

RAJYA SABHA

Thursday, the 3rd December, 1992: 12th
Agrahayana, 1914 (Saka)

The House met at eleven of the Clock,
Mr. Chairman in the Chair.

ORAL ANSWERS TO QUESTIONS

**Demand for inclusion of services rendered
by Doctors and hospitals under the scope
of Consumer Protection Act**

@141. SHRI SUNDER SINGH
BHANDARI†

DR. NAUNIHAL SINGH :

Will the PRIME MINISTER be pleased
to state :

(a) whether Government are aware of
the popular demand for the inclusion of
services rendered by the doctors and hos-
pitals under the Consumer Protection Act;

(b) if so, what is Government's reac-
tion thereto; and

(c) whether Government propose to
bring legislation on the subject; and if so,
by when?

THE MINISTER OF STATE IN THE
MINISTRY OF CIVIL SUPPLIES AND
PUBLIC DISTRIBUTION (SHRI KAMA-
LUDDIN AHMED) : (a) to (c) : A
statement is laid on the Table of the
House.

STATEMENT

(a) to (c) The Consumer Protection
Act covers all services which have been
hired for a consideration except services
rendered under a contract of personal ser-
vice and those rendered free of charge.
Therefore services rendered by private
doctors and hospitals on payment are al-
ready covered under the Act. The working
Group set up to suggest amendments to
the Consumer Protection Act, has recom-
mended inclusion of medical services ren-
dered free of charge in Government hospi-
tals also, within the purview of the Act.

†The question was actually asked on
the floor of the House by Shri Sunder
Singh Bhandari.

@Previously Starred Question 34, trans-
ferred from 25th November, 1992.

The recommendations of the Working
Group are under active consideration of
Government.

श्री सुंदर सिंह भंडारी : श्रीमान्, यह
कंज्यूमर प्रोटेक्शन ऐक्ट जब बना था तब
पर्सनल सर्विस को एक्जोर किया गया था
कि इसमें मेडिकल प्रैक्टिशर्स को इक्लूड
नहीं किया जाएगा क्योंकि यह ऐक्ट—
excludes services rendered under a con-
tract of present service.

फिर क्या डाक्टर और ट्रेडर इनको एक
समान मानने लगी है सरकार ? तो जो
उन समय विचार था क्या आज ऐसी कुछ
परिस्थितियाँ बनी हैं या ऐसे कारण उप-
स्थित हुए हैं जिनकी वजह से सरकार इस
भूमिका में परिवर्तन करने का विचार कर
रहा है ।

SHRI KAMALUDDIN AHMED : Sir,
all the services that are hired are covered
by the Consumer Protection Act. As I
stated in my statement, except the services
rendered under a contract of personnel
service and other services which are free
of charge, the services rendered by the
private hospitals and the services rendered
by the private practitioners are already
covered. The free services offered by
Government hospitals and Government
doctors are only exempted. They are not
covered by the Consumer Protection Act.
This matter has been considered by the
Working Group set up by the Consumer
Protection Council. They have recom-
mended that even the services rendered by
Government hospitals and the services ren-
dered by Government doctors, though
they are free of charge, must be brought
under the Consumer Protection Act. This
matter, as I stated in my statement, is
under the consideration of the Govern-
ment.

श्री सुंदर सिंह भंडारी : इस समय जो
डिस्ट्रिक्ट लेवल पर कंज्यूमर प्रोटेक्शन
कमेटीज बनी है, उसमें कोई भी ऐसा
टेक्निकल तो हाऊ का आदमी या
सर्जिकल तो हाऊ का आदमी नहीं है ।

अब ये जो कंसेंटस जाती है वह इन ट्राइ-यूनल्स के पास जाती है। अब इस सारी व्यवस्था में कंपोजिशन आफ दि डिस्ट्रिक्ट कंज्यूमर प्रोटेक्शन काउंसिल, इसके बारे में भी जब तक कोई निश्चित सुधार और उसमें कोई इस तरह का ध्वित शामिल करने की बात नहीं होगी, जो इस प्रकार के गलती करने वाले डाक्टर्स के बारे में भी निर्णय ले सके, वथा इन दोनों चीजों की कंफेडिबिलिटी के बारे में सरकार अपना निर्णय देगी ?

