

DR. V. MAITREYAN: I would, earnestly appeal, to the Opposition to return to the House.

MR. DEPUTY CHAIRMAN: I would also request them because the Opposition in Parliamentary democracy is as important as the Government. It is equally important. If the Opposition is not present, then, there is no meaning of Parliamentary democracy.

SHRI BIRENDRA PRASAD BAISHYA (Assam): I am happy that the issue has been resolved and that the House will run smoothly.

MR. DEPUTY CHAIRMAN: I am very happy that the Opposition is back because without the Opposition, it is not democratic to run Parliament. The Opposition is an equally important partner as the Government as far as Parliament is concerned.

SHRI SATISH CHANDRA MISRA: We, totally, agree with it.

MR. DEPUTY CHAIRMAN: Now, with your permission, I proceed to take up further discussion on the Companies Bill, 2012. Shri Mani Shankar Aiyar was speaking on this. He could not finish his speech. So, he will resume his speech now.

#### **GOVERNMENT BILLS — (Contd.)**

##### **The Companies Bill, 2012**

SHRI MANI SHANKAR AIYAR (Nominated): Mr. Deputy Chairman, Sir, I had explained in my introductory remarks, that it was back in 1913, exactly a century ago, that the first Companies Act was passed by the Legislature of the time. *...(Interruptions)...* Between then and 1956, a number of changes were made, and in 1956, it was felt that there was a fundamental change in the nature of our economy, and the nature of management of our economy, and that the Act of 1913 needed to be replaced by a fresh Act in 1956. *...(Interruptions)...* Now, another fifty-five years later, we find ourselves faced with the necessity of recognizing the fundamental changes that have taken place since 1956 with regard to (a) the nature of our economy and (b) the nature of management of our economy. *...(Interruptions)...* And it is in consideration of this major change that the Minister of Corporate Affairs, my long time friend, Shri Sachin Pilot, has piloted, through the Lok Sabha, the new Companies Bill, and he has come here, with the approval of the Lok Sabha, for us to endorse it. *...(Interruptions)...* I think it is important that we extend to him,

[Shri Mani Shankar Aiyar]

as the House, our entire support in the matter, particularly because, it has been made amply clear by him both in the other House and in the initial remarks that he made in this House, that in the process of rule-making whatever comments we have to make on the Bill in this House will surely be taken into consideration by him. So, instead of seeking to move amendments which would only delay the process even further, my humble plea to the House is that we extend our full support to the Bill, but we take the time during the course of this afternoon to make specific comments which the hon. Minister might please bear in mind in the process of not only rule-making ...(Interruptions)... but also the institutions that he will be setting up to manage our companies from now onwards.

It has been explained, Sir, that a principal motive for this new Companies Act is to ensure that we function in a business friendly manner and proactively attempt to ensure that the private sector is able to function efficiently and that the reason for this is that whereas in 1956 it was a conscious decision of the Government of India, backed by the Legislature, that the State should occupy the commanding heights of the economy, there has now been taken a conscious decision for the State to withdraw from the commanding heights of the economy. This, of course, has the advantage that it is likely that the private sector will be able to push up the rate of growth. But, at the same time, I think we should all be conscious that even as Nature abhors a vacuum, so also do the commanding heights of the economy abhor a vacuum, and if the State is going to withdraw from the commanding heights, there is the ...(Interruptions)... imminent possibility that other non-State actors will capture those commanding heights ...(Interruptions)... and we have to ask ourselves whether we really want those who represent the market forces to be in such control of the economy as to place themselves in commanding heights above the State. I make this point because it appears to me that while there can be little doubt that efficiency in a purely technical sense...(Interruptions)... can be obtained by increasing the role of the private sector and encouraging them to perform a bigger role, the State cannot abnegate its larger responsibility to the nation or its people. There are various ways of exercising this responsibility. There was the model that we had from 1956 onwards of the State directly controlling the commanding heights of the economy and now what the hon. Minister proposes to do is to put in place a regulatory authority which will perform the tasks which were hitherto being performed by his own Ministry ...(Interruptions)... I am quite ready to

