

country? How are we going to solve this problem? As a permanent solution, may I know from the Minister whether the Government would manufacture anti-polio drops in India?

**SHRI R. K. JAICHANDRA SINGH:** This does not relate to the question at all.

**THE DEPUTY CHAIRMAN:** It does not arise out of it.

**SHRI LAKSHMI KANT JHA:** Madam, may I submit that the crux of the question as put originally and in supplementaries is a broader one than of the availability of individual drugs named in the answer to the question. The thrust of the question is whether the policy of focusing on price and restraining it from going up in the case of essential drugs is, in fact, resulting in shortages. Now, it is no answer to that to say that there is a shortage of one brand but other brands are available. Can we assure the public, the patients and the doctors that the substitute is as effective and does not suffer from quality weaknesses because human life is at stake? Will Government consider how the change of emphasis from controlling the price of cement to augmenting its availability killed the black market and led to a fall in the open market price? There are other examples also. Will Government not think of the pricing in terms of its role in improving the availability, which is much more important when a man is dying?

**SHRI R. K. JAICHANDRA SINGH:** Madam, I can only repeat what I have said that efforts are being made to produce more in the country and I have just enumerated to a question raised by an hon. Member from the other side. We have a number of alternatives available. Whether those alternatives are efficacious or effective is a subject matter which the doctors will have to deal with and I am not a doctor.

\*102. [The questioner (Shri Parvathaneni Upendra) was absent. For answer, vide Col. 33 infra]

## Profitability study of Drug Companies

\*103. **SHRI BHUBANESWAR**

**KALITA:**

**SHRI RAJNI RANJAN SAHU:**

Will the Minister of **INDUSTRY** be pleased to state:

(a) what steps have been taken by Government in the light of the observations of the Supreme Court that profiteering in life saving drugs is diabolic and a menace which has to be fettered and curbed;

(b) whether Government have made any profitability study of drug companies during the last three years;

(c) if so, what are the details and results thereof indicating the number of the instances of over-charging of prices that have come to Government's notices and the action taken in each case under the Essential Commodities Act or otherwise;

(d) what is the estimated amount of overcharge or unintended profits made by the drug industry since 1980; and

(e) how much of such profits have been collected till now and what are the reasons for non-collection of the balance amount?

**THE MINISTER OF INDUSTRY (SHRI J. VENGAL RAO):** (a) to (e) A Statement is laid on the Table of the House.

### Statement

(a) Action on various directions of the Supreme Court has been taken by the Government.

(b) The companies are required to submit information regarding profitability in Form-6 prescribed in the DPCO. Profitability studies have been made in case of complaints in respect of M/s. Warner Hindustan, M/s. Richardson Hindustan and M/s. Infar (India) during the last three years.

(c) Action has been taken for adjusting the formulation prices wherever found necessary.

†The question was actually asked on the floor of the House by Shri Rajni Ranjan Sahu.

(d) Figures for the entire drug industry are not available.

(e) Does not arise.

**SHRI RAJNI RANJAN SAHU:** Madam, this question arises out of the answer to Unstarred Question 1507 given in Rajya Sabha on the 4th May, 1987 where the hon. Minister has assured that certain papers will be laid for information before the House. I do not know whether this information has been given to the House or not. In reply to this particular question, they have said, certain actions have been taken. I would like to know whether it is a fact that his Ministry has announced abolition of Equalisation Fund Account as well as the purpose stipulated in DPCO 1979 to be discontinued in a system or retention of a pool-price? Further, I would like to know from the hon. Minister the basis on which he has assured that the benefit which accrued from the new measure will be recovered for the purpose specified in the DPCO 1979 when the purpose itself has been proposed to be discontinued in the new measure policy.

**SHRI R. K. JAICHANDRA SINGH:** Madam, I have answered this question on a number of occasions in the past in both the Houses and the hon. Member is too well aware that the new measures which we have proposed, we have announced in December 1986 will do away with the Drug Price Equalisation Account. We have given reasons for that and the measures which I have just said include all the steps that are going to be taken up. Those of the accruals which are issued from the companies as a result of actions in the past prior to December 1986 when we announced these measures, they will be realised and I have said on a number of occasions that they will be taken into account and the recovery process is on. We are aware, in a historic decision on the 10th of April 1987, the Supreme Court decided and upheld the price fixed by the Government, in a case relating to the Fullhart. Thereafter, it extended it to 11 other companies and the stipulation in that judgment is that, a hearing should be given to all these companies within two months of the disposal of the Supreme

Court judgment from the date of the Supreme Court judgment and within two weeks of the hearing, we should pronounce our judgment. We should pronounce the result of the review petition and actions on the basis of these are on and various steps have been taken, notices have been issued to all the relevant companies and we are taking it up.