श्री कमालुद्दीन अहमद : सर, ऐसी कोई कठिनाई मेरी राय में नहीं है इस वास्ते कि ये कंसेंटस या जो कैसेज डिस्ट्रिक्ट फोरम्स के पास या स्टेट कमीशन के पास या नेशनल कमीशन के पास आते हैं उसमें सिविल प्रोविजर कोड फौलो किया जाता है और सिविल प्रोसीजर कोड में जहां कहीं एक्सपर्ट ओपीनियन की जरूरत पड़ती है वह ओपीनियन डिस्ट्रिक्ट फोरम भी ले सकता है और स्टेट कमीशन कमीशन और नेशनल कमीशन भी ले सकते हैं।

श्री कमालुद्दीन अहमद (क्रयागत) ...
इंडियन मेडिकल काउंसिल ने जो ...

श्री सन्वर सिंह भंडारी : साइमलटेन्स-यली तीनों स्टेजेज पर होगा या डिस्ट्रिक्ट लैवल पर हो कर स्टेट लैवल पर जायेगा ?

श्री कमालुद्दीन अहमद : प्रोसीजर सबके लिए है, इसमें कोई भेदभाव नहीं है। इंडियन मेडिकल काउंसिल ने जहां तक उसकी बकिंग ग्रुप की रिकमेंडेशन का तात्त्विक है उन्होंने अपनी कामिट्टी दी है, अपनी रिप्रेजेंटेशन दी है। उसमें कई बातें बताई हैं। उसमें यह बात भी बताई गई है कि डाक्टर्स में क्योंकि टेक्नीकल नेचर, साइंटिफिक नेचर की बात होती है इसलिए डिस्ट्रिक्ट फोरम में या स्टेट कमीशन में बैठने के लिए जरूरी नहीं है कि वह ऐसी ही नालिज रखे। लेकिन उसको

गवर्नमेंट गौर कर रही है और किया है। मैं इस नौबत पर सिर्फ इतना ही कह सकता हूँ कि ऐसी कोई बात, ऐसा कोई एप्रीहेंशन लाने की जरूरत नहीं है। अगर यह सर्विसेज सारी की सारी इसके प्रोटेक्शन में लाई जाए तो उसको भी कोई गुंजाइश रहेगी कि एक्सपर्ट आफिनियन उन सब की उपलब्ध हो और कोई जजमेंट या कोई भी उसकी कार्रवाई हो यह पूरी की पूरी तौर पर, टेक्नीकल नालिज रखने वाले लोगों की सर्विसेज लेने के बाद ही कुछ होगा।

DR. NAUNIHAL SINGH : Mr. Chair man, Sir, if the medical association could accept the judgement of the Medical Council and the Civil courts, there was no reason why they could not accept the Consumer Courts judgement. As far as Government doctors are concerned, the Tax payers money is being used to pay the Government doctors. There is not reason why they should be excluded from the Consumer Protection Act. For that matter, there was need to amend the law so that Government doctors also could be brought under the purview of the law and it is felt that no group should be exempted from this Act. You cannot allow a private doctor to kill a patient by his negligence. There have been numerous cases in this country where because of the negligence of the doctor the patient died—lost his life. I would like to ask the hon. Minister, through you, whether the working group recommendation to include the medical services rendered free of charge in Government hospitals within the purview of the act has been accepted. If not, how long will it take to accept this recommendation so that the Act could be amended ?

SHRI KAMLUDDIN AHMED : Sir, I submit that it is under the consideration of the Government. Very soon a decision will be taken.

SHRI S. K. T. RAMACHANDRAN : Sir, negligence should not go without being punished. If there is negligence, proper action should be taken and punishment should be given. Now, consider the case of doctors when some critical cases are referred to them. You should consider the element of risk that is there. If

DR. JINENDRA KUMAR JAIN : A doctor has no other business but to protect the lives of the patients. I want to protect the task by protecting the patients.

SHRI PRAMOD MAHAJAN : Sir, the reply is yet to come.

