

Fixation of Price of Betamethasone

203. SHRIMATI AZIZA IMAM. Will the Minister of PETROLEUM, CHEMICALS AND FERTILIZERS be pleased to state:

(a) whether it is a fact that Government fixed fair prices for betamethasone/derivatives on May 12, 1981 and that subsequently M/s. Glaxo Limited have taken the matter to court and obtained a stay order;

(b) if so, what is the latest position regarding this matter; and

(c) what further action is being contemplated by Government in this regard?

THE MINISTER OF PETROLEUM, CHEMICALS AND FERTILIZERS (SHRI P. SHIV SHANKAR): (a) to (c) A Statement is laid on the Table of the Rajya Sabha.

Statement

The following prices of Betamethasone and its derivatives were notified by the Government on 12th May, 1981 under the Drugs (Price Control) Order, 1979:—

| Name of the Bulk drug | Price notified by the Govt. (Rs./gram.) |
|--------------------------------------|---|
| 1. Betamethasone Alcohol | .. 113.34 |
| 2. Betamethasone 17-Valerate | 105.85 |
| 3. Betamethasone Di-Sodium Phosphate | .. 126.23 |

M/s. Glaxo Laboratories (India) Limited who are manufacturers of Betamethasone and its derivatives filed a Civil Writ Petition in Delhi High Court in June, 1981. The Hon'ble High Court in its interim order of 1st July, 1981 stayed the operation of the above bulk drug prices as well as the issue of formulation prices based on these. The Writ Petition of

M/s. Glaxo Laboratories (India) Limited is listed in the Delhi High Court for 15th March, 1982. Government await the disposal of the Writ Petition.

SHRIMATI AZIZA IMAM: I would like to know from the Minister whether it is a fact that the difference between the Glaxo's existing price and the price notified on 12th May, 1981 for each 100 kilograms of production has resulted in an unintended benefit of Rs. 1 crore to the Company annually. What is the current production? I would like to know what is the unintended benefit and what steps are being taken to take back this amount from Glaxo.

SHRI P. SHIV SHANKAR: I have not actually worked out the mathematics of this Company making profits. But the fact remains that a Writ Petition is pending and there is a stay that has been granted. Necessarily we have to take back that amount for the equalisation fund, assuming that the Writ Petition is dismissed at a later stage. So, the money part will be recovered based on the decision in the Writ Petition.

SHRIMATI AZIZA IMAM: Is it a fact that in their industrial licence application for the manufacture betamethasone Glaxo have not indicated any import requirement of intermediate stages of triene methyl strength, etc.? If so, M/s. Glaxo Limited have altered their own manufacturing programme without the approval of the Government. What are the steps that are being taken by the Government to revoke the industrial licence itself as the manufacturer has done contrary to the contract and in the event of violation of the contract by one party, the contract does not exist?

SHRI P. SHIV SHANKAR: The broad question which I would rather pose based on the various questions put forth by the hon. Member is whether there is a question of violation of the conditions

of the licence and what action is being taken with reference to the import of intermediates. The Law Ministry has opined that it is not a case of violation of the conditions of the licence. It is true that certain of the intermediates like Triene, Epoxides and also 16-DPA have been imported, but they have been imported in a very small quantity. As regard Triene certain import has been effected as a result of which only 30 kgs. of Betamethasone could be obtained as against roughly the manufacture of more than 280 kgs. of Betamethasone in 1977. So far as Epoxide is concerned, it has been reported that in April 1980 only 200 grammes have been imported. A very small quantity of 25 grammes of 16-DPA was imported. It was for relative quality evaluation and this quantity seems to have been rejected by M/s. Glaxo Limited and no amount has been paid. They wanted that this quantum should be returned.

