रदूषित हो गई। मुझे याद है, माच्यवर, मैं 1968 में मंत्री था राजस्थान में। मैं जब ताजेवाला हैड गया तो वहां एक रियार्ड इंजीनियर हमको उस हैड को दिखाते ले गया। यह पुष्पे जमाने का डिग्रीशन का मृगलकाल का एक प्रोजेक्ट है—ताजेवाला हैड जहां जमुना नदी का टेप किया गया है। उसने कहा कि साहब, आप राजस्थान के रहने वाले हैं जमुना जी में स्नान कर जाएं। मैंने कहा कि जमुना जी यहां कैसे। उन्होंने कहा कि जमुना जी यहां बंद हैं। मथुरा में जो नहाते हैं वह सारा गटर का पानी है अतः आप कृपा करके यहां जमुना जी में स्नान कर जाएं। मैं नहीं समझा, मैं राजस्थान का रहने वाला। तब उसने मुझे बताया कि यहां जमुना नदी ताजेवाला हैड पर सारी बंद हो गई है और नीचे जो पानी जा रहा है वह गटर का पानी है, गंदा पानी है। मेरे दिमाग में जब यह बात बैठी तब मैंने पर्यावरण पर पढ़ना-लिखना शुरू किया और मैं इसमें थोड़ा इंटरेस्ट हो गया। आज मैं आपको बताना चाहता हूँ कि आज हमारे देश की जो दशा है, यह क्यों आया एक्ट, यह आर्डिनंस क्यों आया। अगर अभी 21 दिसम्बर को सुप्रीम कोर्ट का जजमेंट नहीं आता जो 1996 में माईंस के सिलसिले में यह जजमेंट आया, उस जजमेंट में इस बात को महसूस किया गया कि जब फॉरेस्ट कंजर्वेशन ऐक्ट 1980 में आया था उसमें

अपील का प्रोविजन नहीं था। लोग दूसरे रास्तों से सुप्रीम कोर्ट और हाई कोर्ट के अंदर हजारों मुकदमों के माध्यम से इन केसेज को अटकते रहे। हमारे देश में 20 साल में वन क्षेत्र अथवा चाहे और सम्पदा थी, जगह-जगह पर आज तो फिश फार्म आ गए। गुजरात के बोर्डर पर, आंध्र प्रदेश के बोर्डर पर और वहां एंवायरमेंट की नई किस्म की प्रोब्लम आने लगी है। तो यह जो बिल आया है उसका तो मैं स्वागत करता हूँ लेकिन इस बिल में कुछ खामियां हैं। हमारे देश में एंवायरमेंट का जो मामला है, सबसे ज्यादा इंपैटेड मामला जो आया वह आया सीशोर का, वह आया उत्तरी भारत के जहां वन सम्पदा के प्रांत हैं उनका। तो इसमें इस बात का स्पष्ट संकेत होना चाहिए था कि जो वन सम्पदा है क्योंकि हमारे यहां जो वन हैं वह सेंट्रल और स्टेट की सम्पत्ति हैं। सेंट्रल वाले तो कहते हैं, मैं मंत्री जी को कुछ नहीं कहूंगा, वह कहेंगे कि यह स्टेट का सब्जेक्ट है। हमारे पुण्ड्रे जमाने में यह होता था कि सारे देश में कांग्रेस का राज्य कोऑर्डिनेट था। ... (समय की घंटी)... मैं मुझे की बात कह रहा हूँ और इसकी भूमिका के साथ कह रहा हूँ, क्योंकि मंत्री जी बैठे हैं और वन इलाके के रहने वाले हैं। अगर इनके दिल में दर्द होगा क्योंकि कश्मीर में भी प्रोब्लम है। कश्मीर में दो तरह की प्रोब्लम है। जो वन सम्पदा को तबाह कर रहे हैं एक उनकी प्रोब्लम है। आज हमारे देश में तत्काल एंवायरमेंट क्लीयरेंस होना चाहिए। जैसे गोवा के माननीय सदस्य ने कहा कि गोवा की रे अटकी पड़ी है, बड़े-बड़े हाईडिल प्रोजेक्ट अटके पड़े हुए हैं। उनको क्लीयरेंस देने के लिए तो मैं सहमत हूँ। लेकिन आज सारी समस्या को हमको अंतर्राष्ट्रीय स्तर पर सोचना पड़ेगा। हमारे यहां जो वन सम्पदा का और दूसरी चीजों का ह्रास हुआ तथा नदियों का, आप अंदाजा कीजिए। गंगाजल को साफ करने के लिए हमको करोड़ों रुपए का प्रावधान करना पड़ा। आज गुजरात के अंदर सारे गांव के अंदर देखिए वहां केमिकल इंडस्ट्रीज डवलप हुई हैं। केमिकल इंडस्ट्रीज से आज वहां के गांवों का, शहरों का, कस्बों का एंवायरमेंट बिल्कुल पॉल्यूटेड हो गया। जमुना और गंगा के किनारे पर उत्तर प्रदेश में आप देखिए। गांवों में पीने का पानी सब प्रदूषित हो गया। आज गांव-गांव में जो इंडस्ट्रियल डवलपमेंट हो रहा है, हमारे यहां जो एंवायरमेंट बोर्ड है उनको आपको सशक्त करना पड़ेगा और इस बोर्ड के तहत इस अपीलेट ऑथारिटी के साथ जो कुछ इसमें प्रावधान है

