

RAJYA SABHA

Monday, the 10th August, 1992/
19th Shrawana, 1914 (Saka)

The House met at eleven of the clock, The Deputy Chairman in the Chair.

ORAL ANSWERS TO QUESTIONS

THE DEPUTY CHAIRMAN: Question No. 461.

श्री शंकर दयाल सिंह : मैडम, सबसे पहले मैं यह कहना चाहता हूँ मैं चाहता हूँ कि इस पर विचार सदन को करना चाहिए कि जो भी अभी जिस तरह से जनता दल के सदस्यों के साथ हुआ और जिस तरह से ...

उपसभापति : : क्वेश्चन आवर में यह सब बातें न करिए, 12 बजे करिएगा।

श्री शंकर दयाल सिंह : लेकिन जब बहुत बड़ा संवैधानिक संकट आ जाता है... (व्यवधान)

उपसभापति : : 12 बजे।

श्री शंकर दयाल सिंह : और यह सारी बातें कहीं गई कि—*
.... (व्यवधान)

उपसभापति : : 12 बजे करिएगा।
.... (व्यवधान)....

श्री शंकर दयाल सिंह : : मैं समझता हूँ, यह बड़ा ही गंभीर मामला है और यह हमारे लोकतंत्र के लिए खतरा पैदा कर रहा है।

उपसभापति : : 12 बजे। क्वेश्चन नंबर ... (व्यवधान)

श्री शंकर दयाल सिंह : मैडम, इसके बारे में सदन में डिस्कशन होना चाहिए। मैं आपसे यही मांग करता हूँ।

*Expunged as ordered by the Chair.

SHRI DINESHBHAI TRIVEDI: Madam, this is an attack on democracy. On the eve of the golden jubilee celebrations of the "Quit India" movement, if we get into such money transactions... (Interruptions)...., it is very unfortunate.

Pending cases with Foreign Exchange Regulation Appellate Board

*461. DR. YELAMANCHILI SIVAJI: Will the Minister of LAW, JUSTICE AND COMPANY AFFAIRS be pleased to state:

(a) the number of pending cases with Foreign Exchange Regulation Appellate Board;

(b) since how long have these been pending; and

(c) what steps have been taken for speedy disposal of pending cases?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ): (a) to (c) A Statement is laid on the Table of the House.

Statement

(a) 2285 cases were pending with the Foreign Exchange Regulation Appellate Board on 31-7-1992.

(b) The FERA Board under the Foreign Exchange Regulation Act, 1973 was set up with effect from 1-1-1974.

A detailed break up of pending cases and the years in which they were filed is given below:—

| S. No. | Year of Institution | No. of pending appeals |
|--------|--------------------------|------------------------|
| 1. | 1983 or before | 19 |
| 2. | 1984 | 29 |

| S. No. | Year of Institution | No. of pending appeals |
|---------|-------------------------------|------------------------|
| 3. | 1985 | 25 |
| 4. | 1986 | 123 |
| 5. | 1987 | 82 |
| 6. | 1988 | 140 |
| 7. | 1989 | 276 |
| 8. | 1990 | 723 |
| 9. | 1991 | 545 |
| 10. | 1992 (upto 31-7-92) | 423 |
| TOTAL : | | 2285 |

(c) Some of the steps taken for the speedy disposal of the pending cases are:—

(i) Frequent holding of sittings by the FERA Board outside the Head Quarters;

(ii) Grouping of Appeals for common hearing.

DR. YELAMANCHILI SIVAJI: Madam, the Foreign Exchange Regulation Act was effective only in official transactions. The illegal *havala* trade continues to flourish. This Act has failed in its objective in transferring the control of the foreign companies to the Indian investors.

In January, 1992, Shri Manmohan Singh, the hon. Finance Minister had disclosed plans to amend the FERA to facilitate the entry of foreign investors into India. The Reserve Bank of India had also announced that in order to improve the climate for foreign investments in India, foreign companies have been freed from FERA regulations. So, in accordance with these pronouncements of the Finance Minister as well as the Reserve Bank of India, what is the role of the Government to implement the FERA? In this context, I would

like to know from the hon. Minister, what is the changed criterion in the changed circumstances as far as this Foreign Exchange Regulation Appellate Board is concerned?

SHRI H. R. BHARDWAJ: Madam, so far as the change in the Foreign Exchange Regulation Act is concerned, that is a subject to be dealt with by the Minister of Finance. So far as the Foreign Exchange Regulation Appellate Board is concerned, they go into the appeals which arise out of the adjudication of proceedings before the Director of Enforcement. So, if and when the Foreign Exchange Regulation Act is amended, then, we will be able to answer what will be the impact of the amendment on the Foreign Exchange Regulation Appellate Board and other institutions. At the moment, I do not have any information pending with us with regard to the amendment of the Foreign Exchange Regulation Act.

DR. YELAMANCHILI SIVAJI: Madam, as far as the Enforcement Directorate is concerned, it is the enforcing agency of the penal provisions and to investigate the cases under the Foreign Exchange Regulation Act. Its functions include collection of intelligence reports relating to foreign exchange offences, enquiries connected with the violation of the provisions of FERA, adjudication of the cases under FERA and prosecution of the offenders in appropriate cases. The Directorate have got powers to check the premises and persons in exercising the above mentioned functions and in the course of searches, to seize documents, materials relevant for the investigation, etc. The hon. Minister has stated that more than 2000 cases are pending and some of them are pending for more than a decade. May I know from the Minister what coordination is the Government having between the Tribunal and the Enforcement Directorate? Is there any coordination at all or are they working at cross-currents? The Minister has mentioned in his reply about holding of

sittings by the FERA Board outside the headquarters. May I know from the Minister how many such sittings took place so far in the last ten years? How many group appeals were heard commonly?