SHRI N. P. CHENGALRAYA NAIDU: The Government have taken six months to file a reply to the petition in the court. I cannot understand why this has been delayed for six months. I feel that the people in the Department at the lower level are in league with the company. That is why this delay has taken place. Instead of Betamethasone, they have imported some other intermediate drugs and they gave a certificate to the customs authorities that they were importing only Betamethasone. For filing this false declaration to the customs authorities, what action is the Government going to take against the company? Secondly, they were asked to manufacture about 23 varieties of medicines and accordingly a licence was given to them. But the company have not manufactured more than 10 varieties. For the last two-three years they have not done it. Why are the Government keeping quiet without cancelling the licence and giving it to others? There are people who can produce these

without importing anything from outside.

MR. CHAIRMAN: I am sure there are.

SHRI N. P. CHENGALRAYA NAIDU: Still they are encouraging M/s. Glaxo Limited... (*Interruptions*).

MR. CHAIRMAN: There is an hon. Member who wants to put his question on the top of your question.

SHRI P. SHIV SHANKAR: Perhaps you will better appreciate why there are often delays in filing the counter. I do not think that this accusation that my officials are hand in glove with the company should be taken seriously. I am sorry to say that this accusation seems to be incorrect. Nothing has come out on the basis of which one can conclude that the delay is because of this. For any false declaration that has been made to the customs authorities, action under the law could be taken and nobody will be spared. I can assure the hon. Member on this. Sir, M/s. Glaxo Laboratories were licensed for 32 bulk drugs. The Company has not manufactured 21 during the last five years. "Show-cause" notices for revoking the three fully unimplemented licences covering 10 bulk drugs have already been issued and a final decision would be taken on receipt of the reply from the Company. In addition, as part of the condition for expansion of the manufacture of betamethasone, condition has been stipulated that four other items in that licence, with the Company is not producing, will be deleted from the licence. The remaining bulk drugs are part of the partially implemented licence and Glaxos are reported to have commenced production of some of them. This is the latest position. Sir.

MR. CHAIRMAN: Yes, Mr. Hegde.

SHRI RAMAKRISHNA HEGDE: Sir, is it not a fact that according to a study made by the Bureau of Indug-

trial Costs and Prices, the prices of these drugs have been fixed at Rs. 70 as against Rs. 113.34 and, if so, why was this not followed? Secondly, Sir, is it not a fact that the Company, contrary to the undertaking given by it to the Government, has been importing penultimate intermediates clandestinely, whereas it was expected to manufacture these drugs itself and, by doing so, every year the Company is making an exorbitant profit of over Rs. 5 crores on bulk drugs and over Rs. 10 crores on the formulations? Is it not a fact, Sir?

SHRI P. SHIV SHANKAR: Sir, the honourable Member has put the question in two parts and it is with reference to the BICP price structure and the price fixed by us. Now, Sir, the position is the honourable Member is perhaps aware—that in some form or the other from 1963 onwards there has been a control on these drugs with reference to their prices and the Drug (Prices) Control Order was issued in 1970, and with reference to the question of formulations, prices were fixed and with reference to certain bulk drugs, which are not specified, the manufactures themselves were asked to declare the prices and the position so far as the Control Order was concerned was that the prices could not be raised. The only thing is that they declared the prices on that basis. Now, it is afterwards that the prices that have been fixed now which are the prices against which the writ petition has been filed. The position so far as the BICP fixation of prices is concerned is that they have not recommended the price of betamethasone at the rate suggested by my honourable friend. They have recommended the price Rs. 113.34 per gram.

SHRI RAMAKRISHNA HEGDE: What about the position later? Sir, later there was another study and they came to the conclusion that the price should be Rs. 70.

SHRI P. SHIV SHANKAR: I think I have made my submission that so far as the Bureau of Industrial Costs and Prices is concerned, after the alleged study as the honourable Member has referred to...

SHRI RAMAKRISHNA HEGDE: Sir, why is he saying "alleged". Sir, may I read out the affidavit which has been filed by the Deputy Secretary in his own Ministry? If you permit me, I will read out. Why is he saying "alleged". It is there and he knows it.

SOME HON. MEMBERS: How can he say "alleged" study?

