

not wait for the standing committee to go through all this material and advise us. I brought 21 bulk drugs under price control recently, at the beginning of this Session of Parliament. And these 21 bulk drugs are the base for 164 formulations. From the overall point of view, they may look small. But it is a big figure: 164 formulations have been affected. The prices of these formulations have been brought down. Industries are also co-operating. I must appreciate this. We are bringing down the prices of these formulations. I am not waiting for the recommendations of the Standing Committee. Wherever I find that a drug is charged more, I am bringing that drug under control and fixing the price.

\*363 [Transferred to the 24th May, 1990.]

\*364 [The questioner (Shri Ram Naresh Yadav) was absent for answers vide col. 29 *infra*]

#### **Curb on foreign brand names in consumer goods industry**

\*365 SHRI GURUDAS DAS GUPTA:

SHRI DIPEN GHOSH:

Will the Minister of INDUSTRY be pleased to state:

(a) whether Government propose to put a ban on the use of foreign brand names (owned by multinationals) in consumer goods industry; and

(b) if so, what steps are proposed to be taken to develop and encourage Indian brand names for use in consumer goods industry?

THE MINISTER OF STATE IN THE DEPARTMENT OF SMALL SCALE INDUSTRIES AND AGRO AND RURAL INDUSTRIES IN THE MINISTRY OF INDUSTRY (SHRI SRIKANTA JENA): (a) and (b) A Statement is laid on the Table of the House.

\*The question was actually asked on the floor of the House by Shri Gurudas Das Gupta.

#### **Statement**

(a) and (b) Under the Trade & Merchandise Marks Act, 1958 (T&MM Act) there is no separate definition of foreign trade mark. Under the existing law, there is no restriction on the use of foreign trade marks, if it does not involve any direct or indirect consideration in foreign exchange. Further, trade marks can be used without registration or before or after the expiry of the registration without protection afforded by the T&MM Act.

While granting foreign collaboration approvals, a standard condition is stipulated that foreign brand names will not be allowed for use on the products for internal sales, although there is no objection to their use on products to be exported. This condition is stipulated with a view to ensure that the use of foreign brand names does not adversely affect the indigenous industry and for purpose of developing Indian brand names.

SHRI SUBRAMANIAN SWAMY: Sir, why so many Ministers are missing today? Civil Aviation Minister is missing, Energy Minister is missing and Industry Minister is missing. There is a crisis in the Government!

SHRI GURUDAS DAS GUPTA: Sir, there is a statement that the Minister is pleased to lay on the Table of the House. I have gone through the reply. In the second part of the reply, it is stated:

"While granting foreign collaboration approvals, a standard condition is stipulated that foreign brand names will not be allowed for use on the products for internal sales."

May I ask the Minister whether he is aware that there are brand names like Lehar Pepsi, DCM Toyota, Hero-Honda and whether he is also aware that Pepsi is a foreign brand name, Toyota is a foreign brand name and Honda is a foreign brand name? Therefore, the fraud that the big industrialists commit is to add the name of a foreign brand along with the

Indian name. This is a fraudulent practice. Therefore, my question is whether the Government is aware that the rule that he has quoted is being constantly violated in a fraudulent way by including in the brand name words from the foreign brand companies and by that, an impression is sought to be given to the common consumers of this country that this is a foreign product, this has a good market and this is quite a good thing that he should buy. Is he aware of this fact?

**SHRI SRIKANTA JENA:** Sir, regarding Lehar Pepsi, Hero-Honda and others, this is based on foreign collaboration. Actually this is not the foreign brand name exactly, but this is a hybrid name. *...(Interruptions)...*

**SHRI GURUDAS DAS GUPTA:** Even you are committing a mistake in the beginning. I would like to know whether an impression is sought to be given that this is foreign collaboration and, therefore, they are having a good market. So a fraud is being committed.