SHRI KAMALUDDIN AHMED : Sir, the first part he has asked is about the cost of medicine and the cost of treatment. I do agree that in India, from my personal knowledge also I can say, the cost of medicine is very, very cheap as compared to any other country; so also the cost of treatment because a large section of the people do get the treatment from Government hospitals and Government doctors. So the element of cost is naturally very low. Now, by just resorting to or by just providing a redressal machinery, if the cost is going to..... (Interruptions)

SHRI N. E. BALARAM : Are you talking about Parliament Members ? For ordinary citizens the cost of medicine is increasing.

MR. CHAIRMAN : The Minister is saying that the cost is less than outside.

SHRI N. E. BALARAM : We are not concerned about the cost in other countries. We are concerned about our country. I do not know why he should compare like that.

SHRI KAMALUDDIN AHMED : It is not a question of comparison. It is only in reply to the question raised by Dr. Jain. By providing redressal .. (Interruptions) By providing protection to the consumers if one thinks that the cost of treatment will go up, I do not think that is true because under the consumer protection machinery it is the cheapest remedy to the consumer that is provided under this Act. So, by just including, by just providing redressal, I do not think it is correct that the cost will go up, will be higher than what it is. For the other part of the question, the answer has already been given.

SHRI SUNDER SINGH BHANDARI : It has now become mandatory under the law (Interruptions) So many

things have become mandatory (Interruptions) But the Minister has agreed (Interruptions) with the explanation that I have offered.

SHRI V. NARAYANASAMY : Sir, private nursing homes and private doctors are covered by the Consumer Protection Act. There is no reason for the doctors working in the Government hospitals to oppose the move for inclusion of the doctors under this Act.

But the Health Ministry is opposed to that move apart from the doctors who are having their Association—India Medical Association. Therefore, one can argue both in favour of bringing the doctors under the purview of this Act and also against. I would like to know from the hon. Minister whether Government would hold discussions with the Doctors' Association, before taking a final decision in the matter, to hear views so that it could be smoothly implemented when the amendment is brought before the House.

SHRI KAMALUDDIN AHMED : Sir, representatives from various medical associations of the States and from the Indian Medical Council had come and seen me. They gave their representations and we did have discussion with them and the hon. Member need not have any fear that lack of discussion will impair the decision of the Government.

SHRIMATI CHANDRIKA ABHINANDAN JAIN : A bogey has been created by some section of the medical practitioners that application of the Consumer Protection Act to the medical practitioners will be treated as *ultra vires* the Constitution. I would like to submit that the efforts on the part of the medical practitioners to create a bogey like this will defeat the purpose of the Act itself. The purpose of the Consumer Protection Act is to provide speedy and quick redressal of the grievances of the citizens and the consumers. I would like to now from the Minister whether the Government would take prompt steps to implement the recommendations made by the Working Group.

that element of risk is not considered, without taking that into consideration if this Act is applied to them, then no doctor will agree to treat critical cases. I would like to know from the Minister whether this point—the element of risk—has been taken into consideration by the working group or by the Government or whether the Government will review this act on this aspect.

SHRI KAMALUDDIN AHMED : Sir, this aspect is also being taken into consideration.

SHRI S. S. SURJEWALA : Mr. Chairman, Sir, through you I would like to ask the hon. Minister whether the Government has been receiving a lot of complaints from the farmers of this country because on account of spurious fertilizers, spurious insecticides and pesticides the crops are getting damaged and heavy loss is caused to them. The poor farmers are unable to go to the court and pursue their case for damages. Therefore, I would like to ask the Minister whether the operation of this Act has already been extended to such of the cases where there has been a wide-spread damage caused to the farmers through the unscrupulous people who had purchased such spurious articles; if not, whether the Government will bring under the purview of this Act these items which are being used by the innocent farmers in the country.

SHRI KAMALUDDIN AHMED : All the goods are covered under this Act and I am sure the question raised by the hon. Member is also covered under this. In fact, the procedure under the Consumer Protection Act is of a summary nature. This is mainly meant to avoid unnecessary litigation, protracted litigation, and this is the quickest remedy that the persons can get and I am sure the complaint by its nature can be tried by the consumer forums also.