उसमें इस बात की व्यवस्था करनी होगी कि इसमें जो सैक्रेटरी को रखा है। तो सैक्रेटरी तो आईएएस हो गया। न इनको टेक्नीकल ज्ञान है, न किसी और की परवाह। यह जॉब ऑरिएंटेड हो गया आईएएस का जॉब। आईएएस तो सब जगह आ जाते हैं। मुझे अनुभव है माईस ट्रिब्यूनल बना। माईस ट्रिब्यूनल में अपील होती थी। अपील में माईस सैक्रेटरी और एडिशनल सैक्रेटरी पर किस का दबाव है उसी से दब जाते थे। मुझको मालूम है कि एडिशनल सैक्रेटरी किन आधारों पर डिस्मिशन लेते थे। अगर इस प्रकार की बांड़ी हो गई तो आपके देश का एंवायरमेंट कुछ नहीं बचेगा और आपका देश तबाह हो जाएगा। सैक्रेटरी पर ऐसी पाबंदी हो वह बहुत एक्सपर्ट हो, टेक्नीकल हों, उस लाइन के हों, फॉरेस्ट सर्विसेज के हों, टेक्नीकल लाइन के हों। अगर एडमिनिस्ट्रेटिव लाइन के आ गए तो जो देश का आज प्रशासन तंत्र चल रहा है इसी तरह देश के पर्यावरण का बेड़ा गर्क हो जाएगा। इन्हीं शब्दों के साथ आपने तीन बार घंटी बजा दी, मैं आपके हुक्म की तामील करूंगा। धन्यवाद।

उपसभाध्यक्ष (श्री मोहम्मद सलीम): श्री गया सिंह। आपका दो मिनट का समय है, आप ढाई मिनट ले लीजिए।

श्री गया सिंह (बिहार): उपसभाध्यक्ष महोदय, मैं इस बिल का समर्थन करते हुए एक बात आपके माध्यम से माननीय मंत्री जी के सामने रखना चाहता हूँ लेकिन मेरा समय बचा रहना चाहिए क्योंकि मंत्री जी अभी आए हैं। आज देश में एक गंभीर सवाल है और ये जो बिल लाए हैं, मैं उसका स्वागत करता हूँ लेकिन मंत्री जी को यह बताना चाहता हूँ कि आज देश में सुप्रीम कोर्ट को यह अध्यदेश जारी करने की जरूरत क्यों पड़ी? इस हाऊस में मैं पिछले कई साल से हूँ और हर साल, हर सेशन में इस पर चर्चा होती रही, बहुत सारे सवाल उठते रहे कि हिंदुस्तान के उद्योग, खास तौर से बिजली उद्योग, केमिकल उद्योग, माइनिंग उद्योग, इन उद्योगों में और ज्यादातर जंगलों में जहां भी हमने उद्योग खड़े किए, वहां से जो प्रदूषण हो रहा है और उस इलाके के आदिवासी गरीब लोग जो उस पानी का इस्तेमाल कर रहे हैं, उसका सही मायने में अभी तक कोई रास्ता नहीं निकला। इसलिए कई लोग सुप्रीम कोर्ट में गए और सुप्रीम कोर्ट ने लवाचर होकर उड़ीसा के लगभग सारे आयरन और माइंस और दूसरी माइंस को बंद

करने का आदेश दे दिया। आज भी एकाध माइन्स को ही परमीशन मिली है और बाकी माइन्स बंद हैं। दूसरी ओर आयसन और माइन्स और लाईम स्टोन माइन्स में काम करने वाले हजारों-लाखों मज़दूर बेकार हो गए हैं। ज्यादातर वे आदिवासी वर्कर्स हैं, डेली वेजेज वर्कर्स हैं लेकिन आज उनकी नौकरी चली गई है और सुप्रीम कोर्ट ने जो आदेश दिसम्बर में दिया, उसके कारण वे माइन्स बंद हैं।