**SHRI SRIKANTA JENA:** Sir, actually we have not been encouraging any foreign brand names. The Government's intention is not to encourage foreign brand names, but its intention is to encourage Indian brand names. In the case of collaboration, there is a standard stipulation and as per the Government guidelines, the hybrid names are there. In the case of Pepsi, Lehar is there, Lehar Pepsi is there. It is not exactly the Pepsi, the total brand name is there. This is the hybrid name. Considering all aspects of the matter, Government has decided that the brand name be used with Pepsi as suffix—the Lehar in the beginning, Pepsi as suffix.

**SHRI GURUDAS DAS GUPTA:** Sir, I seek your protection. Before coming to the second supplementary, I seek your protection. The Minister makes a fool of himself. The Minister makes a fool of himself by saying *...(Interruptions)...* The Minister makes a fool of himself *...(Interruptions)...*

**MR. CHAIRMAN:** Nobody is making a fool of anybody. You please carry on yourself with the question.

**SHRI GURUDAS DAS GUPTA:** The Minister may be young or the Minister may be new, but he is representing the Government. Considering the seriousness of the question, the senior Minister should have made it convenient to be present in the House.

**MR. CHAIRMAN:** He is quite capable.

**SHRI SRIKANTA JENA:** Sir, I have already stated that there is a standard condition in the foreign collaboration approval that the foreign brand names will not be allowed for use on the products for internal sales.

**SHRI GURUDAS DAS GUPTA:** Sir, the very purpose of the declaration is sought to be defeated by the hybrid names. You should kindly understand that the intention of the Government is thoroughly defeated by the hybrid names.

**MR. CHAIRMAN:** He says that the Government's policy is to permit hybrid names where they are allowing foreign collaboration.

**SHRI SRIKANTA JENA:** Exactly, Sir. That is the Government policy and we have not been encouraging the exact foreign brand names. This is also not an encouragement, but in the case of collaboration, we are accepting it. *...(Interruptions)...*

श्री प्रमोद महाजन: नरो व कुंजरो व? "लहर" धीरे बोलो और "पेप्सी" जोर से बोलो।

**SHRI GURUDAS DAS GUPTA:** Before coming to the second supplementary, Sir, may I comment that the intention, however good it may be, to draw foreign multi-nationals is affecting the Indian industries? And Government should understand it.

My second supplementary is this: Who are the owners of these brand names—Lehar—Pepsi, DCM—Toyota, Hero-Honda? Who are the owners of

these brand names ...*(Interruptions)*... This is part (a) of my question. Part (b) of my question is whether the Government agrees that these hybrid names are actually given to these collaborating firms and to that extent it is affecting the interests of the Indian firms.

SHRI SRIKANTA JENA: Exactly, Sir. I cannot say just now who the proprietors or owners of these names are ...*(Interruptions)*...

SHRI GURUDAS DAS GUPTA: Sir, the cat is out of the bag ...*(Interruptions)*... Sir, the cat is out of the bag. This is illegal ...*(Interruptions)*... who are the owners of these names? ...*(Interruptions)*... Sir, the fact is that these are fraudulently being used by the manufacturers ...*(Interruptions)*... Sir, I will help the Minister. Actually, the brand names, Lehar-Pepsi, DCM-Toyota, Hero-Honda, are registered, that is, the first names only are registered, but the second names are being fraudulently being used by these companies and the Government is not taking any action.

SHRI SRIKANTA JENA: Sir, regarding Lehar, 'Lehar' is an Indian name and 'Pepsi' is a foreign name...*(Interruptions)*...

SHRI GURUDAS DAS GUPTA: Who is the owner of this name? ...*(Interruptions)*... Who are the owners of these names? ...*(Interruptions)*...

SHRI DIPEN GHOSH: Sir, these are all hybrid names. But who is the owner of the foreign name? ...*(Interruptions)*...

