

[डा० वापू कलदाते]

समर्थन करता हूँ और निवेदन करता हूँ कि रेल मंत्री जी इस ओर ध्यान दें।

उपसभपति : विदर्भ के एम०एल० एज० का मेरे पास रिप्रजेंटेशन आया है। मैं भी यही समझती हूँ कि आप जो कह रहे हैं, उसके ऊपर पार्लियामेन्ट्री अफेयर्स मिनिस्टर रेलवे मंत्री जी को सदन की भावनाओं से अवगत कराएँ ताकि यह काम हो सके।

THE HOSPITALS AND OTHER INSTITUTIONS (REDRESSAL OF GRIEVANCES OF EMPLOYEES) BILL, 1987

THE DEPUTY CHAIRMAN: Now we shall take up the Bill. Mr. Jagdish Tytler.

THE MINISTER OF STATE OF THE MINISTRY OF LABOUR (SHRI JAGDISH TYTLER): Madam, I beg to move:

"That the Bill to provide for the redressal of grievances of employees in hospitals and certain other institutions and for matters connected therewith or incidental thereto, be taken into consideration."

Madam, as you are aware, following the judgment of the Supreme Court in the Bangalore Water Supply and Sewerage Board case which gave a very wide interpretation to the term 'industry' under the Industrial disputes Act, 1947, the definition of the term 'industry' was revised by Section 2(c) of the Industrial Disputes (Amendment) Act, 1982 so as to exclude among others: (a) hospital or dispensaries; (b) educational, scientific, research or training institutions; (c) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; (d) khadi or village industries; (e) any activity of the Government relating to the sovereign functions of the Government including all the activities carried on by

the Department of the Central Government dealing with defence research, atomic energy and space. Madam, this was necessary because these are the areas which we felt should be free from strikes or stoppages of work etc. in the interest of general public, promotion of voluntary effort, efficient discharge of the sovereign functions—administrative, legislative and judicial—of the Government and also with a view to protecting vulnerable sections of industry. While most of the provisions of the said Amendment Act of 1982 have been enforced, the said section 2(c) could not be enforced because it was felt that before excluding certain establishments or institutions from the purview of the Industrial Disputes Act, there must be an alternative grievance redressal machinery for the employees employed therein or else their exclusion without at the same time providing for a suitable alternative machinery might be open to challenge as being discriminatory and violative of article 14 of the Constitution of India. It was with this objective in mind that the then Minister of State for Labour introduced in this House the Hospitals and Other Institutions (Settlement of Disputes) Bill on 6th May, 1982. Divergent points of view were expressed in the course of the debate on this Bill. Representatives of the voluntary organisations, etc. were also heard in January, 1983. And the then Minister of Labour gave an assurance that he would discuss the matter with the trade union leaders. In pursuance of that assurance, meetings were held with the representatives of the Central workers' organisations in July-August, 1985. In the light of the discussions held with different persons concerned, we have now brought forward another Bill which is much simpler than the previous one, and embodies for the employees concerned a machinery which would be largely internal to each Organisation. The Bill which is now before the House is in pursuance of Government's desire to provide for a proper procedure and machinery for the redressal of individual and collective grievances. The arrangements proposed are more conducive and less cumbersome than the procedure incorporated in the Industrial Disputes Act, 1947.

This Bill provides for two types of machinery, one for the redressal of individual grievances and the other for collective grievances. Individual grievances will be looked into by the Grievance Redressal Authority against whose orders an appeal will lie to the Appellate Authority. If any aggrieved party is not satisfied with the decision of the Grievance Redressal Authority or the Appellate Authority, it is free to approach an independent Tribunal whose decision would be binding. All these authorities would be required to pass an order within a specified time. As regards collective grievances, these would be looked into by a Management Council, a bipartite machinery comprising the representatives of the employers and the employees. Where a Management Council fails to settle any collective grievance within a specified period, there is a provision for reference of the grievance to an agreed Arbitrator failing which the grievance could be referred to a Board of Arbitrators headed by a judicial officer, appointed by the appropriate Government.

In order to give relief to the smaller establishments, we do not propose to apply the proposed legislation to establishments employing less than ten persons. We also propose to exclude from its purview establishments owned or controlled by Government. This provision has been made owing to the fact that Government employees can take recourse to Administrative or similar Tribunals in individual matters and JCM or JCM-type machinery in collective matters. We also propose to exclude societies registered under the Societies Registration Act, 1860 subject to certain conditions, one of these being that if they are entirely financed by the Government, they would be excluded. Besides, educational institutions will cease to be covered in due course as and when the appropriate Government makes a law for the redressal of grievances of employees of such institutions. The Government also will have the power to exempt any establishment from the purview of the proposed legislation, subject to fulfilment of certain conditions laid down therein.

In the proposed legislation, we have provided for prohibition of strikes and lock-outs during the pendency of a grievance before any of the authorities such as Grievance Redressal Authority, the Appellate Authority Tribunal, Management Council, Arbitrator and Board of Arbitrators. These provisions have been built in to ensure that as far as possible there should be no work stoppage and disturbance which hampers orderly functioning of such institutions. I am sure you would agree with me that hospitals, dispensaries and educational institutions, scientific and research institutions must function in an atmosphere free from strife and conflict.

We find even after legislation is enacted, it takes several months and in certain cases even years before the provisions could be enforced. In order to ensure immediate enforcement of the proposed legislation, Model Regulations have been framed as a part of the legislation. These indicate *inter alia* qualifications for appointment of the Grievance Redressal Authority and the Appellate Authority and the procedure to be followed by them for the redressal of the Grievances.

Last, but not the least, we have provided in the Bill deterrent penalties for various offences such as failure to appoint various authorities and failure to codify the terms and conditions of service of the employees within specified periods, breach of settlements, orders, awards, etc. The penalties provide for imprisonment or fine or both.

In the circumstances, I would request the hon. Members to support the Bill and pass it unanimously. I assure the hon. Members that the various suggestions they may have to make for effecting improvements in the Bill would be considered by us while framing the rules for enforcement of the various provisions of the Bill.

THE DEPUTY CHAIRMAN: There is an amendment by Shri Sukomal Sen, Yes, Mr. Sen.

SHRI SUKOMAL SEN (West Bengal): Madam, I move:

"That the Bill to provide for the redressal of grievances of employees in

[Shri Sukomal Sen]

hospitals and certain other institutions and for matters connected therewith or incidental thereto, be referred to a Joint Committee of the Houses consisting of 21 members; 7 members from this House namely:—

1. Shri Aladi Aruna alias V. Aruna-chalam
2. Shri M. S. Gurupadaswamy
3. Shri Samar Mukherjee
4. Shri Parvathaneni Upendra
5. Shri Atal Bihari Vajpayee
6. Shri N. E. Balaram; and
7. Shri Dipen Ghosh

and 14 members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that in other respects, the Rules of Procedure of this House relating to Select Committees shall apply with such variations and modifications as the Chairman may make;

That the Committee shall make a report to this House by the first day of the next Session; and

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Committee and communicate to this House the names of members to be appointed by the Lok Sabha to the Joint Committee."

The questions were proposed.

THE DEPUTY CHAIRMAN: The Bill and the amendment are now open for discussion. Yes, Dr. Bapu Kaldate.

डा० बापू कालदाते (महाराष्ट्र) : उप-सभापति महोदया, अस्पताल और अन्य कुछ संस्था के कर्मचारियों की शिकायतों का प्रतिरोध विधेयक, 1987 के संदर्भ में मैं शुरू में यह कहता हूँ कि हम इस विधेयक से संतुष्ट नहीं हैं। इससे ज्यादा कड़े शब्द इस्तेमाल करना मैं वाजिब नहीं