दूसरी ओर दिल्ली के बारे में चर्चा हुई। अचानक दिल्ली में जितने उद्योग हैं, उनके बंद करने का आदेश हो गया। आज हजारों मज़दूर नेताओं और दूसरे लोगों के बीच चक्कर लगा रहे हैं। तो आज देश में आज़ादी के बाद ऐसी स्थिति क्यों पैदा हुई? कानून तो हमारे सामने है लेकिन उसको रोकने के लिए जो एक्सा निकालना चाहिए, उसके लिए कोई उपाय नहीं किया गया। आज जिस प्राधिकरण का निर्माण करने के लिए बिल लेकर आए हैं, यह बड़ी अच्छी बात है लेकिन आप पुनः उन्हीं लोगों को इसमें एंगेज्ड कर रहे हैं जो खानापुरी करेंगे, इसमें डिले करेंगे और इससे काफी डिले होगा और पूरे देश की जो समस्या है, इस बिल में जो प्रोविजन है, उससे तो नहीं लगता है कि इन समस्याओं को हम इतनी आसानी से सॉल्व कर सकते हैं। समय तो हमारा कम है लेकिन मैं आपके माध्यम से मंत्री जी से कहना चाहता हूँ कि बिल का हम समर्थन करते हैं लेकिन संयुक्त मोर्चे की सरकार के प्रति देश के लोगों का जो एक उत्साह बढ़ा है, एक नई भावना बढ़ी है और हमारे बगल में जो सपोर्टर माननीय सदस्य हैं, उन्होंने पिछले साल में इस उत्साह को इतना घटा दिया कि आज अगर आप इस बिल को पास करने के बाद इसमें जो खामियाँ हैं, उनको दुरुस्त करते हुए इस क्षेत्र में कुछ भी करते हैं ...अभी तो एक ही महीना हुआ है आपको मंत्री बने, मैं आपकी आलोचना नहीं कर सकता हूँ क्योंकि सिंगला साहब तो उधर बैठकर कुछ और बोलेंगे। एक महीने वाले मंत्री तो अभी पूरी समस्या को भी नहीं समझ पाए होंगे इसलिए मैं इनकी आलोचना तो नहीं कर सकता हूँ लेकिन इतना कह सकता हूँ कि आने वाले दिनों में अगर इस क्षेत्र की समस्याओं को हल करने की कोशिश की इस अथॉरिटी के अलावा भी और अलग से भी आप अपनी मिनिस्ट्री के माध्यम से जहाँ-जहाँ यह स्थिति हो रही है कि कारखाने बंद न हों, पॉल्यूशन का सॉल्यूशन भी हो, सुप्रीम कोर्ट और हाई कोर्ट जाने की जरूरत न पड़े, इस प्राधिकरण में भी जाने की जरूरत न पड़े और उसकी रोकथाम हम कर सकें तो यह बहुत बड़ा उपकार होगा देश के लिए और संयुक्त मोर्चा के सामने जो चुनौती है, उससे आम जनता

को जो आशा बंधी थी, वह आशा सफल हो सकती है और हमारे सम्मने जो भाई हैं, उन लोगों में भी हम विश्वास पैदा कर सकते हैं। दिल्ली में हजारों लोग बेरोजगार हो रहे हैं, वे सरकार होते हुए भी उसकी कोई ऑटोरेगुलेटिव व्यवस्था नहीं कर सकते हैं।

श्री सुरिन्दर कुमार सिंगला (पंजाब): इनकी सरकार बिहार में है तो वह तो बिल्कुल पॉल्यूशन फ्री स्टेट है। कोई पॉल्यूशन नहीं, किसी किस का। पोलिटिकल पॉल्यूशन थोड़ा बहुत है, बाकी नहीं है।

श्री गया सिंह: बिहार में भी है लेकिन संयोग से बिहार की माइन्स को सुप्रीम कोर्ट ने बंद करने का आदेश नहीं दिया। कांग्रेस की हुकूमत उड़ीसा में है और वहां पर सारी माइन्स को बंद करने का आदेश दिया है। दुर्भाग्य यही है कि सुप्रीम कोर्ट भी आपका साथ नहीं दे रहा है। उपसभाध्यक्ष महोदय, धन्यवाद।

SHRI V.P. DURAISAMY (Tamil Nadu): Sir, first of all, I would like to congratulate the Minister for bringing this National Environment Appellate Authority Bill. I am happy that he has been responsive to the demands of the different sections of the people and also environmentalists. In recent years, environmental consciousness has increased and there has been a hue and cry by environmentalists and various other organisations regarding clearance to many projects. Social and environmental activists are holding agitations with regard to Tehri Dam. There have also been many agitations in several other parts of the country. Sir, as a result of economic liberalisation, many projects are coming up. Naturally, there is opposition to their clearance from the environmental point of view. As of now, when the people of the area or the environmentalists and social activists feel that clearance should not have been given for setting up a plant in view of the environmental problem, there is no way for getting justice. Only the normal judicial course is available and it takes a lot of time. The National Environment Appellate Authority which is proposed to be set up through this Bill will definitely expedite decisions and relief. Sir, I have some suggestions for the consideration of