SHRI SRIKANTA JENA: Sir, I have already stated that these hybrid names are the names of the Indian partners and the foreign partners in the collaboration. The Indian partners and the foreign partners in the collaboration give certain names and the Government allows this because there is absolutely nothing in the T&MM Act, there is no provision in this Act, to restrict these names. ...*(Interruptions)*...

SHRI GURUDAS DAS GUPTA: Sir,

I seek your protection. I asked who the owners of these names are and he is not giving them.

SHRI SRIKANTA JENA: Sir, I am not saying that I cannot give. At the moment, Sir, I have no information about the owners ...*(Interruptions)*...

SHRI KAMAL MORARKA: Sir, these are all hybrid names, DCM-Toyota, Hero-Honda, etc. What is the registered brand name? ...*(Interruptions)*...

SHRI GURUDAS DAS GUPTA: Sir, these are being fraudulently used and the Government is closing its eyes ...*(Interruptions)*... Somebody is violating the rules and the Government is not doing anything. The rule is being violated, it is a violation, it is a categorical violation, by the big firms and the Government has closed its eyes to the violation because the people who are violating are big people.

SHRI SRIKANTA JENA: Sir, I have categorically stated that the Government's intention is to discourage foreign brand names and the Government's intention is very clear and it is to encourage Indian brand names.

SHRI GURUDAS DAS GUPTA: What is the use of having a good intention? ...*(Interruptions)*...

SHRI SRIKANTA JENA: Sir, the point is that we have to operate under certain provisions of the Act.

SHRI GURUDAS DAS GUPTA: Sir, with regard to registration, before the FERA came into force, these foreign brand names were there. But, after the FERA came into force, the foreign companies which had shares in the Indian companies diluted their shares, but the foreign brand names are still there. There are so many foreign brand names which are still there, which are operating in this country.

SHRI SRIKANTA JENA: Sir, in collaboration only we are allowing and we are allowing only the hybrid names.

Foreign brand names we are not allowing. We are allowing only the hybrid names.

MR. CHAIRMAN: Yes, Mr. Dipen Ghosh.

SHRI DIPEN GHOSH: Sir, I am sorry to say that the Government seeks to avoid giving the exact reply to the question. The question is whether the government proposes to put a ban on the use of foreign brand names owned by multinationals in the consumer goods industry and, if so, what steps are proposed to be taken. The reply states that under the Trade and Merchandise Marks Act, there is no separate definition of foreign trade mark, etc. etc. As you know Sir, the Trade and Merchandise Marks Act is only to register and protect the brand names or the trade marks and to prevent their being misused or abused by any other user. It has got nothing to do with the banning of the use of foreign brand names or hybrid brand names or whatever it is. So, the reply to the question as given in the statement does not lead us anywhere.

Similarly the Minister has said about FERA. FERA also only restricts or that particular section 28(1)(c) forbids a company from using a foreign brand name of direct or indirect consideration. FERA also does not permit the use of a foreign brand name. The Minister has categorically stated while allowing collaboration schemes Government will not allow the use of foreign brand names. But at the same time the Minister has said that they will allow a hybrid name. My colleague, Mr. Gurudas Das Gupta, wanted to know who the owners of that hybrid name are. My other colleague, Mr. Kamal Morarka, said actually these hybrid brand names are not registered as such—Hero Honda, Pepsi Lehar, Suzuki—and only the Indian part is registered and not the foreign part. It is a fraudulent method of using foreign brand names and misguiding the consumers as if it is a foreign product. Why is the Government not allowing the use of a

foreign brand name? The reply given is to protect the indigenous industry who are using the indigenous brand name. My question is, first part: Has the Government any proposal or move or any decision or is it going to take any step, to amend the Trade and Merchandise Act or FERA so as to prevent Indian companies, multinationals or whatever, from entering into any collaboration with any foreign firm, using a foreign brand name as a suffix or a prefix to an Indian brand name registered under that Act? Second Part: I think the Minister may not be aware of this, in the case of colour TV or black and white TV when Government does not allow any collaboration scheme to use a foreign brand name, the specific Government regulatory orders include, among other things, that hybrid names will also not be allowed to be used. It is in the Government regulation. I can quote that particular regulation....