समझता क्योंकि जिस कारण आप इस विधेयक को लाये हैं उससे ऐसा लगता है कि इसमें जो मजदूर हैं उनके बुनियादी अधिकारों को संकुचित करने का प्रयास किया गया है। आपने कहेते समय जरूर कहा है 6 मई, 1982 में जो विधेयक लाये थे उस समय जो चर्चा हुई थी उसमें यह कहा गया था। सुप्रीम कोर्ट के जो निर्णय हो गये उस कारण आप इस हद तक गये कि अस्पताल हो या अन्य कोई और शिक्षण संस्था वहाँ के मजदूरों को इंडसियल डिस्प्यूट एक्ट से निकाल कर उन पर बड़ा अन्याय कर दिया। उन पर अंतरा अन्त्याय हो रहा है। आप 82 में जो विधेयक लाये थे उस वक़्त उस पर बड़ी कंट्रोवर्सी हो गयी थी। बहुत अलग-अलग ढंग के विचार आपके सामने आये थे। यह अच्छा हुआ उस समय आपने यह माना एक नया विधेयक लायेंगे जिसमें कर्मचारियों के अधिकार भी सुरक्षित रहें, जिन संस्थाओं का आपने जिक्र किया इस विधेयक में उन संस्थाओं का काम शांतता और सुचारुरूप से चले, हम इस पक्ष में हैं कि अस्पताल हों या अन्य शिक्षण संस्थाएँ हों उनका कारोबार ठीक ढंग से चले। जिस तरह से वीमारियों के निराकरण के लिए अस्पताल हैं उसी तरह से शिक्षण संस्थाएँ भी आमतौर पर इस देश के लिए बहुत जरूरी हैं। इस बात को हम मानते हैं। लेकिन आप स्वयं जानते हैं शांतता और सुचारुरूप से चलाना किसी एक तरफा मामले से नहीं होता है। बारबार यह होता है कि जब कभी असन्तोष हो जाता है तब इसका सारे का सारा बोझ जो कर्मचारी या मजदूर हैं उन पर लादे जाने का प्रयास इस देश में चला है। यह बात ध्यान में रखनी चाहिए कि कोई भी मजदूर अपने खुद का जो काम है उसको छोड़कर स्वयं बेकार होने की अपेक्षा नहीं रखता। यह बात भी समझनी चाहिए कि कोई मजदूर बगैर किसी सीरियस बात के कुछ नहीं करता। उसके ऊपर कोई असर नहीं होता। तब तक जब तक कि उसके ऊपर कोई अन्याय न हो। जब उसके ऊपर अन्याय होता है तो वह उसे बर्दाश्त नहीं कर सकता। वहाँ पर कई अन्याय होते हैं। व्यक्तिगत रूप से भी होते हैं और कले-

किटव रूप से भी होते हैं। यह बात नहीं है कि कर्मचारी झगड़ा करना चाहते हैं। कभी-कभी तो यह देखने में आता है कि कर्मचारी तभी कोई कदम उठाते हैं जब शेष कोई रास्ता नहीं रह जाता है। जो लोग संस्थाओं को चलाए वाले होते हैं उनका रवैया इस ढंग का होता है कि वे अपने कर्मचारियों को अपने काम में सहभागी मानने के बजाय उनको गुलाम समझते हैं। आवश्यकता इस बात की है कि कर्मचारियों को सहभागी समझा जाना चाहिए। ही इज आज़ादो ए पार्टनर इन दी प्रोसेस आफ रनिंग दी इंस्टिट्यूट। कहने का मतलब यह है कि संस्थाओं को चलाने की प्रक्रिया में कर्मचारियों को भी हिस्सेदार माना जाना चाहिए। अगर उनमें संस्था को मिल कर चलाने की भावना होगी तो झगड़े कम पैदा होंगे। इसके विपरीत अगर इस हिस्सेदारी की भावना का अभाव होगा तो झगड़े भी पैदा होंगे। इस बात में तो हम आपके साथ हैं कि अस्पतालों जैसी संस्थाओं का प्रबन्ध बहुत अच्छी प्रकार से चलाया जाना चाहिए। अस्पतालों में बड़े-बड़े सीरियस मरीज़ आते हैं जिनकी देखभाल ठीक ढंग से की जानी चाहिए। आप जानते हैं कि हमारे देश की बहुत-सी शिक्षण संस्थाओं में भी असंतोष चल रहा है। लेकिन यह असंतोष भिन्न-भिन्न संस्थाओं में अलग-अलग प्रकार का है। आप इस संबंध में प्रयास कर रहे हैं, लेकिन वह प्रयास एक सीमित हद तक ही है। हमारी शिक्षण संस्थाओं और विद्यापीठों में कर्मचारियों की भी समस्याएं हैं। देखने में यह आता है कि अलग-अलग संस्थाओं में असंतोष के अलग-अलग कारण हैं। हम मानते हैं कि शिक्षण संस्थाओं, खादी इंडस्ट्री की संस्थाओं और अस्पतालों की व्यवस्था की तरफ विशेष ध्यान देने की जरूरत है। कर्मचारियों और मेनेजमेंट के बीच में सौहार्द के संबंध होने चाहिए। इस विधेयक के द्वारा आपने कुछ प्रयास किया है। लेकिन मैं समझता हूँ कि मजदूरों के जो बुनियादी अधिकार हैं उसके संबंध में आपने व्यवस्था इस ढंग से की है कि यह एक प्रकार से डाइवर्सन है, सही रास्ता या ढंग नहीं है। आपने यह तो कहा है कि कर्मचारियों के जो दुख और शिकायतें हैं, तकलीफें हैं, उनको

सुलझाने का प्रयास किया जाएगा। आपने यह भी कहा है कि इंडस्ट्रियल डिस्प्यूट एक्ट से निकाल कर आप इन समस्याओं को सुलझाने का प्रयास करेंगे। लेकिन मेरा कहना यह है कि जो उनकी तीव्र समस्याएं हैं उनको सुलझाने का प्रयास इस विधेयक में नहीं किया गया है। मैं जानना चाहता हूँ कि कर्मचारियों की जो व्यक्तिगत समस्याएं हैं उनको दुरुस्त करने के लिए आपने क्या व्यवस्था की है? आपने अपील अधिकारी की व्यवस्था तो की है लेकिन चप्टर-2(2) में आपने लिखा है कि प्रत्येक नियोजक किसी स्थापन के संबंध में इस अधिनियम के प्रारम्भ की तारीख से साठ दिन के भीतर या उस तारीख के जिसको ऐसा स्थापन अस्तित्व में आता है आदि-आदि। मैं यह जानना चाहता हूँ कि इसकी नियुक्ति कौन करेगा? इसकी नियुक्ति तो नियोजक करेगा। इस संबंध में कर्मचारियों को कोई अधिकार नहीं दिया गया है। जो निजी संस्थाएं हैं या जो स्वयं सेवी संस्थाएं हैं जो होस्पिटल चलाती हैं उनमें कर्मचारियों के अधिकारों की रक्षा कैसे होगी इसका कुछ पता नहीं चलता है। ऐसी कोई व्यवस्था नहीं की गई है कि इस प्रकार के मामलों में कर्मचारियों की यूनियन्स से भी सम्पर्क किया जाएगा। अगर उसमें 10 आदमी रखे जाते हैं जो कर्मचारियों के साथ भी बातचीत की जानी चाहिए। इस प्रकार की कोई व्यवस्था आपने इस विधेयक में नहीं की है। सारे के सारे अधिकार नियोजक लोगों को मिल जाएंगे। यह बात मैं नहीं कह रहा हूँ। ये बातें इस विधेयक से पैदा हो रही हैं। आशंका पैदा हो रही है। हो सकता है कि जो नियोजक लोग हैं वे अपने स्वार्थ के लिए अपने हितों के लिए काम करें। इसलिए मेरा कहना यह है कि इन शिकायतों के निराकरण के लिए कोई व्यवस्था नहीं की गई है। कर्मचारियों के प्रतिनिधियों को भी इसमें रखा जाना चाहिए। आपने यह कहा है और समझिये शिकायत की व्यवस्था वहां हो जाती है। आपने एक और व्यवस्था करके रखी है। आपने यह कहा है कि ज्वाइंट मेनेजमेंट और जो मजदूर हैं उनकी एक समन्वित व्यवस्था होगी। हम आपसे यह पूछना चाहते हैं कि

[डा० बापू कालदाते]