SHRI P. SHIV SHANKAR: May I complete my submission, Sir?

SHRI RAMAKRISHNA HEGDE: Sir, I do not know how he can say that it is an "alleged" study. (Interruptions).

SHRI P. SHIV SHANKAR: Sir, with regard to the materiality of the part of the question whether the BICP has fixed the price at Rs. 70 per gr. is concerned, my answer would still remain that the BICP has not fixed the price at the rate of Rs. 70 per gm.

SHRI RAMAKRISHNA HEGDE: Mr. Chairman, Sir, please permit me to read out that paragraph, just four sentences only.

MR. CHAIRMAN: Whose affidavit is this?

SHRI RAMAKRISHNA HEGDE: Sir, this is a copy of the affidavit filed on behalf of the Government by the Deputy Secretary in his Ministry. In this he has said:

"A quick study made by BICP based on import of 62 kgs. of Triene by the Company on 2nd August 1980 at a c.i.f. price of Rs. 18.59 per gram reveals that with this price of Triene the resultant Betamethasone price would be only Rs. 70 per

gram as against Rs. 113.34 per gram notified by the Government."

SHRI P. SHIV SHANKAR: May I submit that the quantity drawn is

This is the Affidavit filed. And he says that it is 'alleged'.

based on the 62 kgs. import.. (Interruptions) That is not the case of study by the BICP for the purpose of price fixation. This is on a hypothetical question about import of a particular quantity. That would be the interpretation of that sentence.

SHRI RAMAKRISHNA HEGDE: It is not hypothetical. He has also further said that in spite of the Government asking this Company to furnish details, they refused. (Interruptions) The Company has not given the details about the imports. (Interruptions)

SHRIMATI MARGARET ALVA: Sir... (Interruptions)

MR. CHAIRMAN: Mrs. Alva, I may inform you that the whole thing began with an opinion from me.

SHRIMATI MARGARET ALVA: You should know best. (Interruptions) ..

MR. CHAIRMAN: I know everything.

SHRI RAMAKRISHNA HEGDE: Is it not a fact that the Company refused to give details, in spite of the Government asking for the same?

SHRI P. SHIV SHANKAR: Notice has been issued. Reply has not come.

SHRI RAMAKRISHNA HEGDE: You have issued several notices. With what result? Is it effective?

SHRI P. SHIV SHANKAR: Mr. Hegde, after all you know that the notice has to be necessarily reasonable. Sometimes the parties... (Interruptions) Kindly give me a chance. I request you to give me a chance of a little patient audience. (Interruptions). z

MR. CHAIRMAN: Patience is a very difficult thing to ask for in this House. (Interruptions)

SHRI P. SHIV SHANKAR: I am sorry, Sir, I do not share this pessimism, Sir. (Interruptions)

MR. CHAIRMAN: Mrs. Malhotra, do you want to ask question?

SHRIMATI USHA MALHOTRA: Will the Minister... (Interruptions)

SHRI NARASINGHA PRASAD NANDA: For creating patience, I recommend production of bulk drugs. (Interruptions)

MR. CHAIRMAN: I will tell you that I am the most patient person here.

SHRIMATI USHA MALHOTRA: Will the Minister be pleased to state, what are the basic features of the price fixation for Betamethasone produced by GLAXO and whether all the raw materials which are imported have been taken into consideration at the time of fixation of price for this drug?

SHRI P. SHIV SHANKAR: Madam, these factors are taken into consideration for the purpose of fixation of Betamethasone. (Interruptions).

MR. CHAIRMAN: I am staggered by the knowledge possessed by this House.