welcome this in recognition of the reality, which is a reality which is not quite in consonance with my own ideology, but it is a reality that the private sector has grown in importance in the last 20 years....*(Interruptions)*... However, the experience of regulatory authorities in India has not been uniformly satisfactory. One of the problems we have had in the Telecom Sector with which the hon. Minister is familiar in his previous portfolio has been that the TRAI has not quite fulfilled the expectations that we have of the TRAI and had they been a little less ambiguous in the rulings that they gave, we would not have had some of the difficulties that we have faced in the last two or three years. The Petroleum Regulatory Authority, with which I have a little more familiarity having at one stage held that portfolio, has also been, in my view, a failure. So, the mere act of setting up a regulatory authority does not ensure that we actually have an effective regulatory authority. So, my plea to the Minister is, when you set up the regulatory authority under this new Companies Act, kindly bear in mind, the previous experience....*(Interruptions)*... with the private sector . I am saying this as a former Member of the JPC which was set up in 1992 to look into what was called the Harshad Mehta scam and subsequently, in 2002, to look into what was then popularly called the Ketan Parekh scam. It turned out that while unleashing capitalism upon this country, there was also the danger of unleashing crony capitalism. ...*(Interruptions)*... And, this crony capitalism consisted of firms in blatant violation of the laws and regulations of the country collaborating with each other, collaborating with financial institutions, collaborating with banks, to perpetrate fraud upon fraud on this country. I was most distressed to read in the newspapers a few weeks ago that the Supreme Court had asked, "Why is the Central Bureau of Investigation not completing its investigation into a scam which this Parliament had investigated, not two years ago, not five years ago, but more than 20 years ago?" And, because our young Minister was a school boy at the time of the JPC on the scam of 1992, and a college boy at the time of the Ketan Parekh scam in 2002, I would request him humbly, but very, very firmly, to please ensure that... ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: No, no. Don't do this. ...*(Interruptions)*...

SHRI MANI SHANKAR AIYAR: He has the various volumes of the 1992 report and the 2002 report so that he and his officers become completely *au fait* with all the tricks and the schemes ...*(Interruptions)*... that the private sector is

[Shri Mani Shankar Aiyar]

capable of getting out, ...*(Interruptions)*... and to also recognize that notwithstanding the institutional recommendations of the 1992 Report of the Joint Parliamentary Committee, the failure to implement those institutional suggestions, or worse, the failure to ensure the effective implementation of those institutional suggestions, really was at the bottom of the 2002 scam, which, in many ways, was a mirror image of the 1992 scam. ...*(Interruptions)*... They had set up, for example, a High-Level Capital Markets Committee. It distinguished itself by never meeting! And the reason why it didn't meet is essentially a part of using the market for economic development, because when you use the market for economic development, there are times when there is a boom. ...*(Interruptions)*... and it is when the stock market is rising that the country is applauding whichever Government is in power. And don't forget, there were two different Governments in power at the time of the Harshad Mehta scam and at the time of the Ketan Parekh scam. So, I am not making a partisan remark here. ...*(Interruptions)*... Governments, when the stock market is rising, get so much applause for the stock market rising that they either take their eye off the ball or actually collaborate in allowing the market to continue rising ...*(Interruptions)*... And then, when suddenly the market falls, everyone is running for cover without recognizing that without a boom there cannot be a bust. And, therefore, it is necessary for the Government, as a political authority, to look very, very suspiciously at a boom in the stock market. But governments, by nature, cannot look suspiciously at what is fuelling their own political support. ...*(Interruptions)*... That is why this regulatory authority becomes so important. The regulatory authority is not dependent on political support. And if the Minister, in setting up that regulatory authority, ensures that it acts independently, that it acts as independently as the Reserve Bank of India has been acting under Mr. Subbarao, then there is hope for the country that the regulatory authority will put right what no political authority can put right. ...*(Interruptions)*...