यह बात कई सालों से चल रही है मैनैजमेंट में पाटिसिपेशन की बात और आज तक आपने देखा है और हमने भी देखा है कि यह पाटिसिपेशन का मामला या तो चल नहीं रहा है और अगर कहीं चल भी रहा है तो वह ठीक ढंग से नहीं चल रहा है। पब्लिक अंडरटेकिंग्स में पाटिसिपेशन होना चाहिए मजदूरों का। कई सालों से यह बात चल रही है लेकिन अभी तक कोई व्यवस्था नजर में नहीं आ रही है। जहां सही मायनों में पाटिसिपेशन है उनका सहयोग मैनैजमेंट ले रहा है और इस सारे काम को ठीक ढंग से चलाने का प्रयास कर रहे हैं। आपने इसमें इतना ही लिखा है कि समझिये ग्रेवासेंज कमेटी का काम नहीं किया तो सरकार अप्वाइंट करेगी। मैं आपसे यह कहना चाहता हूँ कि आखिर में यह राज्यों के पास जायेगा क्योंकि इन संस्थाओं को राज्य सरकार देखती हैं। मैं महाराष्ट्र की मिसाल देना चाहता हूँ। महाराष्ट्र में निजी संस्थायें या प्राइवट हास्पिटल की अगर आप गिनती करेंगे तो शायद उनकी संख्या हजारों में आ जायेगी। इससे कम तो हो नहीं सकती। जहां दम से ज्यादा इम्प्लॉईज है तो आपने कहा कि वहां 60 दिन के अन्दर करें। नहीं करेंगे तो नोटिफाई करेंगे। 60 दिनों का मौका उनको देंगे। 60 दिन के बाद इन सारी संस्थाओं को आपको देखना होगा। क्योंकि आपने लिखा है कि अगर ऐसा नहीं होगा तो सरकार नियुक्त करेगी। लेकिन मुझे ऐसा डर है कि इस पर असर नहीं हो पायेगा। संस्थाओं की जो संख्यात्मक रिपोर्ट आपने देखी मैं केवल हास्पिटल की बात नहीं कह रहा हूँ, खादी विलेज इंडस्ट्री, शिक्षा संस्थायें इनका भी अगर सारा भसला जोड़ दिया जायेगा तो मुझे डर लगता है कि यह विधेयक यहीं का यहीं रहेगा और इस पर कोई असर नहीं होगा। नमने के तौर पर मैंने जैसा पहले कहा मैनैजमेंट के लोग वहां आ जायेंगे और शिकायतों का फैसला नहीं होगा। मेरी सही मायनों में एक ही प्रार्थना है कि ग्रामों जो कुछ करना है वह पूरे दिल से कीजिये, हाफ हार्टेसी

तरीके से आधो इधर आधा उधर, थोड़ा उनको भी सन्तोष दे दें थोड़ा नियोजकों को भी सन्तोष दे दें तो ऐसी स्थिति में कोई भी सन्तुष्ट नहीं होगा। मैं चाहता हूँ कि आप वहां ऐसा वातावरण बनाइये और इसके लिये अंतिम रूप से मजदूरों को समझाइये। आर्बिट्रेशन एक तरफा नहीं होगा। इसके लिये आप फोर्स नहीं कर सकते। मैं अगर नहीं जाऊं तो क्या होगा। इसका मतलब यह है कि वह किसी हद तक रुक जायेगा और यह समझ लीजिये कि उसका फैसला नहीं होगा। आपको वहां पर सौहार्दपूर्ण और शांतमय वातावरण बनाना चाहिए। इससे आप इस काम में सफल हो सकते हैं। इंडस्ट्रियल डिस्प्यूट में उन लोगों को हटाकर उनका जो अधिकार है उसको कम करने का जो प्रयास कर रहे हैं उससे समस्या नहीं सुलझेगी। उनके संकोच को आपने इस ढंग से कर रखा है ताकि लोगों को लगे कि आपने व्यवस्था की है। लेकिन यह व्यवस्था उस संकोच को नहीं रोक सकती है। इसके लिये मजदूरों को जो अधिकार प्राप्त हैं उन अधिकारों का संकोच न करें और इसके लिये मैं कहता हूँ कि अगर आपको यह व्यवस्था रखनी है तो मुझे कोई ऐतराज नहीं। आप यह भी व्यवस्था रखें लेकिन जो अधिकार मजदूरों के हैं उनके हनन का जो प्रयास विधेयक के द्वारा किया गया है उसकी मैं परिपुष्टि नहीं कर सकता। इसके लिये मैं आपसे दरखास्त करना चाहता हूँ कि इस समय जो भी मजदूरों के अधिकार हैं उनको कायम बरकरार रखने का प्रयास करें ताकि हास्पिटल और अन्य जो संस्थायें हैं उनकी मेहनत से ठीक ढंग से चलें। इसके ऊपर आप अवश्य ध्यान दें। अगर आप यह नहीं करेंगे तो मुझे बहुत अफसोस के साथ कहना पड़ता है कि मैं इस विधेयक का समर्थन नहीं कर पाऊंगा।

SHRI P. N. SUNKUL (Uttar Pradesh) :
Madam Deputy Chairman, I rise to support the Hospitals and other Institutions (Redressal of Grievance of Employees) Bill, 1987.

As the hon. Minister has already made it clear, this Bill has been brought for-

ward for our consideration after due consultations with the Central trade unions and this Bill has been necessitated by the fact that the amendment in the Industrial Disputes Act in 1982 excluded the workers in hospitals and other educational institutions from the purview of the Act. This means that a hospital or an educational institution cannot be called an industry and if it cannot be called an industry, all those who are working in those institutions cannot get the benefit from the Industrial Disputes Act of any kind. So, naturally something had to be done for all those employees of such institutions for the redressal of their grievances. It is exactly for this that this Bill has been brought before us for our consideration.

As regards this Bill, there is a provision for setting up of a grievances redressal authority and an appellate authority in all establishments for the redressal of individual grievances. As regards the collective grievances, management councils are proposed to be there. Naturally, this has to be done by the employers or by those who actually are managing those institutions. If the Government is the proprietor, then the Government has to do it. If it is a private hospital or a private educational institution, whoever is the employer has to do it and doing it has been made statutory. By this Bill it will be the bounden duty to evolve such machinery for redressal of the grievances of the employees and others employed therein. So, since this Bill has been brought forth in consultation with the concerned Central trade unions, there is not much to oppose the contents of this Bill. We can, of course, earnestly hope that as contemplated in the Bill itself, very soon these appellate authority or grievance redressal authority or management councils will be established in all such institutions so that all those who are working therein may be able to get their genuine grievances redressed. As a matter of fact, last year our CGHS doctors went on strike in Delhi. Similarly, the PCMS doctors in Punjab also went on agitation. Somehow these doctors, whether it is this State or that State, have been agitating and going on strike. Why do they go

on strike? As a matter of fact, they do not enjoy the right to strike, just as university teachers about whom I made a special mention today only, again they are going to agitate. (Interruptions). Why do they go on strike? Although they do not have the right to strike, why do they go on strike? (Interruptions). That is what I am saying. You listen to me. They go to strike, compelled by circumstances. When they are not able to get justice due to them, economic justice, social justice, then whether you give them the right to strike, or not, whether it is on the statute books or not, the workers, the wage earners must take that action ultimately. You cannot check them and you have not been able to check them. After all, you have to come to terms with them. An agreement was signed, an accord was there in the case of university teachers, but that accord has not been implemented as yet. Those university teachers and employees are also covered under this Bill. That is why I am mentioning this. As regards doctors, of course, much has been done to give them justice. Still they are not happy. You talk to any doctor, he will say: "I am not happy with the ultimate outcome of the strike". So this machinery this mechanism that we are evolving is really very good.

SHRI SUKOMAL SEN : Is it good ?

SHRI P. N. SUKUL : Yes, because if you do not have the right to strike, then naturally there must be some other alternative to provide them economic justice, social justice, or at least for the redressal of their grievances.

SHRI DIPEN GHOSH (West Bengal) : At least provide them a machinery, if not justice.

SHRI P. N. SUKUL : Well, I have already said that in spite of this Bill, they may go on strike. So if they go on strike, they take resort to trade union action. Who is going to check that ?

SHRI DIPEN GHOSH : If they cannot be given bread, give them the cake

SHRI P. N. SUKUL : It is the attempt of the Government to keep the medical institutions, the educational institutions free from conflict, as far as possible, so

[Shri P. N. Sukul]

that they do not have to agitate every now and then and there is an alternative mechanism provided for where they can take their grievances.

As regards individual grievances—of course you go on strike for collective grievances, not for individual grievances—the grievance redressal authority for the appellate authority that is being provided for is all right. It is only in the case of collective grievances that TU activity comes into the picture. But that also comes into the picture, if necessary. Otherwise if the collective grievances can also be met through negotiations, through arbitration and in other ways, then the question of direct action may not arise at all. So at least so far as individual grievances are concerned, this will go along way in settling them and keeping the working force happy. As regards collective grievances also, I personally think that the mechanism that is now being provided for will go a long way to eliminate conflicts.

PROF. SOURENDRA BHATTACHARJEE (West Bengal) : How long ?

SHRI P. N. SUKUL : That is to be seen. Mr. Bhattacharjee. I do not want to be an astrologer to reply to your question specifically.

SHRI DIPEN GHOSH : Do you still have those scars of lathi charge inside Lucknow Secretariat when you went on strike ?

SHRI P. N. SUKUL : I have seen so many things. What I mean to say is that so far as hospitals are concerned or educational institutions are concerned, I would request the Government to make all possible efforts to extend the justice due to them. They must have justice if they can get it. Suppose the doctors say : "We must have parity with IAS, IPS or such other officers", naturally there is nothing wrong in it, unless, of course, you want to just pamper the IAS or the IPS. Socialism requires it that, as far as possible, there should be parity at a certain level among certain people, among certain sections of people.

AN HON. MEMBER : What is socialism?