SHRI JOSEPH LEON ALBAN D'SOUZA: Mr. Chairman, the licence has been issued for the manufacture of Betamethasone, by the Government of India, and this licence has been granted under definite, specific conditions. The raw material for the manufacture of Betamethasone is in the form of three types of roots which is indigenous. The conditions stipulated by the Government are that the indigenous raw material will be deployed in the manufacture of Betamethasone. Now, Sir in the manufacture of Betamethasone, the process is in 12 stages. This has got to be understood because my question will be relevant to this. There are intermediaries im-

ported against foreign exchange used to cut short the 12-stage process. One of the stipulations in the contract is that no material will be deployed which will involve the utilisation of foreign exchange, which is clearly a violation of the contract. This is being done because by cutting short the process the manufacture of the end-product is considerably cheaper. This is the point raised by the honourable Members, thereby the unintended profit made on this is exorbitant...

MR. CHAIRMAN: What is your next subject?

SHRI JOSEPH LEON ALBAN D'SOUZA: My question is very specific. After the Government in its affidavit acknowledged that this is being deployed on a large scale, what action was taken over the violation of the contract with the Government?

SHRI P. SHIV SHANKAR: I must admire my honourable friend's detailed knowledge..

SHRI ARVIND GANESH KULKARNI: He is a doctor.

MR. CHAIRMAN: All over the House.

SHRI P. SHIV SHANKAR: In fact, I must frankly confess that I do not have that much of the detailed knowledge; I have started trying to pick up...

SHRI ARVIND GANESH KULKARNI: You have knowledge of a different thing.

SHRI JOSEPH LEON ALBAN D'SOUZA: The Minister cannot plead ignorance in his department.

SHRI P. SHIV SHANKAR: If I have paid a tribute to him, he should not come to the conclusion that I am ignorant. That is a little unfair so far as the Member is concerned...

MR. CHAIRMAN: You are trying to learn.

SHRI P. SHIV SHANKAR: As I said, so far as the three intermediates are concerned, I have explained their import position also—how much quantity, what effect it has, that part I have already explained. Beyond that if my friend says that further imports have been made, that part does not appear to be correct, because so far as the Government is concerned, I do not know, he may be having a little special knowledge, but it is not within the knowledge of the Government. If my friend can make available the details, if he seems to possess, I assure the honourable Members that certainly action will be taken in that regard.

MR. CHAIRMAN: Mr. Goswami.

SHRI ARVIND GANESH KULKARNI: Sir. . . .

MR. CHAIRMAN: I do not go away without calling you. First Mr. Goswami.

SHRI DINESH GOSWAMI: If Members have some knowledge about this subject, it is entirely because they feel that the multi-nationals have a strong whip over the Government...

SHRI RAMANAND YADAV: How can you say that? Why do you pass such uncharitable remarks against the Government?

SHRI DINESH GOSWAMI: Because it is your Government which has to take action. Who will take action? Do I take action? I support what I say by facts. Is it not a fact that in 1978 the BICP recommended Rs. 105 when from 1964 these multinationals were charging Rs. 225? In spite of the fact that that recommendation was made as early as in 1978, no action whatsoever was taken by the Government up till 1981. What is the explanation of the Government for not taking action for three years? And if I say that because of the fact that the Government has not taken action for three years, there is a strong whip of the multinationals over the Government,

how can Mr. Ramanand Yadav object to it? My second point is this: Is it also not a fact that in the affidavit submitted by the Government it has been stated—I read from para 3 of the affidavit—

“Subsequent facts have revealed that the Company has not only procured from other sources a larger quantity of DPA—16 at a cheap price but has also the penultimates thereby seeking to derive the unintended benefit at the cost of consumers contrary to the objective sought to be achieved by and under the 1979 Order . . . a study made by the BICP . . . of the agreement by the Company of 1978 revealed that for this Triene the resultant price would be only Rs. 70 as against Rs. 113.34 . . .”

May I know from the honourable Minister if the Government has come to the conclusion that the Company has acted contrary to the objective sought to be achieved by and under the Order of 1979, whether the Government is incompetent under the present law and the executive instructions to take appropriate action against the Company? This order, so far as I know, is only for the fixation of Rs. 105. What other action, apart from the fixation of price, the Government proposes to take for the violation of this, for acting in violation of the objective of 1979, what steps the Government is taking to see that the writ petition is expeditiously disposed of?