the hon. Minister. First of all, I would say something about clause 3, sub-clause (2) which says that the head office shall be at Delhi. The United Front Government has an idea of decentralising the financial and administrative powers in favour of the States. In view of this, I request the Government that the Central Office of the Authority should not be in Delhi because Delhi is one of the most polluted cities of the world! I request the Government that the Central Office of the Authority should be set up in Chennai. The pollution in Tamil Nadu is less. Tamil Nadu is a land of peace. I want to submit that as far as new offices are concerned, they should be located in different parts of the country. I think the Government can at least think of setting up this Central Office in a southern part of India. The other suggestion that I want to make is that this single Authority will not be able to render justice to all the cases which may be coming from the whole of the country. Therefore, this Authority should be decentralised and every State should have a Board or an Authority to hear matters relating to environmental clearance. Again clause 2, sub-clause (2) provides for removal of Chairman, Vice-Chairman and various other Members of the Authority by the President for certain reasons. Sir, this Authority is being established only to hear cases in which the Government has given clearance from environmental point of view. If the Chairman and Members of the Authority are to be appointed by the President or removed by the President, as recommended by the Government, a doubt may arise with regard to fairplay of justice. I would like the Minister to clarify this doubt. Apart from that, our learned friend, Mr. Maragabandu, raised an issue with regard to the retirement age of the Chairperson. He suggested that because the retirement age for Supreme Court Judges is 65 years, the retirement age of the Chairperson of the Authority should be 70 years or the appointment should be for a period of three years, whichever is earlier. Therefore, there is

no confusion in regard to the age. Mr. Margabandu is a great advocate. He is having half-a-dozen junior advocates working under him. He should know. Anyway, I think the hon. Minister would clarify his doubt.

(time-bell rings)

The senior Member from the BJP was also arguing on behalf of the States. Sir, because there was no such authority set up earlier, many projects are pending. From Tamil Nadu alone, about 12 power projects are pending for twelve-fifteen years. Apart from power projects, tourism projects also are not being implemented, in the absence of environmental clearance.

On the whole, Sir, it is a welcome Bill. I support this Bill. Thank you.

SHRI JOY NADUKKARA (Kerala): Mr. Vice-Chairman, Sir, by this enactment, we are going to give the people aggrieved by an order granting environmental clearance the right to approach the Appellate Authority. They are getting another chance to fight for the establishment of their right before the appellate forum against the order. This is a welcome move. I congratulate the Government.

In this connection, I have certain doubts which I would like the Minister to clarify.

In clause 5, qualifications for the appointment as Chairperson, Vice-Chairperson or Member are specified. In regard to the Chairperson and Vice-Chairperson, the qualifications are specific. But in regard to the Members, the Bill says: 'A person shall not be qualified for appointment as a Member unless he has professional knowledge or practical experience...' This is a vague statement—'professional knowledge and practical experience'. It means, anybody can be appointed if he says that he has got professional knowledge and practical experience. It is not clear as to how much must be the professional knowledge and practical experience. Therefore, I would

suggest that this must be made specific. Without a specific provision as to the qualifications, this clause would be misused and persons who are not fit to be appointed as Members would be appointed.

Then, Sir, clause 6, sub-clause (2). It is stated here that when the Chairperson is absent, the Vice-Chairperson would discharge his functions. When the Vice-Chairperson is absent, the provisions says here: "...such one of the Member as the Central Government may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson..." Why should there be such a restriction? The provision should be made specific here. This process of notification to enable a Member to take charge as the Chairperson would cause delay in the functioning of the Authority. That is why the provision should be specific. You should say that the senior most Member—in age—would take charge as the Chairperson.

Similarly, in clause 11, it is said that "Any person aggrieved by an order granting environmental clearance...". Only a person who is aggrieved by an order granting environmental clearance can approach the Authority. If there is an order refusing environmental clearance, there is no scope for the person concerned to approach the Authority. I would say, law must be equal to everybody. A person aggrieved by a refusal order must also have the right to approach the Authority.

Then, there is a provision which says 'within thirty days from the date of such order'. As my friend pointed out, this 'from the date of such order' would create more problems. The general public may not be aware of the order passed by the Government or a forum, whatever it may be. It is not made public. Only the persons interested in it or the persons who are parties to the dispute may be aware of the order. So, the date of such order is a great problem. So, it must be

the date of knowledge. When a person comes to know about the order, he must approach the court. So, instead of "date of such order", "date of knowledge of that order" must be substituted. That will be well and good.

Sub-clause (3) of clause 11 says:

"On receipt of an appeal preferred under sub-section (1), the Authority shall, after giving the appellant an opportunity of being heard, pass such orders, as it thinks fit."

Only the appellant is being given an opportunity to be heard. There must an opposite party. He must also be given an opportunity. Otherwise, it will be injustice. In the lower portion we are mentioning about natural justice also. So, if we give both the parties an opportunity to be heard, it will be in compliance with natural justice. The other party must also be invited to state his case there.

Section 18 says:

"No suit, prosecution or other legal proceedings shall lie against the Central Government or against the Chairperson, the Vice-Chairperson or a Member of the Authority or any other person authorised by the Chairperson, the Vice-Chairperson or a Member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder."