SHRI H. R. BHARDWAJ: Madam, appeals come after the adjudication proceedings are over. The appeals are heard under section 52 of the Foreign Exchange Regulation Act by the Board on which one Chairman and three Members function. And, it is provided in the Act that they will sit in Division Benches of two, in case the penalty is above Rs. 50,000/-. So, two Judges have to be given for a case of penalty above Rs. 50,000/-. At first, a preliminary hearing is given on the question whether the party in question, the appellant party, is in a position to deposit the entire amount of penalty imposed by the Director. This hearing decides about the deposit. Then the Board hears about the merits of the case.

So far as the question of pendency is concerned, there is indeed pendency of about 2285 cases. But these are no large in number. In some cases, the parties have obtained stay orders from various Courts and that is why some old cases are also pending. But they are not very large in number. If some High Court has granted stay orders, the FERA Appellate Board cannot proceed with the hearing in that particular matter.

So far as holding sittings outside is concerned, I do not have the exact details how many times the FERA Board sat outside Delhi. But I have the information that recently they have started visiting places like Bombay, Calcutta and Madras where the offence is alleged to have been committed or where the Director of Enforcement has passed orders. So, I will give him separately the number of sittings held outside Delhi.

Grouping of cases can only be done when there is a common question of law or when there are common

parties involved because each case has got its own facts. Unless there is a common question of law involved or unless the parties—like directors or partners of certain firms—are common, the cases cannot be grouped together. I will be able to pass on to the hon. Member that information also.

It should not be taken to mean, that since there are delays in cases relating to the Foreign Exchange Regulations Act, the whole FERA is not being implemented effectively. The major thing is that the adjudication proceedings are before the Director of Enforcement and the cases are dealt with at that end at the initial stages.

THE DEPUTY CHAIRMAN: Shri Ram Gopal Yadav. No. All right. Shrimati Chandrika Abhinandan Jain

SHRIMATI CHANDRIKA ABHINANDAN JAIN: Madam, the arrears of matters before the Appellate Board functioning under the FERA have been mounting over the years. If we have to look at the break-up, in 1990, 723 cases were pending; in 1991, 545 cases were pending before the Board; and, in 1992, that is, half the year, 323 matters are pending before the Appellate Board. I think we have to take a serious note of the fact that these matters concern the Foreign Exchange Regulations Act. I would request the hon. Minister, who is a very dynamic and competent Minister and so has been put in charge of law and judiciary, to take proper steps. In reply (c), it has been suggested that one or two measures have been adopted. But I think this is not enough. Will the hon. Minister consider simplification of the procedures under the FERA? I think that is more important if we want to go for expeditious disposal of matters. My suggestion will be that we should go for simplification of the procedures. That is one suggestion. Secondly, the hon. Minister has stated...

THE DEPUTY CHAIRMAN: You put questions, not suggestions. It is not a discussion, it is a Question Hour. You ask him whether he is going to do or not.

SHRIMATI CHANDRIKA ABHINANDAN JAIN: I would like to put a pointed question whether he will go for simplification of the procedures as regards the FERA. Secondly, he suggested that frequent sittings have been held outside the headquarters. I would like to know how many sittings have been held outside the headquarters. And, is there any move to set up Appellate Boards in various cities, at least in Bombay, Delhi, Calcutta and Madras?

SHRI H. R. BHARDWAJ: Madam, at the moment, the law prescribes only four Members including one Chairman. That is the statutory provision. Unless the law is amended, we cannot provide more than four Members on these Boards. So, the question of setting up permanent Boards or branches outside, out of these four, does not arise. It will require amendment and the suggestion of the hon. Member will be kept in mind. Now, considering the workload, it is not necessary to increase the number of members. I think the purpose will be served if we make a small amendment and that is in our mind. We can empower a single member to hear appeals under the provision of clause 52(6). That would really expedite a few hundred or thousand cases because today, we have to make two members sit to decide matters above Rs. 50,000. That is under consideration. Once that procedure is simplified and that provision is made in the Foreign Exchange Regulation Act, I hope, a single member will be able to dispose of more cases.

*462. [Transferred to 20th August, 1992].

*463. [The questioner (DR. SANJAYA SINGH) was absent. For answer, vide cols. 35-36 infra].

*464. [Transferred to 20th August, 1992].

Per capita Central Assistance to States

*465. **SHRI RAM GOPAL YADAV:** Will the Minister of PLANNING AND PROGRAMME IMPLEMENTATION be pleased to state:

(a) what is the amount of per capita Central assistance given to the States of Uttar Pradesh, Maharashtra, Punjab, Haryana, Karnataka, Tamil Nadu and West Bengal during the Seventh Five Year Plan;

(b) what are the reasons for disparity in such allocations; and

(c) whether the same is proposed to be removed in the Eighth Five Year Plan?

THE MINISTER OF STATE OF THE MINISTRY OF PLANNING AND PROGRAMME IMPLEMENTATION AND THE MINISTER OF STATE IN THE MINISTRY OF NON-CONVENTIONAL ENERGY SOURCES (SHRI SUKH RAM): (a) to (c) A statement is laid on the Table of the House.

Statement

(a) The amounts of per capita (gross) Central Assistance based on 1971 Census population, allocated to the States of Uttar Pradesh, Maharashtra, Punjab, Haryana, Karnataka, Tamil Nadu and West Bengal under the modified Gadgil formula during the Seventh Five Year Plan 1985-90 are shown below:

| States | Per Capita in Rupees |
|-------------------------|----------------------|
| Uttar Pradesh | 333 |
| Maharashtra | 232 |
| Punjab | 283 |
| Haryana | 322 |
| Karnataka | 262 |
| Tamil Radu | 301 |
| West Bengal | 227 |