SHRI P. SHIV SHANKAR: Sir, three questions have been asked. On the question of the multinationals having a grip, well, I cannot . . . (*Interruptions*) I may not be able to share the view of the hon. Member about the grip. But I can make, I should say, a very sincere request that if any such fact is brought to my notice, I assure the House that prompt action will be taken to see that this type of a grip does not exist and it is totally wiped out. This assurance I can give and there is no difficulty so far as that

part is concerned. On the first part of the question, it has not come to my notice and it is not fair to make an accusation without a fact being established at least. Sir, on the question of the fixation of the price by the BICP, I was making my submission that it is based on the BICP recommendation. The price at Rs. 113.34 per gram has been fixed with reference to Betamethasone alcohol. This price fixation is based on that. Well, as to what has been fixed in 1978 and why it has not been acted upon, that is a matter of the past with which, perhaps, we are not concerned. As I said, this particular price fixation is based on the BICP calculations themselves.

SHRI DINESH GOSWAMI: Sir, that is not my question. This was fixed in 1978 and you acted in 1981. Why has there been a time lag of three years? That was my question.

SHRI P. SHIV SHANKAR: Mr. Chairman, Sir, I have already said that BICP fixation, based on which the order in May, 1981 is issued, is in conformity with what I have made in my submission, namely Rs. 113.34.

SHRI DINESH GOSWAMI: In 1978 . . .

SHRI P. SHIV SHANKAR: I have said that. I don't think I can go into the past, with which policy matters we are not concerned. Now, if it is a case of violation of the order, Sir, I assure this hon. House that after all, it is the Government of laws, and law must take care of itself. I assure the hon. House that if it comes to my notice that there is a violation, certainly we will take action, we will not shirk. On the third part of the question, namely the disposal of the writ petition, the matter is posted to 15th March, 1982 for

final disposal. I expect that the matter will be heard and disposed of by that date which has already been fixed by the High Court.

SHRI ARVIND GANESH KULKARNI: Sir, I am not going into the subject whether the multinationals have a grip or not. But, Sir, you will remember since you are here for the last two or three years that in every session this question was discussed and every Minister said that they are not in the grip of the multinationals, and that they are taking strong action. What type of strong action they mean, we do not know because you yourself admitted, Sir, that you know more in this case than what we all know.

MR. CHAIRMAN: I gave the opinion, I think, in five or six cases.

SHRI ARVIND GANESH KULKARNI: Sir, the point seems to be that the Government is not only in the grip of the multinationals but its officers are also in collusion with the Glaxo Company. Sir, much has been said and the affidavit has been quoted and I do not want to go into that.

MR. CHAIRMAN: You have also got the affidavit?

SHRI ARVIND GANESH KULKARNI: Sir, at the outset the Minister has replied that there is a difference—from 113.34 to Rs. 134.28, and for betamethasone 17-valerate Rs. 105.85 as against Rs. 220 which is charged by them. He said that this difference will be recovered by the Government after the court case has been dismissed or whatever it is. Whatever it is, he said yes. I want to ask him, in this connection, whether he is aware that in the case of sugar prices the Agriculture Ministry submitted—I am ask-

ing a question—that the difference should be credited in the High Court from the beginning as against the sale? That suggestion I am making and I want to know whether he agrees with that, because they are selling 400 k.gs. of this medicine, which means they are netting Rs. 11 crores every year. So, will the Government take steps, as per his assurance, to collect the difference since this affidavit is there and since the stay order has been issued? Will the Government collect the difference from the Glaxo Co. and credit it in the High Court to its satisfaction or stop forthwith all the import licences of the Glaxo Co.? That is all.