SHRI P. N. SUKUL : Where you get social justice. Socialism means an arrangement where you can get social justice from the administration or the society. Socialism can mean so many things to so many people. Socialism may mean entirely different things to Nehru, Gandhi or Acharya Narendra Dev. It may vary from man to man.

SHRI DIPEN GHOSH : Socialism means 'Sukulism'.

SHRI P. N. SUKUL : What I was saying was, whether it is the Education Department, whether it is the Human Resource Ministry or whether it is the Public Health Ministry, they should try to grant due economic and social justice to their workmen so that the working force does not have to choose to resort to direct action. I will, for example, give some cases of doctors in Delhi.

As regards the new pay scales of doctors, the Delhi Municipal Corporation doctors got the new scales from 1st August, 1987 whereas the Central Government Health Scheme doctors got them from the date of notification. Naturally, those who got it from a subsequent date must not be feeling very happy about it. Similarly, there is a conveyance allowance for doctors, ranging between Rs. 150 and Rs. 550. The doctors of the Delhi Electric Supply Undertaking get this allowance without outside visits; they do not have to visit outside but they get this allowance. But the doctors of our First Aid Post within Parliament House do not get it because it is said, "You have to work inside Parliament House; you do not have to go outside." Since they do not go outside Parliament House, they do not get it. Naturally, the two doctors whom we are keeping in Parliament House for our purposes, will not feel happy about this arrangement. They feel, "In Delhi itself there are doctors who do not go outside but they get the allowance. We are treating the MPs and these MPs do not have any consideration for us. They want better treatment all right, but they cannot secure due justice for us." So I would request the

honourable Minister to take this matter up, if possible, with his counterpart in the Health Ministry to see that all such things, which of course make people restive or feel unsatisfied, are removed.

As regards the para-medical staff, there are dressers and there are pharmacists. Like drivers, these dressers do not have any promotional avenue; no promotion. The Estimates Committee had recommended, long back, that all the medical staff and para-medical staff must get at least three promotions during the period of their service. That was the recommendation of our Estimates Committee. But, as I was just mentioning, the dressers do not get any promotion. Earlier there was a selection grade for pharmacists, but now there is no selection grade either. When there is neither a promotional avenue nor a selection grade, how are you going to keep them satisfied and what incentive are you going to provide for them for working honestly, to the best of their capacity and to our best expectations? So, the Government must try to set right all these things.

About the doctors, I may tell you that 95 per cent of them do not get a third promotion. They are recruited in the junior class I scale, then they get the senior class I scale. Then they get the scale of CMO...

SHRI DIPEN GHOSH : You are talking about the CGHS doctors but the CGHS is not under the Ministry of Labour.

SHRI P. N. SUKUL : But the Ministry of Labour has brought this Bill. So I am now referring to matters pertaining to doctors who work in hospitals and medical institutions... (*Interruptions*)... That is why I requested him to take them up, if possible, with his counterpart in the Health Ministry. I do not mean to say that the Labour Minister will himself do it.

So, what I mean to say is that if automatically justice is done to the employees and the officers, then they may not be forced to resort to trade union activities, including direct action... (*Interruptions*)... I hope this Bill has been

brought about because of the exclusion. You cannot expect both. You cannot have this Bill and have coverage under the Industrial Disputes Act also. You can never have both the benefits. It is an alternative arrangement that is being made for the staff.

As I said, I earnestly hope this Bill will go a long way to solve the problems of all those who are working in hospitals and other institutions. With these words, I support the Bill. Thank you.

THE DEPUTY CHAIRMAN : Shri Mohammed Amin. Maiden speech.

श्री मोहम्मद अमीन (पश्चिमी बंगाल) : मोहतरमा डिप्टी चेयरपर्सनल साहिबा, जिस बिल के ऊपर इस वक्त आयवान में बहस हो रही है इसमें इस बात का एतराफ किया गया है कि इस पर 6 वर्ष से बहस जारी है और हकूमत अब तक इसको पास नहीं करा सकी है। मंत्री जी ने इस बिल को इन्ट्रोड्यूस करते हुए बयान दिया तो उन्होंने कहा कि इस पर ट्रेड यूनियनों के साथ भी सलाह-मशविरा किया गया, लेकिन मुझे हैरत होती है कि इस बिल में जो कुछ लिखा गया है उसमें कोई जिम्मेदार ट्रेड यूनियन कभी इसके साथ कैसे सहमत हो सकती है। इसलिए मुझे सुकुल जी की बातें सुनकर भी हैरत हुई। वह पुराने ट्रेड यूनियन के नेता हैं और ट्रेड यूनियन आन्दोलन के साथ उनका बहुत गहरा संपर्क रहा है और गालिबन उन्होंने भी गौर से इस बिल को पढ़ा है और यह देखा है कि इसमें अस्पताल और उस किस्म के अदारों के मलाजमीन को हड़ताल करने का जो अधिकार है उसको छीन लेने का बदोबस्त किया गया है और इसके बावजूद उन्होंने समर्थन किया है। ट्रेजरी बैच पर बैठने का यही अंजाम होता है।

श्री पशुपति नाथ सुकुल : इस बिल से नहीं छीना गया बल्कि वह पहले ही छिन चुका है।

श्री मोहम्मद अमीन : आप जानते हैं कि जेल का खोफ दिखाकर मजदूरों को कभी हड़ताल से रोका नहीं जा

[श्री मोहम्मद अमीन]

सकता। 40 वर्ष से कांग्रेस राज में लाठी, गोली और जेल का बहुत तमाशा हुआ। लेकिन आप लोगों को क्या मिला? आप कोई तहरीक रोक नहीं सके। हम लोगों को मिला। हम लोग बंगाल में वर्ष-वर्ष तक जेल में रहते थे जब वहां पर कांग्रेस का राज था। त्रिजवेंटिव डिटेंशन एक्ट के अन्तर्गत बगैर कोई वजह बताए, वगैर यह बताए कि आपका क्या कसूर है पुलिस ले जा करके बन्द कर दिया करती थी। लेकिन अंजाम क्या हुआ कि हम लोग जो जेलों में रहते थे आज हकूमत में चले गए और जो लोग हम लोगों को जेलों में बन्द करके रखते थे वह सड़कों पर मारे-मारे फिर रहे हैं। उन्हें कोई पूछने वाला नहीं है। इसके बावजूद भी कांग्रेस ने कोई सबक नहीं सीखा कि जेल और जुर्माने की सजा दे करके उस तबके को जिसका पेट भर कर दाल-रोटी नहीं मिलती हड़ताल करने से नहीं रोका जा सकता। इसलिए इस बिल में लिखा गया है कि जो लोग हड़ताल करेंगे उन्हें 3 महीने तक के लिए जेल और 1000 रुपये तक का जुर्माना हो सकता है और जो लोग हड़ताल करायेगे उनकी 6 महीने तक के लिए जेल और 10,000 रुपये जुर्माना हो सकता है। उनके वाद भी यह बिल समर्थन करने के लायक है? हड़ताल का अधिकार मजदूर वर्ग का बुनियादी हक है और यह हक कभी छोड़ा नहीं जा सकता। अस्पतालों में हड़ताल हो यह हम लोग भी नहीं चाहते, इसलिए कि वह इलाज होने की जगह है, जिन्दगी का सवाल है, बहुत नाजुक मामला है, लेकिन हड़ताल करने के बजाय अगर कोई और जरिया निकल आ। जिससे उनकी मांगों का तत्पक्रिया हो जाए तो जाहिर है कि कोई समझदार मजदूर और कर्मचारी कभी हड़ताल में नहीं जाएगा। हड़ताल कोई शौक की चीज नहीं है, फुटबाल का खेल नहीं है कि बात-बात में हड़ताल कर दें। मजदूर हड़ताल तभी करते हैं जब उनकी मांगों के फैसले के लिए तमाम रास्ते बन्द हो जाते हैं और कोई उनकी बात को सुनने वाला नहीं होता है, तब वे कमर बांध कर

हड़ताल में उतरते हैं। अस्पतालों में अगर असन्तोष नहीं हो तो और कहाँ होगा? मैडम, शायद आप यह बात जानती हैं कि सरकारी अस्पतालों को इससे बाहर रखा गया है लेकिन जो निजी अस्पताल है उनमें जो लोग काम करने है उनको महीने में 70 रुपये, 80 रुपये और 100 रुपये देकर भी उनसे काम कराया जाता