It is a finality. It is ending of the suit. There will not be another suit. But the problem is that when an order is passed, the people of the locality may not be aware of the order. So, the problem is that later, when the factory starts or the industry starts, then only, they will know about the pollution created by the factory. Then, they may become aware of it. As per this provision, at that time they will not get any chance to approach the court to get their grievances remedied. So, this provision will bar them from getting their right established before the

court. So, this confusion must be removed. Otherwise, it will cause a problem to the general public.

With this, I am concluding. Thank you.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Mr. Satish Agarwal, mover of the Resolution, have you anything to reply to?

SHRI SATISH AGARWAL: Sir, I could have replied to the debate if somebody had opposed my Resolution. Nobody has opposed my Resolution. I wanted some clarifications from the Minister. If they had come in advance, as directed by the Chair, probably, I would have had a chance to reply. But he has not given any answers to my queries. So, what do I do? You guide me, Sir.

THE VICE-CHAIRMAN (SHRI MD. SALIM): You listen to his reply.

SHRI SATISH AGARWAL: Then I will say something.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Then you decide whether to ...

SHRI SATISH AGARWAL: Actually, I will have to reply later on.

THE VICE-CHAIRMAN (SHRI MD. SALIM): No.

SHRI SATISH AGARWAL: That is the procedure.

THE VICE-CHAIRMAN (SHRI MD. SALIM): The procedure is that you have moved the Resolution first.

SHRI SATISH AGARWAL: The procedure is that the mover of the motion or the Resolution gets the chance of reply ultimately after the Minister replies.

THE VICE-CHAIRMAN (SHRI MD. SALIM): There is no question of ultimate. The question is that you have moved the Resolution first.

SHRI SATISH AGARWAL: I want to say that I cannot reply without the reply from the Government.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Here I am quoting from the just published book:

"At the end of the discussion, generally the mover of the resolution replies first and then the concerned Minister."

This is the procedure.

SHRI SATISH AGARWAL: Generally it may be so.

THE VICE-CHAIRMAN (SHRI MD. SALIM): That is why this book has been printed recently.

SHRI SATISH AGARWAL: I have moved the Resolution.

THE VICE-CHAIRMAN (SHRI MD. SALIM): A copy of "Rajya Sabha at Work" has been supplied to every Member.

SHRI SATISH AGARWAL: I am not disputing that. I am not on technicalities. ... (Interruptions)

PROF. SAIFUDDIN SOZ: Mr. Vice-Chairman, Sir, I will certainly respond to the issues raised by the hon. Member, Mr. Satish Agarwal, but that will be after he has spoken. But, now I appeal to him to withdraw the Resolution. When I speak later, I will answer the questions he has raised.

THE VICE-CHAIRMAN (SHRI MD. SALIM): That stage will come later on. That is the procedure. You can reply now.

THE VICE-CHAIRMAN (SHRI MD. SALIM): In your reply in disguise you can make this request.

SHRI SATISH AGARWAL: Sir, he cannot dictate me to first withdraw and then reply. Of course, he can make an appeal.

THE VICE-CHAIRMAN (SHRI MD. SALIM): I think, you will be satisfied with his reply.

THE MINISTER OF ENVIRONMENT AND FORESTS (PROF. SAIFUDDIN SOZ): Yes, God willing.

Sir, first of all I must congratulate hon. Members for their interest in this Bill. So many suggestions have come. I have taken note of those suggestions. I am so delighted to see their interest in the matters, which I am handling in my Ministry. This will make me more alert to handle the situations arising out of so many Acts that are there.

Sir, we are very rich in so far as the provisions of laws that are there are concerned. After expressing this gratitude to hon. Members, I want to say that concern for environment and forest and wild life and all related areas is the very ethos and culture of this country. Sir, when we responded to the situation pursuant to the provision in the Environment Act, there was some misunderstanding. We came to the august House, or earlier, to the Lok Sabha, in response to the decision of the Supreme Court. There were three decisions from the Supreme Court asking us to institute authorities. There was a decision to set up an authority regarding tanneries. Then they wanted an environmental impact assessment authority for the National Capital Region to be constituted. That authority also has been constituted. The other was the authority for Environmental Planning for Thane in the State of Maharashtra. That also has been done.

This Bill, which is before this august House, came pursuant to the provision of Clause 3 of the Environment Act. I quote: "Subject to the provisions of this Act, the Central Government shall have the power to take all such measures, as it deems necessary or expedient for the purpose of protecting or improving the quality of environment and preventing, control and abating environmental pollution." Then there is a precautionary clause: "Pursuant to the provisions of the Act, we have to be cautious enough that environment is not impaired."

Sub-Clause 2(5) lays down that

"restriction of areas in which any industry's operations or processes, or class of industry's operations or processes, shall not be carried out or shall be carried out subject to certain safeguards." But alongside this, we took notice of the Supreme Court decisions in respect of so many P.I.Ls. So, that further strengthened our resolve to come before Parliament and seek support for this Bill.