**SHRI RAJNI RANJAN SAHU:** Madam, is it a fact that the Ministry has not recovered any amount being overcharged by those companies from the poor people of the country, which comes to about Rs. 800 to 900 crores, except Rs. 50 lakhs, against the Delhi High Court order? Will the Honourable Minister inform why the amount has not been collected even from those companies in whose case the claims have been finalised, in spite of the fact that the Government has been given full power under the Essential Commodities Act?

**SHRI R. K. JAICHANDRA SINGH:** Madam, we do not have the figure given by the Honourable Member. I do not know from where, from which source, he has got it. I will be very happy if he can tell us.

**SHRI RAJNI RANJAN SAHU:** Rs. 700 to 800 crores. I can substantiate this figure.

**SHRI VISHVJIT PRITHVJIT SINGH:** We will accept the information. (*Interruptions*)

**THE DEPUTY CHAIRMAN:** He just wants to know from where you got the information.

**SHRI VISHVJIT PRITHVJIT SINGH:** His eyes are shut. His ears are shut.

**SHRI R. K. JAICHANDRA SINGH:** I will be very happy if any of the Honourable Members from both the Houses can give any authenticated source. I will be very happy to take it. The process is very clear. We have to issue notice to the companies. The companies will have to give us the amount and then the unintended profit. In the 13 cases decided by the Supreme Court, each company has been

asked to give us the amount that is supposed to be unintended profit, it is only after their giving the amount, the Department would be checking up with the relevant papers in the companies whether the figures are right. Unless that is done, it will be too premature to say that so much amount is due.

**SHRI RAJNI RANJAN SAHU:** I demand that a Committee be set up with Members of Parliament to examine all this.

**SHRI R. K. JAICHANDRA SINGH:** Madam, from this amount, already Rs. 50 lakhs have been recovered.

**SHRI RAJNI RANJAN SAHU:** Out of Rs. 700 crores, only Rs. 50 lakhs has been recovered?

**THE DEPUTY CHAIRMAN:** Please sit down.

**SHRI R. K. JAICHANDRA SINGH:** On the directions of the Bombay High Court in the Fulford Company's case, Madam, the Department has said that we should recover the entire amount from the company. But the Bombay High Court has directed the Government that piecemeal collection should be done and as a result, Rs. 50 lakhs has to be collected from Fulford and we have already informed the Revenue Department in Maharashtra to collect this amount.

**SHRI RAJNI RANJAN SAHU:** The very purpose will be defeated. How he will collect the balance of Rs. 700 crores except 50 lakhs? The purpose has been defeated by the new measure.

**SHRI J. VENGAL RAO:** Madam, we have appointed a Special Officer. He will be visiting all the companies. He will certainly collect all the amounts as land revenue arrears. *(Interruptions)*

**THE DEPUTY CHAIRMAN:** Yes, Mr. Vishvjit, you have already asked.

**SHRI VISHVJIT PRITHVIJIT SINGH:** I am not asking anything. I am grateful to you that you recognise me. I am grateful to the Members of the House that they have recognised me. Let me tell you, Madam, that the attitude of the Ministry is clear from the Written Answers given by the Minister. It says

here in Part (d) when it is asked "What is the estimated amount of overcharge, or unintended profits?" that the figures for the entire drug industry are not available. In Part (e) when it is asked "How much of such profits have been collected till now and what are the reasons for non-collection of the balance amount?", the most fantastic thing given by the Honourable Minister is that it does not arise. What does not arise? It does not arise that you are going to collect. It does not arise that you are going to take any action. They do not know what we want to say. They are blind. They are deaf. They are blind. They do not want to point out. I would like to know from the hon. Minister what action he is contemplating—not just assurances; he has given assurance to the Assurances Committee also; he has given assurances on the floor of the House, on public platforms outside; I am not interested in those assurances—what action he is initiating, in the light of the judgment of the Supreme Court. The Supreme Court had turned round and said that it is the department itself which is at fault, it is the connivance of the department which has allowed this overcharging. Therefore, I would like to know what action he is contemplating to collect these unintended profits which run into, as Mr. Sahu has said, hundreds of crores of rupees into some eight hundred crores of rupees, which we can substantiate, we can prove, to the Minister. I say again, I do not want any assurance. I am not interested in any assurance. I want action.