Now, I am hardly an expert in Marxian economics as some of my friends, who are waiting to speak, are, but there is something in Marx which I think you should bear in mind, although as Minister for Corporate Affairs, if you were seen with Karl Marx's *Das Kapital* on your table, you would probably be removed at once. But in Marxian economics, it is said that the superstructure of a society is also determined by the relationship of classes to the means of production....*(Interruptions)*... For a long while, I didn't understand what this meant but, then, as I came into Parliament

and, more importantly, when I was in Government, I discovered that what Marx was saying was that classes that become dominant in the economy, attempt to become dominant in the polity. In other words, if the State vacates the commanding heights, then oligopolists and monopolists will try and seize those commanding heights. And it is to control them that we have to be very, very conscious of the need for an effective regulatory authority--as also be conscious, as Congress people or as the inheritors of the legacy of Indiraji. Indiraji set up the Monopolies and Restrictive Trade Practices Commission. We have now wound it down. But, it was set up because of the recognition that by definition The market creates inequalities. In these inequalities, those who rise to the top will necessarily utilise any means that they have at their disposal to remain at the top. *...(Interruptions)...* This will include a large number of unfair practices. It was the job of the Monopolies and Restrictive Trade Practices Commission to spot these, as they were happening, to prevent them and to punish the perpetrators.

Now, we don't have the Monopolies and Restrictive Trade Practices Commission. Your regulatory authority should be charged with the duty of keeping a very close watch on the market to see whether distortions are being brought about in the market economy by those who hold a dominant position. *...(Interruptions)...*

The latest information that we have obtained from the National Sample Survey and the Twelfth Five Year Plan shows that in our economy, inequalities have been increasing. The Gini co-efficient has started becoming worse. It is, in fact, suspected that, perhaps, those who constitute under 0.2 per cent of the population of this country are able to control at least 20 per cent of the assets of this country; and, if you took it beyond 0.2 per cent to about 5 per cent of our population, then you would probably reach to about half the economy. *...(Interruptions)...*

In these circumstances, as we know what our national income is, we just don't know what the sources, in terms of classes of income earners, of this income are. That is why all of our statistics are done in terms of consumption and not in terms of income. *...(Interruptions)...*

The National Council of Applied Economic Research is the only body in India which has attempted to ascertain what the share of different segments of our

[Shri Mani Shankar Aiyar]

society in national income is. The shocking fact which has come up is that it cannot trace 56 per cent of national income to the point of origin. This is partly because the poor of India have learnt that if they confess to being above the poverty-line, then they will be denied various benefit schemes. So, the poor of India do attempt to under-report their own income. But, given the skewed nature of income distribution in our country, perhaps 50 per cent of this 56 per cent is the result of under-reporting by the rich of India. One of the consequences of Indian economic growth through the market in the last 20 years has been to substantially increase the GDP of Switzerland. So, in these circumstances, I think, you should be extremely careful....*(Time-bell rings)*

Sir, I thought I had plenty of time left. ...*(Interruptions)*... But, Sir, this is my main point. I have one or two other points to make. May I just complete? ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Okay, take a maximum of five minutes.

SHRI MANI SHANKAR AIYAR: I think, you should be extremely careful to use The hon. Minister's usefulness, his dynamism, his obvious intelligence and his excellent education which, in some respects, he shares with me to be careful about those whom he is leveraging. They are tigers. But a tiger caged is a lovely animal to watch. A tiger out in the wild but yourself sitting on an elephant is a lovely animal to watch. But a tiger that is unleashed upon a population can be a very, very dangerous animal. And, it is the job of your regulatory authority to rein in these people. Please be pro-business. But, please recognize that businessmen are not as morally good as they are economically efficient.... ...*(Interruptions)*... Therefore, this Regulatory Authority has to be extremely careful about what they are doing. ...*(Interruptions)*... Please ensure that this happens in the course of making your rules while setting up these institutions.