MR. CHAIRMAN: He must be knowing it. You need not quote.

SHRI DIPEN GHOSH: This order is dated 20-3-86. Here also 'hybrid names will not be allowed to be used'. My question is: In allowing any multinational companies to enter into collaboration with an Indian firm as in the case of TV, is the Government going to put a ban on the use of hybrid names in the case of Pepsi, Lehar or Hero Honda, etc.?

SHRI SRIKANTA JENA: No; at the moment Government has no intention to amend the Act. And under the existing law Government cannot ban the use of foreign brand names. We have also certain international commitments...

SHRI DIPEN GHOSH: What is the difficulty? If the Government has no intention to amend the Act, how do you protect the indigenous industry?

MR. CHAIRMAN: He said there is no intention. It is a policy matter.

SHRI SRIKANTA JENA: I have clearly said at the moment Government has no intention to amend the Act.

SHRI DIPEN GHOSH: How do you protect the indigenous industry?

SHRI SRIKANTA JENA: On the other hand, I have already said we are not going to encourage foreign brand names to be used indigenously.

SHRI DIPEN GHOSH: Will they include also hybrid brand names?

SHRI KAMAL MORARKA: I want to clarify the point so that the Minister can also understand it better. The question of the use of foreign brand names in this country under FERA 1973 was brought forward by Mrs. Gandhi. She had taken a tough line that foreign brand names should not be used by Indian entrepreneurs.

Sir, this business, this invention, of using hybrid names is part of the hybrid culture for the last five years when all these western-oriented gentlemen were speaking of Panchayati Raj—hybrid culture: using Indian names with foreign names. The Minister should tell us whether the new Government is going to end hybrid culture and coming back to Indian culture. That is the essence of this question. For that if the law has to be amended, we should amend the law. If there are any loopholes, we should plug these loopholes. Sir, the simple question is that the hybrid culture should come to an end. That is the issue.

SHRI SRIKANTA JENA: Sir, I share the views of Mr. Kamal Morarka. But the question is, under the present laws...

SHRI DIPEN GHOSH: Why are you not amending the present law?

SHRI SRIKANTA JENA: At the moment, I have said there is no such proposal.

SHRI DIPEN GHOSH: Why? *(Interruptions)*

SHRI JOHN F. FERNANDES: You can understand that the Government has permitted hybrid names, that is, the foreign collaboration involved. But we have certain consumer products in the market where still foreign names are

continuing in spite of the fact that the raw materials used are indigenous. May I know from the hon. Minister whether they have any proposal to ban these names in the near future and, if so, how long it will take?

SHRI SRIKANTA JENA: I have replied to it.

श्री प्रमोद महाजन: सभापति जी, मंत्री महोदय इस बात को समझ लें कि इस देश में कुछ चीजें विदेशी नाम से बेची जाती हैं जैसे लक्स है, कालगेट है, शिबाका है। पहले से ही बेची जाती हैं। ऐसी सैकड़ों चीजें हैं जिनको लोग भूल गये हैं कि ये विदेशी नाम हैं, लोग लेते हैं और समझते हैं कि स्वदेशी नाम होगा। लेकिन जैसा मंत्री महोदय ने अपने उत्तर में कहा है कि जिनके साथ हम विदेशी सहयोग करते हैं, हम शर्त लगाते हैं कि वे विदेशी ब्रेड का उपयोग न करें। हमने पेप्सी के साथ विदेशी सहयोग किया है। उनके साथ शर्त लगाई है कि विदेशी नाम का आन्तरिक बिक्री में उपयोग न करें। इसका अर्थ यह है कि हाई ब्रीड हो, आधा अधूरा हो, पूरा हो, विदेशी ब्रेड का उपयोग पेप्सी न करे, यह शर्त आपने लगाई है। तो लहर के साथ पेप्सी शब्द जोड़ कर भले ही हाई ब्रीड में क्यों न हो, वे विदेशी नाम का आन्तरिक उपयोग कर रहे हैं, यह शर्त मनवा के, इसलिए आप पेप्सी निकालकर लहर क्यों नहीं रखना चाहते हैं?