है और कराया जा रहा है। सौ 1.00 P.M. रुपये महीना आजकन की महंगाई

के जमाने में एक वक्त की दाल-रोटी के लिए भी काफी नहीं है, दोनों वक्त का सवाल तो दूर की बात है। उसके बावजूद अगर यह उम्मीद रखी जाये कि मजदूर खुश रहेंगे, ठीक से अपना सर-अंजाम देगे तो यह बात तो बेवकूफों की जन्मत में रहने के बराबर है। सरकार की तरफ से इस बात का कोई अहममाम नहीं किया गया है, छोटे-छोटे अस्पतालों और नर्सिंग-होम में बेज-स्ट्रक्चर, उजरतों के ढाँचे का कोई बंदोबस्त किया जाये, चाहे बेज-बोर्ड के जरिए हो या और किसी सूत्र में हो। लेकिन कम से कम क्या तनख्वाह उनको मिलनी चाहिए, इस बात का बंदोबस्त किया जाये। यहा यह नहीं है, वहां जो अस्पतालों को चलाने वाले प्राइवेट-मालिकान है, वे दोनों हाथों में मुनाफा लूटते हैं और अपने कारबारियों को गैर-मोहजिबाना हालत में जिन्दगी गुजारने पर मजबूर करते हैं। यह बात तो चलने वाली नहीं है।

अब इसमें जो एहतनाम किया है कि उनकी मांगों पर विचार करने के लिए अकलतरान मुकर्रर किए जाएंगे। इसका अख्तियार भी एम्प्लायस को दिया गया है और जहां ज्वायंट कौंसिल आफ मनेजमेंट की बात कही गई है, उसमें यह प्रोविजन रखा गया है कि जो मालिकों के नुमाइन्दे होंगे उन्हें तो मालिक नामजद करेंगे और मुलाजिमान या कर्मचारियों के नुमाइन्दों की नामजदगी का काम ट्रेड-यूनियन करेंगी, जिनकी रजिस्टर्ड मेम्बरशिप दस फीसदी से ज्यादा है। यह भी एक झगड़ का सवाल बन जायगा, इसलिए कि बहुत से छोटे-छोटे अदारे हैं, जहां कोई

यूनियन नहीं है और ऐसे भी अदारे हैं, जहां एक से ज्यादा यूनियन हैं। उसमें वे यूनियन जो मालिकों की तरफदारी करते हैं, सांठ-गांठ करके अपने लोगों को नामजद कर लेंगे और जो यूनियन मजदूरों के लिए लड़ती हैं वे नजर-अंदाज कर दी जाएंगी। तो क्या यह बेहतर नहीं होता कि यूनियन हो या न हो, ऐसे तमाम अदारों में मुलाजिमान के नुमाइंदों की नामजदगी का मामला सीक्रेट-बलेट के जरिए, इलेक्शन के जरिए तय किया जाय ताकि मजदूरों को इस बात का अधिकार मिल जाय कि वे अपनी पसंदगी के नुमाइंदों को चुनें और सही मायनों में उनकी नुमाइंदगी हो, चाहे वहां यूनियन रहे या न रहे। इसमें यह बात साफ हो जाती। यह दो बातें हैं।

इसके अलावा तीसरी बात एक और है कि अस्पतालों और दीगर तालीमी अदारों को सबको एक साथ कर दिया गया है। कॉलेज, यूनिवर्सिटी या इस किस्म के आला-तालीमी के जो अदारे हैं, उनमें जो काम होता है, उस काम की खासियत और नवईयत और अस्पतालों में जो काम होता है, उस काम की खासियत और नवईयत जुदा-जुदा हैं। इन दोनों को एक जगह करके अगर कोई कानून बने तो उस कानून के अमल-दरामद में दुस्वारी जरूर पेश आएगी। इसलिए तालीमी अदारे को इससे अलग रखना चाहिए। मंत्री महोदय अगर इस पर गौर करें तो मेरे ख्याल में वे भी इस राय से मुतफिक होंगे कि दो काम जिसकी फितरत अलग-अलग है, ये दोनों एक ही कानून के जरिए चलाए नहीं जा सकते।

हड़तालों को रोकने के लिए मर्कजी हुकमत ने इसके पहले कोई कम कोशिश नहीं की। मोहतरमा, आपको याद होगा कि सन् 1960 में केन्द्रीय सरकारी कर्मचारियों ने हड़ताल की थी, वह हड़ताल कुचल दी गई, लेकिन हमारे देश के ट्रेड-यूनियन्स के इतिहास में उसकी याद बाकी है। उस जमाने में पंडित नेहरू वजीरे-आज़म थे, उन्होंने फिर ज्वायंट कंसलटेटिव मशीनरी को स्कीम नाफिज की। उस

मशीनरी के इतने दिनों के कामकाज का अगर आप रिव्यू करें तो आप इस नतीजे पर पहुंचेंगे कि उसका कोई फायदा नहीं हुआ। मुख्तलिफ सतह पर वह मशीनरी अब मफलूज होकर के बेकार हो गई है। उसकी वजह क्या है? उसकी वजह यह है कि यहां एम्पलायर की मफाद और मुलाजिमान की मफाद एक दूसरे से टकराती है और इस किस्म की टक्कर का सवाल कोई जब आ जाता है तो उसके ऊपर मालिकों के नुमाइंदों के साथ मजदूरों के नुमाइंदे कभी एक नहीं हो सकते और एक डेड-लॉक पैदा हो जाता है। इसलिए इसमें जो ज्वायंट कौन्सिल आफ मैनेजमेंट की बात की गई है, वह भी ज्यादा कारगर नहीं हो सकेगी। इसलिए मेरी यह सलाह है कि अगर हुकमत इन तीन कामों को करने पर आमादा हो—एक तो अस्पतालों को तालीमयादारों से अलग कर दे, दूसरे मजदूरों को अपने नुमाइंदों को चुनने के लिए सीक्रेट बलेट का अधिकार दे और तीसरे इसमें जेल और जुमनि की जो तजबीज रखी गयी है मजदूरों के हड़ताल करने की सूरत में, वह क्लाज डीलिट कर दे, अगर ये तीनों काम हुकमत कर दे तभी इस बिल का समर्थन किया जा सकता है वरना हम इस बिल का विरोध करेंगे।

DR. NARREDDY THULASI REDDY (Andhra Pradesh): Madam Deputy Chairman, the hospital industry is an important industry because its raw materials as well as its finished products, both are human beings. So the employees in the hospitals and other such institutions, should work with dedication, with zeal and vigour. Before expecting these qualities from the employees, it is the responsibility of the institution to provide the basic needs of the employees. But there are certain hospitals and other such institutions which are earning thousands are lakhs of rupees per day but they are not at all providing the minimum needs and facilities to the employees working in the hospitals. The introduction of the Hospitals and other Institutions (Redressal of Grievances of Employees) Bill, 1987 is essen-

[Dr. Narreddy Thulasi Reddy]

tial and a welcome step but there are certain major loopholes in this Bill. The provisions of the Bill will apply to all the hospitals and other such institutions other than those owned or managed by the Government or charitable, social and philanthropic organisations. Here lies the loophole. Every institution, every hospital will proudly say that it is a philanthropic or social or charitable institution. Now there are nearly 3667 Government hospitals with about 3,50,000 beds and nearly 3381 private hospitals with nearly 1,42,000 beds. All these private hospitals, under the protective umbrella of this clause of the Bill will escape from the purview of the Bill. So, finally this applies to alone. It is essential, to define specifically the word "charitable, social and philanthropic". At the same time it is also essential to provide a mechanism to identify whether an institution is social or not, philanthropic or not or charitable or not.

There is another loophole in the Bill. The Bill also empowers the Government to exempt any establishment from the operation of all or any provision of the Bill, subject to the condition that an alternative, joint consultative machinery for redressal of grievances exists in it. Here lies the loophole. It leads to non-uniformity and discrimination. So, while welcoming the introduction of the Bill, my few suggestions are: number one, to define specifically the words "philanthropic, social and charitable;" number two to provide a mechanism to identify whether an institution is social or not, philanthropic or not, charitable or not and number three, to provide uniformity for all the hospitals. Expecting consideration of these suggestions by the hon. Minister, I conclude my speech. Thank you.