Sir, cutting across party lines the Members have raised a question as to why the Government came forward with as many as 13 ordinances. Each ordinance will have a detail. Here and now I must say something about this ordinance. But for future, if we have to go into the question of ordinances, we can have a long session with one item on the agenda in the Business Advisory Committee here—it can be done in the Lok Sabha also—that ordinances must come forward only when it is absolutely necessary. But, here since the Supreme Court has passed some judgment on PILs, the Government became alert on this question. Therefore, an ordinance was promulgated on 30th of January, 1997.

Here is a chronology and how urgently it was taken up. I cannot go into all these. On the 7th January experts have gone into this question. On the 15th January, it came before the Cabinet. On 24th January, the Cabinet approved the constitution of the National Environment Appellate Authority through promulgation of an Ordinance. On the 30th January, it received assent from the respected President. On the 20th February I laid it on the Table of the House. On the 21st February, the Ordinance was laid on the Table of the Rajya Sabha. On 4th March, the Bill was introduced in the Lok Sabha. On 17th March, it had been passed by the Lok Sabha. Now, I am before this august House requesting hon. Members to pass this Bill. In my opinion, it is a very important piece of social legislation

because we must appreciate as to who has to go before this Authority. This Authority is a very unique one. It has its own procedure. There was some objection to that. But first of all we must understand as to who goes before this Appellate Authority. Since many petitions are there in courts, naturally there would be delay. But here is the concern for environment, so many people brought in the question of degradation of forests, the question of water pollution, the question of noise pollution. All these are connected with environment. Environment is a delicate problem. In normal course of legal process, delays would take place.

So, the first question was that there must be quick and speedy disposal of cases. Therefore, this Appellate Authority would come into being. Now, who would come before this Appellate Authority? Any person who owns or has a control over a project with respect to which an application has been submitted for environmental clearance, any association of persons likely to be affected by such order and functioning in the field of environment, the Central Government where environmental clearance is granted by the State Government and the State Government where the environmental clearance is granted by the Central Government or any local authority, any part of whose local limit is within the neighbourhood or the area where the project is proposed to be located can go before it. It means a wide variety of people, associations, State Governments or the Central Government, anybody can go before this Appellate Authority.

I crave the indulgence of the hon. Members to appreciate and support me in its procedure. This Authority would have its own procedures. What is meant by that? The principle of natural justice has been brought in a big way. The rules would come. Satishji had raised this question. I would answer it later on. He says, "Where are the rules?" Rules would always come after the Bill had been

passed by the Parliament. The detailed rules would come. For that the Central Government is there. Once the Authority is constituted, the Central Government would have their expert advice also. The corner-stone of its activity would be natural justice. It can fix its venue. It may not require anybody to have a lawyer. It can go from North to South, South to East and East to West in order to redress the grievances of the people. So, its jacket is vast. It might be different from a High Court or the Supreme Court. A detailed procedure would be laid down for that.

As far as the bar of jurisdiction is concerned, let us be clear on that. Many Members have raised that question. There won't be any appeal against the decisions of this Authority that would lie before any court or High Court or the Supreme Court. As Members know, the original jurisdiction, that is the Constitutional provision, the writ jurisdiction, will lie with High Courts and the Supreme Court. There is no bar to that. But this Authority has to be very strong so that its decision is final. In what decisions? It would take decisions with regard to public grievances. Let us be clear on that. If the Ministry of Environment passes orders, gives environmental clearance and if anybody has objection, this Authority would go into that. It can quash that clearance.

It will be supervising, rather controlling the Ministry itself. The whole system in this authority will be for the redressal of public grievances.

There is some misunderstanding about an industry being private or public. There is no distinction there. It is a law and before this, every sector will have to come. This applies to Government undertakings: this applies also to private enterprises. Actually, there is a list of projects requiring environmental clearance from the Central Government. This is Schedule A of the Environmental Impact Assessment Notification of 1994. And there are 29 industrial activities

which have been listed here. So, all these, whether in public sector or in private sector, will be covered. And the jurisdiction of this authority will apply to them.

Now, within this frame, hon. Members raised so many questions. It may not be possible to respond to every issue that they have raised. But I will respond to them broadly.

Mr. Agarwal who moved the Resolution says the Bill is ill-drafted. I can say that it has been properly drafted. A lot of thinking has gone into it. And no instance has been quoted where he finds that it has been ill-drafted. The other question is whether the authority has been instituted. In practical terms, it is not so simple to institute an authority. I know. For a month, I and my colleagues have been working to find the Chairman. We cannot just issue an order. We have to find an able person. He has to be a retired Supreme Court Judge or a retired Chief Justice of a High Court. So, we have been on the look out and it will be instituted very soon. I cannot give a time-frame. It may be a week or 10 days. This authority will be fully constituted and we have been able to locate persons of high integrity; high merit and high knowledge, to man this authority.

Clause 11, to me, is very clear. There is no confusion. The appeal time is there. The authority gives one month. And then if there are special circumstances explained to it, it gives further three months. But that is in public interest. And, as for the rules, the rules will come. Everybody knows that rules will come after the Bill is passed and the Act is there.