**SHRI J. VENGAL RAO:** I am not giving an assurance. I am only answering the question. The Supreme Court has given one judgement on 10.4.1987 and another judgement on 1.5.1987. In May itself we appointed a Special Officer. We shall certainly collect all these amounts.

**SHRI RAJNI RANJAN SAHU:** How will you collect? The very purpose is defeated. They will go to the Delhi High Court and the Supreme Court again.

**SHRI J. VENGAL RAO:** The Supreme Court judgment is final. If there are Rs. 600, Rs. 700 crores of arrears, we will be very happy to collect them. We will get more revenue.

**SHRI M. KADHARSHA:** The Supreme Court judgment clearly says that the price control should look after the interests of the consumers and not of the producers. But the Government's policy is pro-rich and pro-industry. The drug manufacturers have given an undertaking to the Delhi High Court that the unintended profits will be deposited with the Government within eight weeks, but so far they have not deposited the monies with the Government and the Government has not taken any action. So I would like to know from the Government whether any steps will be taken at least in future to make an assessment of the unintended profits and to collect them from the drug manufacturers.

**SHRI J. VENGAL RAO:** The Supreme Court judgement is in favour of the consumer. The Government is also in favour of the consumer, not in favour of the drug firms. (Interruptions) My Ministry is also in favour of the consumers. We have appointed a Special Officer and we will collect up to the last pie. We will not leave them.

**श्री धन श्याम सिंह :** उपसभापति महोदय, मैं माननीय मंत्री जी से केवल एक सवाल पूछना चाहता हूँ। यह अन्-इन्टेन्डिड प्रॉफिट जो है यह सब कंपनियों के पास रखा हुआ है जिसको सरकारी खजाने में पहुंच जाना चाहिए था। 1979 में लेकर आज तक काफी इस तरह से इकट्ठा हो गया है। मेरे साथियों ने अभी खुद बताया कि यह 8 सौ करोड़ है कई और ज्यादा बताते हैं। मैंने पिछले दिनों इस बारे में जानकारी चाही तो मुझे बताया गया कि विभाग इसका हिसाब-किताब तैयार कर रहा है और उस पैसे को जमा करना चाहता है। इस हिसाब-किताब को करने में डिपार्टमेंट ने कुछ ऐसी परेशानियाँ बैठाई कि यह लम्बा चौड़ा हिसाब है जिसको देखने में देर लगती है। मैं मंत्री महोदय से कहना चाहता हूँ कि यह वह धन है जिसको बहुत-सी कंपनियों ने अपनी बैंकर्स सीट में दिखा रखा है कि हमने इतना अन्-इन्टेन्डिड प्रॉफिट कमाया है और जिसको सरकार के खाते में जमा कराने का प्रावजन कर रखा है।

तो क्या मंत्री जी यह चेस्टा करेंगे, यह कोशिश करेंगे, सरकार का हिसाब वैसे बहुत जल्दी लग जाता है लेकिन जहाँ लगाने की इच्छा न हो, जहाँ कुछ लोग बीच में बाधा होते हैं, मंत्री जी अपनी जगह पर चाहते हैं हिसाब लेगे लेकिन कुछ लोग इसमें बाधा डालकर उसको नहीं होने देना चाहते हैं तो क्या मंत्री जी यह सोचेंगे, इस पर विचार करेंगे कि उन कम्पनीज से जिनके पास अन्-इन्टेन्डिड प्रॉफिट है उनसे हिसाब मांग लें कि आपका कितना अन्-इन्टेन्डिड प्रॉफिट है और जितना वे बतायें उतना धन जमा करा लें तथा बाद में जो कपया रह गया है उसका हिसाब लगाकर जमा करा लें। उनकी कम्पनीज से आप उनका हिसाब कितना पूछ लें कि आपका इतना पला वर्ष में फालतू था उसे जमा कर दीजिये। कम्पनियाँ इतना फायदा कर रही हैं। यह कम्पनियाँ दो तरीके से फायदा कर रही हैं। सरकार के पैसे को इस्तेमाल कर रही हैं जिस पर ब्याज अर्जन कर रही है। दूसरा इस पैसे पर प्रॉफिट पर इनकम टैक्स होना चाहिये प्रॉफिट में वह पैसा भी नहीं कर रहे हैं जिनसे इनकम टैक्स देना पड़े। इस तरीके से दोहरा लाभ कम्पनियाँ कर रही हैं। इसलिये मैं माननीय मंत्री महोदय जी से यह जानना चाहता हूँ कि क्या आप अपने विभाग को इस तरीके में डायरेक्शन देंगे कि वह उनसे पूछ लें कि जितना पैसा है वह जमा करा दें और उसके बाद हिसाब-किताब होता रहे।