PROF. SOURENDRA BHATTACHARJEE: Madam Deputy Chairman the Bill that has been moved in the House is a controversial one. And history is sought to be related in the name of Statement of Objects and Reasons. As a matter of fact, while the judiciary had been

trying to protect those working in hospitals and educational institutions by describing them to be industries under the non existing provisions, the attempt to exclude them from the purview of 'industry' deliberately initiated not only in 1982, perhaps even before that. The object was to deny the employees working in these institutions the safeguards of the industrial Disputes Act. Of course, those who were covered by the Trade Union Act or the Industrial Disputes Act have been brought under the purview of the draconian ESMA—Essential Services Maintenance Act. Any industry can be declared to be such and can be brought under the ban, ban to strike or adopt other industrial action. This particular Bill, while it tries to show itself to be a panacea to redress the grievances of the employees

working in hospitals and educational institutions, is, as a matter of fact, an undisguised attempt at preventing the employees of these institutions from initiating collective action for the redressal of their grievances. The machinery that has been suggested for the redressal of grievances won't inspire confidence. It can never be a substitute for collective action which is part of the fundamental right of any worker or employee. This misdirected endeavour has been continuing further on the part of the Central Government for a long time. When the organised labour—teachers, educational workers, hospital workers and others—were able to contain that endeavour, at long last the Government is making a determined bid to brust aside that opposition with the help of the proposed Act. The honourable Shri Mohammad Amin raised a question regarding consultation with workers' organisations. It has been said "in the light of the discussions". Whether there was light or darkness would have been clear if the proceedings of the discussions were before the House. It may be said, "It may be verified from the Central Trade Union organisations." I am quite sure, as Mr. Amin said no trade union worth its salt would agree to such a position. Therefore, a reference to the discussions with the workers' organizations is

really an attempt at covering up the real intention of the Government which is to take away the rights of those working in hospitals and educational institutions.

I myself have been associated with educational institutions and I have been connected with the teachers' movements for a long time and I think that you are aware that the echo of the countrywide strike by the college and university teachers which started for the first time in the months of August-September last year has not yet died down. Not only the university and college teachers, but also the school teachers, primary and secondary school teachers, and also those working in prestigious public schools which extract huge amounts from the students, are all exploited. There are educational institutions which are without means to function properly. It is the responsibility of the Governments to see that they are enabled to function properly. Those working there cannot be indefinitely working without proper service conditions. This situation has continued for too long. Even now the condition in these institutions is deplorable and is very pitiable so far as the employees working there, employees, high and low, are concerned. Now, after all these years... (*Time bell rings*)... without changing the situation, without taking any meaningful step to change the situation obtaining in all these institutions, the attempt to come forward with a Bill which takes away the right of collective action from the hands of the employees is an ill-advised step. I would urge upon the Government to have a rethinking even at this late stage regarding this Bill which imposes draconian restrictions on the employees and workers.

With these words, I would like to conclude, Madam. Thank you.

THE DEPUTY CHAIRMAN: Yes,
Mr. Gurudas Das Gupta.

SHRI GURUDAS DAS GUPTA (West Bengal): Madam Deputy Chairman, this Bill is unfortunate in the sense that it seeks to curtail the right of trade unions, of employees and workers, in a particular section or category. I do not know if the

newly-appointed Labour Minister is aware of the fact, before he had introduced this Bill, that there has been an increase in the number of suicides by the scientists and the scientific workers in the country. Scientists have committed suicide in our country because the working conditions for them are bad. The Government did not and would not create favourable conditions for scientific research in the country. Therefore, as a result of frustration, scientists commit suicide and the number of suicides is on the increase. I have with me a piece of paper with the name, "Institute for the Cultivation of Science, Calcutta", which is under the Ministry dealing with scientific research. The employees of that institution including the scholars had decided to go on strike on a particular day in the month of April because the working conditions there were extremely bad. Despite repeated requests, the Government of India has moved. This being the situation, the most unfavourable situation, Government remaining most unsympathetic, the administration being heavily tilted in favour of the establishment and the people in general unresponsive to the problems that this category of people face in daily life, there has to be an avenue, there has to be a scope where the people can express their grievance. Under the Industrial Disputes Act there is plenty of opportunities. If you take away this fright or if you put restrictions on that, it means the situation will become far worse. Instead of applying the condition of the Industrial Disputes Act more stringently, if you withdraw that, the situation will become more desperate and dangerous in the country.

Secondly, Madam Chairperson, it is a well known fact that private hospitals and nursing homes have become the most interesting place of investment of black money of the country and in such places the working conditions are bad and the load of work is heavy. This I am speaking from my own experience. This will make the operation of black money investment easier, because the people do not have any way to protest against that. Therefore, according to me, this Government has taken a step which is not only

[Shri Gurudas Das Gupta]

undemocratic, which is a draconian but this step is in the direction of the curtailment of trade union activities in the country. This is quite consistent with the policy of the Government, because a Bill is pending with the Ministry of Labour which he will be introducing tomorrow or some day after, which will take away some of the rights. If he does not bring forward an amendment in a proper way as the trade unions have suggested, then this Bill is consistent with the amendment that is under discussion. In my opinion, this is going to aggravate the situation. This will not only take away the right of dissent, it will not only take the right to protest, but this will also make the situation worse in this sensitive sector. As a result of the curtailment of democratic rights, the working conditions will be bad. The expectation that you seem to express at the moment is not going to be fulfilled.

Therefore, from all considerations, from the point of view of this sensitive sector, from the consideration of the workers' democratic rights, from the point of view of the nurses and other staff, I urge upon the Government to withdraw the Bill. In my opinion, it will be a step in the reverse direction. So I plead with the Government to withdraw it. Any curtailment of democracy in any part of the world has not been effective in the improvement of the situation. You can do it by improving democracy. By curtailing democracy nothing can happen in the country. We have the experience of Pakistan. We have the experience of Bangladesh. It is not by attacking democracy that you can improve the situation. It is only by ensuring democracy. It is only by arranging better cooperation with the working people that you can improve the situation. With the sword of undemocratic action dangling over the head of the working people, don't expect that this Government can improve the situation. This will deteriorate the situation further. Therefore, I protest against the Bill. I move against the Bill and I plead that the House be pleased to reject the move on the part of the young trade union leader who happens to have

taken over the portfolio of labour. I hope he will kindly consider the proposal.

SHRI JAGDISH TYTLER: I am grateful to the hon. Members who took part in the discussions. I am also grateful for the suggestions and opinions which they have expressed. I would like to inform the hon. Members that this Government is not anti-labour. We are all committed to safeguard the interests of labour in our country. I don't think any Bills have been passed previously which have gone against the interests of labour. You know under what circumstances this Bill has been brought. Under no circumstances we will let the labourers suffer.

Why did this Bill become necessary? The Government feels that there are vulnerable sections of the industry which need protection. They are concerned directly with the interests of the general public. These are educationists, scientific research and training institutions, defence research, atomic energy and space, the educational institutions and universities and hospitals and dispensaries which are directly related to the public. Whenever the workers in these places go on illegal strike, it is the people who suffer. I think that the Bill has not been understood properly. Nowhere have we taken the right of the workers to strike. In section 8 of the Bill it has been very clearly stated that we have not withdrawn the right of the workers. This has been held in abeyance when either the whole process is pending in proceedings or the matter is pending with the grievance redressal authority for individual grievance or management council or the tribunal or arbitration. When all these things fail, then the workers have the right to go on strike. Therefore, to say that the right to strike has been taken away is not right.

PROF. SOURENDRA BHATTACHARJEE: When all the items of controversy are referred to these committees and the appellate tribunals, etc., then this entire process will make it impossible for the workers to resort to collective action. That is our apprehension. Kindly try to clarify that by going through Section 8 which you have referred to.

SHRI JAGDISH TYTLER: We have never taken the right of the workers to strike. We will never do it. As already stated in the Statement of Objects and Reasons in the speech, this Bill was introduced in 1982. It was not pressed because certain objections were raised and certain other matters came up during the course of the discussion. Then the Minister had said that we would have discussions with the trade unions, and representatives of the voluntary organisations. This was done and I think most of the objections which were raised in the previous Bill of 1982 have been removed. We have come back with a Bill which will safeguard the interests of the workers and, at the same time, try to give them a forum where they can have their grievances looked into.

Madam, nobody has spoken that these are all timebound grievance cells which we have given. So, it is not like that toady which has been pending for years together and the poor workers does not get this...

THE DEPUTY CHAIRMAN: Now the House...

SHRI JAGDISH TYTLER: I will take just two minutes...

THE DEPUTY CHAIRMAN: You can continue after lunch.

Now the House stands adjourned for lunch and we will meet again at 2.30 P.M.

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

The House reassembled after lunch at thirty-one minutes past two of the clock. **The Vice-Chairman (Shri H. Hanumanthappa)** in the Chair.

SHRI JAGDISH TYTLER: Sir, continuing my concluding remarks after the hon. Members had spoken, I would like to emphasise again, Sir that nowhere are

we ever thinking or ever a thought comes into our mind to bring in something which is anti labour because we are committed to uphold the rights of the workers. This was only essential because certain protection was needed to be given to some vulnerable sections of the industry, specially those relating to hospitals, schools, colleges institutions, defence, atomic energy and space and most of those industries which are of interest to the general public. We have done everything possible which is within our powers to see that workers get their full rights and it is not only the question of rights because most of the Members had spoken that they will not be allowed to go on strikes that employees will not be allowed to declare lockouts, I mean any legal lockouts. Any legal strike is most welcome but whenever a strike of a kind....