On transfer of cases from High Courts to this authority, it is not possible. This authority will have a prospective jurisdiction. The cases in High Courts will get decided and those in the Supreme Court will get decided there.

Appeals can come afresh to this authority. But there is no system by which we can transfer all cases to this authority.

Narendrajji has raised so many issues. But these issues are about the Ganga, about the upgradation of forests. And he has referred to the Stockholm Conference of 1972. I know that. I even had the privilege of going through the speech by Smt. Indira Gandhi there. And he has talked of smoke and also pollution control boards. There is a very wide range of things. That only shows that the hon. Members is very much concerned about the pollution of all kinds. He has brought in the North-East. Let me say a word about the North-East. Yes, forest degradation has taken place in this country. And I must express my anxiety. But this anxiety is not hopeless. I am full of hope that we can arrest this trend. Yes, certain things have gone wrong in the North-East....which has brought down the average of our forest cover. The hon. Supreme Court is also seized of the matter. My Ministry is also seized of the matter and I will pay a pointed attention to the problems—a situation in the North-East and elsewhere. There has been a lot of degradation in the State of Jammu and Kashmir during the last seven years. It is my duty to go into the areas where my pointed attention is required. Some hon. Members have said that the Government has claimed that through this Authority, they will stop noise pollution or air pollution. It is just an Appellate Authority. I will go into the complaints and grievances of people and will give the environmental clearance. Nothing beyond that. It is a response to the precautionary principle, embedded in the Environment Act. I must share this fact with this august House that there are so many laws and I must share my satisfaction with the laws that are available. The Water Pollution Act is very comprehensive, the Air Pollution Act is very comprehensive. During this short span of time, I got

some time to find out what law is available internationally. The Environment Law is also very comprehensive. But a law is a situation of evolution. I will have to be amended all the time. Every time we have to come before the House to update the law, to amend the law. Some of the hon. Members suggested that knowledgeable people should be associated with this Authority. I would say, 'yes', some day, we should have a debate before coming to this august House in the Business Advisory Committee or at some other forum where all political parties are present, to find out whether it is necessary to associate only the retired people or there can be knowledgeable people, without having even degrees. That is a major question for future. But, as of now, what I have proposed in respect of this Bill, had been proposed in this august House in respect of so many Bills. But this is a question which should be gone into, that knowledgeable people, having knowledge of environment, must be associated with the Authority. They may not have been Secretaries to the Government of India, they may not have been even Judges but that is a major question for consideration. This august House can take any decision for future. But, here and now,—I have proposed the constitution of this Authority. It will have five members, one Chairman, one Vice-Chairman and three Members, and they will all be knowledgeable people. We have taken great precaution in this respect—I request all the Members to lend their wholehearted support to this Bill.

Mr. V. Narayanasamy brought in some political environment. He is in difficulty. There is political interference. Maybe, there is. If we receive specific complaints, we shall go into them. He said that the Chairperson and the Members have to be people of high knowledge. "Yes", that is right. We have taken precaution and we have done that exercise. We have brought in the principle of transparency. Everything will be before the Authority.

Nothing will remain hidden. He further suggested that the Ministry should be revamped. "Yes", I will have to go into so many things relating to protection of environment, protection of forests and protection of ecology. I have taken that responsibility. I will do that and I don't hide anything and I will come before this House, for instance, on Ganga. I will shortly say something on Ganga although that is not directly connected with this Bill. Now, as far as the major question of environment and ecology are concerned, recently, we held a meeting of the Wildlife Board after nine years. They had held no meeting for nine years. The Prime Minister was good enough to agree with a suggestion that the States do not normally respond to our urges through letters and demi-official letters, and it is a situation that demanded a close attention of the hon. Prime Minister. He has agreed to hold a meeting with the Chief Ministers in Delhi and not only will the question of wildlife come before them, the whole question of degradation of forests, promotion of forest cover in this country.... the question of pollution will come up in a big way in the proposed meeting. It can happen in the last week of April or in the first week of May, depending on the convenience of the Prime Minister and the other members of the Board, and we shall meet and it will be a very good agenda; everything will be before us and will be discussed because the Chief Ministers will have to respond. We cannot do much, we cannot achieve much unless the States cooperate with us.

There was a question put by Mr. Fernandes — he is an evolutionist — why couldn't we in 1986, when we enunciated a law on environment, think of this Authority? If he had been here, I would have told him that it is an evolutionary process. We have thought of this Appellate Authority only now; everything cannot be incorporated in whatever law we frame and at whatever point of time we frame it. The evolution is already there.

He wanted to know whether it applies to public sector also. It applies to public sector, it applies to private sector; there is no distinction.

If I respond further to the other matters raised by the hon. Members, there was only one thing. One hon. Member, who is sitting here, wants that the headquarters should be in the south. I request him to reconsider that suggestion because we have done it under the direction in respect of PIL. Wherever we had to institute an authority, we did it. In Maharashtra we did that. As regards Chennai, yes, but it is a national authority; it will have to be instituted here.