**SHRI J. VENGAL RAO:** Madam, as I mentioned, the Supreme Court has quashed the judgment of the High Court recently. We have taken up the follow-up action. There are certain laid-down procedures. First, our Department must issue notices to all these thirteen companies and it must give a hearing. After that only we will take action. All these procedures are completed now and we have now appointed a Special Officer and we will certainly collect the amount and we will not leave them.

**SHRI R. K. JAICHANDRA SINGH:** Madam, may I just clarify?... (Interruptions)... Madam, may I just clarify for the

benefit of the honourable Members? First, the case was decided on the 1st of May in the case of Cyanamid and eleven other companies.... I am sorry. On the 10th of April, the cast against Cyanamid was decided, on the 10th of April, and, on the 1st of May, the Supreme Court extended this to eleven other companies. Now, as

I have said earlier, within two months, the Department should give them a hearing, should hear them within two months and within two weeks of these two months should give a decision on the review petitions. We have heard each of the companies and we have already given notices to each of the companies saying that they must.... (Interruptions) Madam, I am being disturbed... (Interruptions).... to the Government or to the Court concerned because the Delhi High Court, at the time of the issue of the stay order, said within two months of the decision...". Therefore, they have to do it within two months of the Supreme Court decision or after hearing has been given to each of the companies, that is, two months and two weeks. Now, notices have been issued to all of them, to all the companies. The various steps that the Department has taken I would like to enumerate for the information of the honourable Member... (Interruptions).

**SHRI VISHVIJIT PRITHVIJIT SINGH:**  
What steps? ... (Interruptions).

**SHRI R. K. JAICHANDRA SINGH:**  
Why don't you listen? (Interruptions)  
Why don't you listen? ... (Interruptions).

**THE DEPUTY CHAIRMAN:** You have to listen to the Minister's reply... (Interruptions)... Let him answer. You have put the question and you should hear the answer.

**SHRI R. K. JAICHANDRA SINGH:**  
Orders rejecting the review applications filed by the companies in the cases of M/s. Cyanamid, Hoechst, Griffin Laboratories, Cyanamid second case—we have already taken the decision. We have already done this. Then cases of Merin, SG pharmaceuticals and Tamil Nadu Dadha Pharmaceuticals were decided some time in 1983-84 and the matter is under investigation by the Law Ministry. Cases of M/s.

Geofry Manners, Wyeth Laboratories... (Interruptions).... are under submission for action. Then, Madam, the Government has appointed a Special Officer as has been pointed out earlier.... (Interruptions).... Madam, this House is not a place for shouting. In May, 1987.... (Interruptions).... Madam, in May, 1987, we have appointed a Special Officer of the Department for the purpose of following up recovery of the amounts as a result of the Supreme Court judgement and also for checking the detailed calculations, etc. The Officer has been directed to visit personally the companies concerned and examine their records for calculating the correct amounts for recovery. All the State Drug Controllers have been asked through telex messages to ensure that after fixation of the prices by the Government in respect of the items as a result of the disposal of the review petitions, the drugs concerned are available at the prices fixed by the Government. Madam, these are the various steps which are being taken and we have to go by the directions of the Supreme Court. They have laid down certain procedures and we are trying to see that every penny, every pie, is being collected from them, that is due from them.

**THE DEPUTY CHAIRMAN:** Next question: 104.

#### Committee for development of petro-chemical industries

\*104. **SHRI BHAGATRAM MANHAR:**

**SHRI BIR BHADRA PRATAP SINGH:†**

Will the Minister of INDUSTRY be pleased to state:

(a) whether it is a fact that Government have constituted high powered Committee/Group for the preparation of a detailed and precise blue print for development of petrochemical industries in the country;

(b) if so, what are the details regarding the terms and conditions of this Committee/Group;

†The question was actually asked on the floor of the House by Shri Bir Bhadra Pratap Singh.