SHRI DIPEN GHOSH: Why lockouts can be termed as legal lockouts?

SHRI JAGDISH TYTLER: With a notice of 14 days it is possible. But the only thing which probably everybody missed is that all these grievance redressal authorities and others which we are bringing in along with that we are also giving a time-bound calendar to them in the sense that they would have to give their findings in a certain time so that the workers will not be left dangling and if everything fails, the authorities which we have created, then the workers have every right to go in for a strike. But till the last resort, at least as long as the thing is pending with the tribunal or the authorities which we have created, we would not like them to go on strike etc. because these are essential services. I would like to emphasise that there are certain things which our Government has done for the labourers. We have introduced recently the Employees' Provident Funds Bill. We are also going to cover the Employees' State Insurance Corporation Bill, the Industrial Relations Bill and one of the things in the provident fund which we have done is this that the rate of interest on deposits we have increased from 11.5 to 11.8 per cent by which a lot of benefit is going to accrue to the workers. In the unorganised sector we are also going to

provide for projects for child labour and we have many policies under consideration. We have already taken up four projects out of the ten we have announced. We are enforcing laws regarding safety of building and construction workers. This is a new legislation. We are also vigorously implementing the bonded labour rehabilitation programme which we have taken up with different States. And I am glad that most of the States are responding well and we are working on the ultimate goal that we would abolish bonded labour in the country. We also brought amendment to the inter-State migrant workers' Act; then model rules for the safety of workers to be taken up with the State Governments, which have already been circulated. We have also drawn up emergency plan for selective districts in the States having concentration of industries. For welfare of plantation workers also, and for the social security of the workers, we have come up with the proposals. Cine Workers Welfare Fund has been constituted; Bill to regulate employment of cine workers had been brought and enacted. We are also going to streamline employees' provident fund scheme. So, our ultimate aim is that when a workers retires, he must have his cheque of the provident fund amount in his hand. This is my ultimate aim which I hope I will be able to achieve. Even with regard to Employees' State Insurance Corporation, the Act had to be reviewed to provide better medical facilities to the workers and their families.

We have introduced a Bill for simplification in labour laws. Small establishments with less than 20 workers will be exempt, partly from furnishing returns, maintaining registers etc. Major simplification has been introduced with regard to small units employing less than 20 workers, and very small units employing less than ten workers. We have already announced family pension benefits which have been liberalised. My whole purpose of telling all this is that this Government is committed to the welfare of workers and we will never come up with anything where worker's interest is harmed.

SHRI JAGDISH TYTLER : You have your reasons and I have my reasons, and I think ultimately you will feel that all this is in the interest of workers. Thank you.

The amendment was negatived.

“That the Bill to provide for the redressal of grievances of employees in hospitals and certain other institutions and for matters connected therewith or incidental thereto be taken into consideration.”

The motion was adopted.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA) : We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 24, and the Schedule were added to the Bill.

CLAUSE 1—*Short title, extent, commencement and application.*

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA) : Clause 1. There is one amendment.

SHRI JAGDISH TYTLER : Sir, I
move :

"That at page 1, line 6, for the figure '1987' the figure '1988' be substituted."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA) : I shall now put clause 1, as amended, to vote.

The question is :

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Enacting Formula

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA) : Now, the Enacting Formula. There is one amendment.

SHRI JAGDISH TYTLER : Sir, I move :

That at page 1, line 1, for the word 'thirty-eighth' the word 'thirty-ninth' be substituted."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA) : I shall now put the Enacting Formula, as amended, to vote.

The question is :

"That the Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to the Bill.

SHRI JAGDISH TYTLER : Sir, I beg to move :

"That the Bill be passed."

The question was proposed.

SHRI SUKOMAL SEN : Sir, at the outset, I would like to point out that the Statement of Objects and Reasons of the Bill—paragraph 3—itself is quite misleading. It says that the Government had discussions with different organisations. It says here :

"In the light of the discussions held with them and also with the voluntary

organisations held earlier in January, 1983..."

I am not aware of any such discussions having been held by the Government with any Central trade union organisation. Before this Bill was introduced here, I tried to ascertain from the various Central trade unions. From none of them, I could gather that they had any discussions with the Government in regard to the provisions of the Bill, that the Government was contemplating such provisions.

Sir, afater this Bill is passed, several thousands, in fact, a few lakhs of employees working in various hospitals, scientific and educational institutions will be severely affected. Now, the hon. Minister says that they have a right to strike. This is not correct. In clause 8, it has been stated :

"(1) During the period of pendency of any proceeding in connection with any grievance before any authority under this Act—

(a) no employee shall go on strike..."

It means, if the employer refers any matter to arbitration, during the pendency of such arbitration, no employee or group of employees is permitted to go on strike. Again, when once the award is given, it becomes binding and thereafter also the employees are not permitted to go on strike. Therefore, the right to strike of the workers is taken away through this Bill. Not only that.

This Bill also seeks to subvert the verdict of the Supreme Court. The Supreme Court has given a verdict that hospitals should be treated as an industry. This Bill has been brought forward to circumvent that decision of the Supreme Court. This Bill seeks to take the employees out of the purview of the Supreme Court's decision as already they have been taken out of the purview of the provisions of the Industrial Disputes Act. They have been denied their trade union rights. This Bill militates against the fundamental rights of the employees of the country. I would say, this Bill is most undemocratic and arbitrary as it denies elementary

[Shri Sukomal Sen]

trade union rights to thousands and thousands of employees.

Therefore, Sir, I would again request, if the Government has an iota of respect for democracy, not to hustle through this Bill. There are so many organisations representing the employees in the various hospitals, scientific and educational institutions. Government should hold discussions with them so that their views on the provisions of the Bill can be elicited. That is why I have suggested that this Bill should be referred to a Joint Select Committee of the two Houses which will be able to elicit the opinion of different unions representing the different categories of employees. Only after thorough discussions with them and only after incorporating their suggestions, the Bill should be brought forward. I would once again request the hon. Minister to consider this aspect. Otherwise, if they bulldoze in such a way, simply because they have a huge majority, it will be a violation of democratic norms.

श्री राम अवधेश सिंह (बिहार): माननीय उप सभाध्यक्ष जी, इस बिल के संबंध में मुझको केवल एक बात कहनी है। वह यह है कि सर्वोच्च न्यायालय ने अस्पताल, शैक्षणिक संस्थाओं और साइंटिफिक रिसर्च की संस्थाओं में काम करने वाले लोगों के मौलिक अधिकारों की रक्षा के लिए और खास कर उनके शोषण को बंद करने के लिए जो फैसले दिये, उन फैसलों को समाप्त करने के लिए या उस फैसले को निरस्त करने के लिए सरकार यह बिल लाई है।

महोदय, सर्वोच्च न्यायालय एक ऐसी संस्था है जो कमजोर से कमजोर वर्ग के लोगों के अधिकारों की रक्षा करने के लिए कोई निर्णय लेती है। उसको भी कार्यपालिका और हमारी सरकार इस ढंग से निरस्त कर देती है उसका यह एक नमूना है। अखिल तो यह चाहिए था कि जो फैसले सर्वोच्च न्यायालय ने दिए जिसमें मंत्री महोदय ने अपने स्टेटमेंट आफ आब्जैक्ट्स एंड रीजन्स में लिखा है कि क्वेबुपीम कोर्ट ने फैसला दिया और उसके बाद सरकार ने क्या कार्यवाही की इसका तो ब्यौरा दिया है

इससे अपने आप में स्पष्ट ही जाता है सरकार किस तरह से छलावा कर रही है, किस तरह से मजदूरों को धोखा दे रही, मजदूरों के अधिकारों को छीन रही है, यह अपने आप लिख दिया है। कहीं दूसरी जगह लिखने की जरूरत है यह तो स्टेटमेंट आफ आब्जैक्ट्स एंड रीजन्स में इन्होंने लिखा है। महोदय मेरा अनुरोध है कि कोई ऐसी झटपटी नहीं है, कोई आकाश टूट नहीं रहा है कि तुरन्त इस बिल को पास करके इनको कोई प्रतिरक्षा के लिए युद्ध के मैदान में जाना है इसलिए तत्काल यह बिल पास कर लें। मैं यह चाहता हूँ कि सलैक्ट कमेटी में इस बिल को भेजा जाए और इसको संशोधित रूप में लाया जाए।