SHRI S. S. SURJEWALA : But, Sir, why has publicity not been given? The farmers are not aware as to whether this is applicable to them or not. Will the

Government give publicity through the media so that the innocent farmers can also take advantage of it?

MR. CHAIRMAN : Dr. Jinendra Kumar Jain.

DR. JINENDRA KUMAR JAIN : Sir, I hope the Government is aware that the entire medical profession in the country is very much agitated on this issue. I plead not because they are beyond scrutiny but because they are afraid that undue interference of the law in their professional activity and the kind of business they transact would hamper the patient's care and would deteriorate the already poor quality of medical care in the country. Sir, my question has two components: (a) Does the Government know that in countries like America where the law provides such scrutiny of the medical care, the cost of medical care has unnecessarily been pushed up to such heights that even in the rich, affluent countries, the cost of medicine is becoming profusely expensive for ordinary citizens? Is the Government aware of this and its implications on the cost of medical care in India? Before the Government considers inclusion of doctors in this, they must consider this aspect objectively as to what will happen to the cost of medical care to an ordinary man. Part (b) of my question is, the Minister provides a solution, a solution for the entire medical profession. I am a surgeon and whenever I operate on anybody, there is a contract from which is signed by a patient and unless a patient is willing to give me that contract form signed, I don't touch anybody. The statement of the Minister provides for this. Shall I recommend to my medical professional colleagues that before they treat any patient, they should have the contract form ready and unless that patient has agreed to sign that form, they should not proceed? What is the attitude of the Government on this request of the medical profession?

THE PRIME MINISTER (SHRI P. V. NARASIMHA RAO) : That form is for the protection of the doctors and not of the patients.

The Working Group set up to suggest amendments to the Consumer Protection Act has recommended, which is also stated in the Minister's statement, inclusion of medical services rendered free of charge in the Government hospitals within the purview of the Act. I would like to know from the hon. Minister whether the Government is going to take prompt action to implement the suggestions of the Study Group that the Government hospitals should also be brought under the purview of the Act and whether medical experts would be provided an opportunity to come to proper conclusions when such matters are being considered under the Consumer Protection Act.

SHRI KAMLUDDIN AHMED : Sir, I have already given the answer. Even at this stage, I can only say that it is under the consideration of the Government. I can only assure the hon. Members that discussions within the forums, State Commissions and the National Commission, with persons who have medical knowledge and expertise, will definitely benefit the people.

Liabilities due under D.P.E.A.

*142. DR. NARREDDY THULASI REDDY :†

SHRIMATI SATYA BAHIN

Will the PRIME MINISTER be pleased to state :

(a) what are the names of the companies which were issued notices but in whose cases neither the liabilities under D.P.E.A. have been assessed nor have proceedings to collect data been started by the Ministry;

†The question was actually asked on the floor of the House by Dr. Narreddy Thulasi Reddi.

(b) when were the notices to each sent and what were the contents of the notices issued and the drugs and products involved in each case;

(c) what are the reasons for delay in the settlement of the issues;

(d) what are the details of cases where liabilities were assessed and revised in 1990-91, 1991-92 and 1992-93 so far, what was the earlier and revised liability in each case;

(e) whether it is also a fact that the process of assessing the liabilities has been slowed down; and

(f) if so, the reasons thereof?

THE MINISTER OF STATE IN THE MINISTRY OF CHEMICALS AND FERTILIZERS (SHRI CHINTA MOHAN) : (a) to (f) A Statement is laid on the Table of the Rajya Sabha.

Statement

(a) and (b) Details are given in the Statement attached as Annexure-I.

(c) All efforts are being made to get requisite data from the companies. The Companies have also been warned that in case they do not give the information, the liabilities would be assessed based on whatever data is available with the Government.

(d) Details are given in the statement attached as Annexure-II and

(e) and (f) There is no question of slowing down the process of assessing the liabilities. Almost all the companies who have furnished data have asked for hearings before their liabilities are finally determined. Hearings have been given in 9 cases; dates of hearings have been fixed in 6 cases and in other cases, hearings would be given at the earliest.