SHRI P. SHIV SHANKAR: Sir, my hon. friend was asking about the general question to deal with these multi-nationals. Sir, this House is aware . . . (Interruptions). Let me state my case. Sir, this House is aware that the Foreign Exchange Regulation Act, 1974, after it was brought on the anvil, various steps were taken with reference to multinationals. With reference to the drugs, the Hathi Committee went into it and they made their own report. Now, Sir, in order to reduce the equity participation of these multinationals, different steps are being taken by the Reserve Bank of India, by issuing the requisite notices wherever necessary. Sir, you are also aware that under section 29 of the FERA, the decision as it emerges is that so far as the drug companies, which were existing on the date of this Act, are concerned, the Reserve Bank of India has got to go into the details when the show cause notice is issued and determine whether it is proper to retain that equity or whether it has got to be reduced. So, these are the aspects which are taken into consideration and action is taken from time to time . . .

MR. CHAIRMAN: Mr. Minister, this does not arise out of this where very difficult names of drugs, which I cannot even pronounce, are mentioned.

SHRI P. SHIV SHANKAR: Sir, I agree, but may I just submit? (*Interruptions*). Sir, may I conclude this part of it that so far as this company is concerned, foreigners do hold 75 per cent shares. A decision has been taken to bring down this equity share participation to 40 per cent.

SHRIMATI MARGARET ALVA: How long will it take?

SHRI P. SHIV SHANKAR: Madam, time is something which has got to run on and on. Now if you ask me, it is undoubtedly difficult to peg the time schedule. But, Sir, I will be failing in my duty if I do not refute the allegation and refute it in the strongest of the terms that I could, that the hold of these multinationals on the Government and the officers, their collusion, are all baseless allegations. So far as the officers are concerned...

SHRI RAMAKRISHNA HEGDE: You do not sound that you are speaking on conviction.

SHRI P. SHIV SHANKAR: So far as the officers are concerned, they are not to defend themselves in this House. Merely because they do not defend, we should not be that uncharitable to them. If it is a fact and if it is brought to the notice, I have already said.

SHRI ARVIND GANESH KULKARNI: You tell us about the High Court. Don't give a lecture on officers.

SHRI P. SHIV SHANKAR: Mr Kulkarni, you have a highly indirect knowledge of the courts. Please do not bring in the indirect knowledge of the courts. In this House we have much better knowledge of the courts.

SHRI ARVIND GANESH KULKARNI: We have better direct knowledge. I know many courts with indirect knowledge.

SHRI P. SHIV SHANKAR: Delays have come to stay as a part of the system; it requires a surgeon's knife

which you will never allow us to wield. Therefore, I would rather prefer not to say on that aspect. Don't kindly pay only the lip service to these aspects. Sir, with reference to the order, part of it, I have said that what has been fixed by virtue of the order dated 12th May 1981 and what is being sold by virtue of the stay that has been obtained, so far as the difference in price is concerned, certainly they would be directed to deposit it in the equalisation fund in case the writ petition is dismissed.

MR. CHAIRMAN: Next question.

DR. BHAI MAHAVIR: Have you been affected by the soft corner, Sir? I am no match to a General's wife in that respect, particularly when she happens to be Begum Sahiba.

MR. CHAIRMAN: If I gave you the chance, I would be charged again.

Protection of Taj Mahal from atmospheric pollution

*204. SHRIMATI HAMIDA HABIB-ULLAH: Will the Minister of PETROLEUM, CHEMICALS AND FERTILIZERS be pleased to state:

(a) whether the Central Government have received suggestions recently to protect Taj Mahal from atmospheric pollution from Mathura refinery; and

(b) if so, what are the details thereof?

THE MINISTER OF PETROLEUM, CHEMICALS AND FERTILIZERS (SHRI P. SHIV SHANKAR): (a) and (b) An Expert Committee studied in details, *inter-alia*, the environmental impact of the Mathura refinery. Based on the recommendations of this Committee, steps have already been taken by the Mathura refinery authorities to ensure that the pollutants from the refinery are kept at safe levels. A High Powered Committee has also been appointed to oversee the implementation of the recommendations