महोदय, मैं एक बात और कहना चाहता हूँ। आर्बिट्रेशन की जो बात कही गई है, व्यवहारिक दुनिया में यह होता है कि आर्बिट्रेशन में जो मामला चला जाता है वह कभी-कभी दो साल, चार साल, छः साल, आठ साल लटका रहता है। अब इन्होंने कहा है कि स्पेंसीफाइड पीरियड करेंगे। इस एक्ट में भी आया है कि एक अवधि निर्धारित करेंगे, वह भी एक्ट में नहीं बोलते हैं कि कितनी अवधि निर्धारित करेंगे। पंचायत में जो मामला भेजे वह चार महीने में या दो महीने में फैसला देगी या छः महीने में फैसला देगी। उसकी अधिकतम अवधि तो बताई नहीं है। आप जानते हैं कि आर्बिट्रेशन में जो मामला जाता है वह मामला लटकाने वाली बात ज्यादा होती है और जो कमजोर वर्ग के लोग होते हैं जब आर्बिट्रेशन में चले जाते हैं तो उनके सामने बड़ी मुसीबत होती है। इस एक्ट में और भी पैनल्टी प्रोविजन में है कि ड्यूरींग द पेंडेंसी आफ आर्बिट्रेशन अगर स्ट्राइक करेंगे तो स्ट्राइक करने वाले को एक महीने से तीन महीने की सजा और एक हजार रुपये तक का जुर्माना है और दूसरा है मान लीजिए कि आर्बिट्रेशन हो गया फैसला हो गया पंच के फैसले के बाद भी यह प्रतिबंध लगाते हैं कि मजदूर स्ट्राइक पर नहीं जा सकता। अगर जाएगा तो उसको सजा देनी होगी और महोदय, सब से बड़ी बात इसमें है कि जो स्ट्राइक के लिए उत्साहित करेगा, प्रेरित करेगा उस पर 6 महीने की सजा,

जो स्ट्राइक करेगा उसको 3 महीने की सजा है लेकिन जो उत्साहित करेगा उसको 6 महीने की सजा और 10 हजार 50 तक का जुर्माना है। मतलब यह कि लीडर हो जो आर्गनाइजर हो मजदूरों का, उस पर प्रतिबंध लगाया जा रहा है, मैं समझता हूँ कि इससे बढ़ कर तानाशाही का और कोई कानून नहीं हो सकता है। यह फासिज्म की ओर बढ़ते हुए कदम का प्रतीक है और किसी भी कीमत पर कोई सभ्य सरकार, अपने को जनतंत्र का हिमायती कहने वाली सरकार इस तरह का कानून नहीं ला सकती है। इस तरह का कानून लाने वाली सरकार जो यह कहती है कि हम मजदूरों के स्ट्राइक के अधिकार पर प्रतिबंध लगाते हैं और जो स्ट्राइक करने के लिए बात भी करेगा और जनतंत्र में बढ़ते हुए लीडरशिप को खत्म करने का जो काम करता है वह जनतांत्रिक व्यवस्था में विश्वास करने वाला आदमी या सरकार नहीं कहला सकती है बल्कि जनतंत्र को खत्म करने वाला आदमी इस तरह की बात सोच सकता है। यह बिल घोर अजनतांत्रिक मजदूरों के अधिकारों को छीनने वाला, फासिज्म की ओर बढ़ते हुए कदम का प्रतीक है। इस लिए मैं मंत्री महोदय से आग्रह करूँगा कि वे इस बिल को वापस ले लें या फिर हाउस सेलेक्ट कमेटी में इसको भेज दें और संशोधित करके इसे लाएं, इसमें जो गड़बड़ियाँ हैं, जो विसंगतियाँ हैं, उनको दूर करके लाएं, कोई आकाश नहीं टूट रहा है एक-दो महीने के अंदर। आप संशोधित लाएं, हम लोग पास कर देंगे, सर्वसम्मति से पास कर देंगे। धन्यवाद।

SHRI JAGDISH TYTLER: I would just like to mention that sometimes words are used so strongly that it makes you feel as if you have brought a Bill which is very anti-labour. All the points which the hon. Member has raised had already been cleared. But another point has been raised about which unions we talked to. I would just like to mention the names of these unions. They are INTUC, BMS, CITU, HMS, AITUC, UTUC. . .

SHRI GURUDAS DAS GUPTA: I deny that AITUC and CITU have given their consent.

SHRI JAGDISH TYTLER: I have never said that they have given their consent. I will be telling a wrong thing if I were to say it.

श्री राम अवधेश सिंह : लेकिन...
 (व्यवधान)

श्री जगदीश टाईटलर : आप दो मिनिट बैठिए जवाब देते वक्त नहीं बोलते बीच में। आपको चांस मिला और मैं चुपचाप बैठकर सुन रहा था। हमने कभी नहीं कहा कि आपने कंसेंट दी है। गवर्नमेंट ने इनसे बात की है और इन्होंने अपने पाइंट्स भी दिए हैं, सुझाव दिए हैं, जिसके अंदर यह नहीं कि सारे सुझाव हमने उनके मान लिए हैं। हम कभी नहीं कहते...
 (व्यवधान) . . .

SHRI DIPEN GHOSH: Would you mind telling us what suggestions you have accepted and what suggestions you have not?

SHRI JAGDISH TYTLER: It was for this reason. Otherwise nobody would have objected to it and just passed the Bill. There are certain reasons. You have to agree, what ever suggestions came, that is one of the reasons why you are speaking on this Bill.

SHRI DIPEN GHOSH: Sir, he has mentioned that the Government had consulted so many central trade unions. He has of course admitted that obviously consultation does not mean that they agreed to every provision which has been brought in this enactment. But the point is, will he kindly enlighten us what are the suggestions which the central trade unions have given and which are the suggestions which the Government have since accepted and which are the ones they have not accepted?

SHRI JAGDISH TYTLER: Sir, I have the suggestions here, but it will take quite a long time. I could place these on the Table. I will get the particulars in detail what ever information you want.

SHRI DIPEN GHOSH: It depends on whether we associate ourselves with this.

SHRI JAGDISH TYTLER: Please don't suggest that by shouting you can get me to agree to certain things which are not right. You discuss it with me and I am prepared to discuss it with you.

SHRI RAM AWADHESH SINGH: He has rightly put it, what suggestions have been accepted and what have been rejected?

SHRI JAGDISH TYTLER: I am just answering the question. Two major points were raised and I am answering what you said. One was, which are the unions with which the discussions took place and I have given the names of the unions.

The second point was the serious allegation which you made because you did not go through the Bill properly, that it is not time-bound. I would like to tell you that for the tribunal the period is 90 days, for the appellate authority 90 days, for the grievances redressal authority 60 days. I would also like to tell you that all these authorities which we have created are time-bound and the workers can go on strike and the lock-out could be declared only after you have failed with the different authorities which the Government have made and we have, as a last resort, the different penalties for the various offences—like failure to appoint various authorities, failure to codify the terms and conditions of service within specific periods, breach of settlements, orders, awards etc. Penalties are both fine and imprisonment.

SHRI DIPEN GHOSH: Please put it on record that we are not associating ourselves with the passing of this Bill.

[At this stage, some hon. Members left the Chamber]

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

SHORT DURATION DISCUSSION ON STATEMENT REGARDING ALLEGATION OF PAYMENT OF COMMISSION TO INDIAN AGENTS IN PURCHASE OF SUBMARINES FROM M/S. HDW OF FEDERAL REPUBLIC OF GERMANY

SHRI DIPEN GHOSH (West Bengal): Mr. Vice-Chairman, Sir, I beg to raise a discussion on the statement laid on the Table of the Rajya Sabha by the Minister of Defence on the 26th April, 1988, regarding the allegation of payment of commission to Indian agents in the purchase of submarines from M/s. HDW of the Federal Republic of Germany.

Sir, while raising this discussion I want to make it abundantly clear, first of all, that the generous gesture of the Union Defence Minister, Mr. K. C. Pant, of laying on the Table the correspondence between the Government of India and the West German Government on the one hand, and M/s HDW of the Federal Republic of Germany on the other, does not serve any purpose as nobody expected that this would disclose any authenticated receipts of the seven per cent commission payable to the agents. But, Sir, at the same time I want to put it on record that the methods followed by the various agencies, as reported in the Minister's statement, seem to be more concerned with obliterating the trails than pursuing them with vigour.

Sir, ever since Mr. V. P. Singh was hounded out of the ruling party and the Government for his seriously taking up the Centre's much-professed programme or policy of eradicating corruption in high places, there has been little doubt that the various officially-sponsored inquiries into Defence-deal scandals would lead nowhere. And Mr. Pant's unhappiness at Mr. V. P. Singh's premature disclosure of the kickbacks, as recorded in the statement, is also understandable, as it clearly hampered his Government's efforts to keep the lid on the affair. Sir, the whole point is that the Centre's credibility has sunk so low during the last one year. . .