Finally, before I urge upon the House to get the Bill passed, I would say a word on Ganga. Members have expressed great anxiety on forest degradation. On Ganga...

SHRI V. NARAYANASAMY: Will you remove the anomalies in the Bill?

PROF. SAIFUDDIN SOZ: Yes, certainly. If there are anomalies, we shall remove them; if there are any.

On Ganga, I want to take, some time later, the House into confidence because I find that we have to work hard. Hon. Members and myself, we have to work hard to save that project. I am not happy, though a laudable effort has gone into that. That is a prestigious national project and that project will have to be run properly. In that respect, I share my anxiety with you because there is some difficulty in Bihar, there is some difficulty in U.P. and there is some difficulty in West Bengal and I am in touch with these three States and our urges have not been answered. ...*(interruptions)*...

THE VICE-CHAIRMAN (SHRI MD. SALIM): Ganga flows in those States only.

PROF. SAIFUDDIN SOZ: Since a lot of money has already been invested, I must explain to this august House. ...*(interruptions)*...

SHRI V. NARAYANASAMY: Mr. Minister, has any fruitful result been achieved in the Ganga Action Plan even after spending 500 crores of rupees in Phase I and Phase II?

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): That is not the subject today.

SHRI V. NARAYANASAMY: The Minister is answering; otherwise, I shouldn't have asked this question. Why should have I put that question if the Minister has not been answering?

THE VICE-CHAIRMAN (SHRI MD. SALIM): Mr. Narayanasamy, do you want Ganga also in your State?

PROF. SAIFUDDIN SOZ: I only mention about Ganga because various Members, cutting across party lines, brought in Ganga and even Yamuna, and since some plan is already in my mind, I have to work vigorously for making that project a grand success. Therefore, I want to assure the Members that on Ganga I will come before them some day and I will explain to them the whole problem. It is a prestigious project and that project will be run and completed and the results will be achieved, and I also assure you that in due course of time we will discuss that, and I have also a plan to discuss with the hon. Members. But here and now, after I have explained, I consider this piece of legislation socially a relevant one and I say that in the present situation this piece of legislation is of historical importance and I would request the Members to kindly support me and pass the Bill. I would request the Members to kindly support me and pass the Bill. I would also request Mr. Satish Agarwal, a knowledgeable Member, to kindly withdraw his Statutory Resolution. Thank you.

SHRI SATISH AGARWAL: Mr. Vice-Chairman, Sir, I had made it amply clear at the time when I move the Resolution disapproving of this particular Bill that we were not against the spirit of

the Bill. We are only oppsing the tendency to govern this country through ordinances, that is, Ordinance Raj. But looking to the fact that, by and large, I received wide support from all Members of the House condemning this attitude of every Government regarding the issuance of Ordinances, looking to the fact that the hon. Minister has expressed his inability to frame rules or guidelines or to make appointments or to constitute an Appellate Authority on account of certain inadequacies, looking to the fact that he is an old friend of mine, looking to the fact that he is piloting the Bill for the first time and looking to the fact that he is gracious enough to appeal to me, which is a good gesture, for the first time, to withdraw my Resolution, I think it will be appropriate to seek the approval of the House to withdraw my Resolution.

The Statutory Resolution was, by leave, withdrawn.

THE VICE-CHAIRMAN (SHRI MD. SALIM): I shall now put the motion moved by Prof. Saifuddin Soz to vote. The question is:

That the Bill to provide for the establishment of a National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safe-guards under the Environment (Protection) Act, 1986 and for matters connected therewith or incidental thereto, as passed by Lok Sabha, be taken into consideration.

The motion was adopted.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Now we shall take up clause-by-clause consideration of the Bill.

Clause 2 to 23 were added to the Bill.

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

PROF. SAIFUDDIN SOZ: Sir, I beg to move.

That the Bill be passed.

The question was put and the motion was adopted.

STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE INCOME TAX (SECOND AMENDMENT) ORDINANCE

1996

(NO. 32 OF 1996)

AND

THE INCOME-TAX (AMENDMENT) BILL, 1997.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Now we shall take up the Statutory Resolution disapproving of the Income-Tax (Second Amendment) Ordinance, 1996 and the Income-Tax (Amendment) Bill, 1997, for consideration. Shri Satish Agarwal. Are you moving your Resolution?

The Minister was requesting you in the morning not to move the Resolution.

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): I request him even now.

SHRI S. S. AHLUWALIA (Bihar): Are you requesting him not to speak?

SHRI P. CHIDAMBARAM: No. He can speak on this Bill. It is a non-controversial Bill. I request him we can debate the Bill. Why is this Resolution?

SHRI SATISH AGARWAL (Rajasthan): He has made this request to me for the first time. But to put it on record, let me move my Resolution.

Sir, I beg to move:

That this House disapproves of the Income-Tax (Second Amendment) Ordinance, 1996 (No. 32 of 1996) promulgated by the President on the 31st December, 1996.

Sir, I have lot of material to speak on