SHRI SRIKANTA JENA: Sir, this is the same thing. This is not the first case—Lebar Pepsi. In the year 1989 the Tatas were allowed to use the name 'Tata Timken'. And before that the Indian Shavings Products Ltd. were permitted to use "7 o'clock Ejtek". So this hybrid thing has been coming since 1982 onwards. At the moment, Sir, as I have already said there is no proposal to change...

SHRI DIPEN GHOSH: What is the rationale behind it?

श्री प्रमोद महाजन: पुरानी सरकार को दोष देकर काम नहीं चलेगा। अब आपके हाथ में सरकार है।

SARDAR JAGJIT SINGH AURORA: I feel that we are creating a storm in a tea cup about these names. I think there have been many English companies and foreign companies where

people who own it are Indians but still they are carrying on foreign names. In any case, are we feeling that we cannot ever compete with foreign names? Shouldn't it be that we improve our products so that Indian names are respected as much as foreign names?

SHRI SRIKANTA JENA: Sir, I could not follow the question exactly.

SARDAR JAGJIT SINGH AURORA: The question is to support the view that there is no need to get upset about it

SHRI SRIKANTA JENA: I fully agree with it.

श्री प्रमोद महाजन: हाई ब्रीड भाषा हेतो तो समझ जाते।

SHRI SRIKANTA JENA: Sir, at one time, a large number of foreign companies were operating in this country and many of them have diluted their foreign share holding because of enforcement of FERA. These companies are Cadburys, Nestle, Exide, etc. These types of companies were there and those names are already there.

SHRI DINESHBHAI TRIVEDI: Mr. Chairman, Sir, I would like to know from the hon. Minister this thing. There is the existing law that we will encourage Indian brand names and the foreign brand names will not be encouraged. I would like to know whether there is any compulsion that unless and until Pepsi word is not used, they will not come and have the collaboration. Secondly, do we have any such restriction as far as the brand symbol is concerned?

SHRI SRIKANTA JENA: There is no such restriction.

SHRI DINESHBHAI TRIVEDI: The first part of my question has not been answered.

Does the Government have any compulsion while signing the agreement?

SHRI SRIKANTA JENA: There is no compulsion.

### FICCI President's demand for modifying the MRTP Act

\*366. SHRI SURESH PACHOURI:†  
SHRI MURLIDHAR CHAND-  
RAKANT BHANDARE:

Will the Minister of INDUSTRY be pleased to state:

(a) whether Government's attention has been drawn to the statement made by the President of the Federation of Indian Chambers of Commerce & Industry as reported in the Indian Express of the 14th May, 1990 to the effect that MRTP Act has lost its relevance in the changed circumstances;

(b) if so, what is his precise demand regarding modification in the MRTP Act; and

(c) what is Government's reaction thereto?

THE MINISTER OF STATE IN THE DEPARTMENT OF SMALL SCALE INDUSTRIES AND AGRO AND RURAL INDUSTRIES IN THE MINISTRY OF INDUSTRY (SHRI SRIKANTA JENA): (a) to (c) A Statement is laid on the Table of the House

### Statement

(a) Yes Sir.

(b) Federation of Indian Chamber of Commerce and Industry (FICCI) has made the following major suggestions for changes in the MRTP Act, 1969:—

(i) MRTP undertakings should be re-defined in terms of the share of the market and not on the value of assets as the assets criterion has lost its relevance in the present context;

(ii) Sections 21 and 22 of the MRTP Act, 1969 relating to substantial expansion and establishment of new undertakings are totally out

†The question was actually asked on the floor of the House by Shri Suresh Pachouri