The other matter that very quickly I wish to refer to, and I am hoping some of my colleagues will bring this up, is that you are being a bit liberal about the Corporate Social Responsibility. While it has been made compulsory, what they do with the CSR money is still a little in the area of ambiguity. ...*(Interruptions)*... I fear that some of them might be using the CSR to put up pandavals for their daughters's weddings. So, we have to have some notional ideas of what are the

kinds of CSR activities that are excluded from the ambit of whatever you...  
...(Interruptions)... That you should not go and say what they should do over their CSR ...  
...(Interruptions)... but whether these companies are operating in the areas where there are very, very feeble populations. For example, among the tribals are the mining companies. ...  
...(Interruptions)... I think it should be made obligatory on them to spend their CSR exclusively on the rehabilitation and welfare of the tribal people that they are displacing or inconveniencing in any way. ...  
...(Interruptions)... So, please look into this at the time of making your rules.

Finally, Sir, about auditing, the two JPC Reports have clearly established that the Institute of Chartered Accountants of India, of which, my father, who was a Chartered Accountant, was one of the founders, and, therefore, I have a right to speak about my own inheritance, have not proved that they are absolutely capable on their own of ensuring effective and honest audit. ...  
...(Interruptions)... It is necessary that the auditors, who are working for these private companies, be brought within the ambit of your Regulatory Authority. ...  
...(Interruptions)... We must ensure that even if they are not instinctively or natively honest, that they are made honest by knowing that there is somebody sitting over them and that the punishment that will be visited on them will be very severe ...  
...(Interruptions)... because had the auditors done their job properly in the Harshad Mehta or the Ketan Parekh case, then, long before this would have become public information, it would have come to the knowledge of the Government, to the knowledge of the public, and the terrible losses suffered by individuals or investors would not have taken place. ...  
...(Interruptions)...

My final request to you, Sir, is that whereas we can be proud of the huge number of corporate entities that have come into existence and got themselves registered with you, you give, as I see a figure, that back in 1956, it was about 8,000; and now it has come up to about eight lakhs. There have been newspaper reports, which indicated that up to... (Time-bell rings) Sir, I am on my last sentence, which indicated that up to 8 lakhs of the companies which are registered with you are bogus/shell companies. ...  
...(Interruptions)... They are being set up not with the purpose of undertaking any business but they are cheating the revenue of India and thereby cheating the poor of India. So, it is absolutely essential that the Regulatory Authority assures itself that a company is being set up with a business

[Shri Mani Shankar Aiyar]

purpose in mind and not with tax evasion purposes. If you can do some of these things, as also listen very carefully to what our colleagues are going to say, in answer, we are going to render unanimous support to you. ...*(Interruptions)*... Please ensure in your rules the establishment of these institutions that are suggested here. ...*(Interruptions)*... Thank you very much, Sir. ...*(Interruptions)*... I should now congratulate the Minister. I am placing my full support to this Bill. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Now, Shri Piyush Goyal. ...*(Interruptions)*... क्या पीयूष गोयल जी अभी मौजूद नहीं हैं?

श्री पीयूष गोयल (महाराष्ट्र): मैं यहाँ मौजूद हूँ, सर। But he wants to speak first.

श्री उपसभापति: ठीक है, ठीक है। No problem. बदनौर जी, आप बोलिए।

SHRI V.P. SINGH BADNORE (Rajasthan): Sir, I stand to speak on the much-awaited Companies Bill, 2012. This Bill has had a chequered history. It should have come much earlier. But I am glad that it is seeing the light of the day. ...*(Interruptions)*... Let me trace the history of 'companies' first. It was about 100 years ago, in the British Raj, that the first Companies Act came into existence. It was about 50 years later. We had Independence in 1947 and it was during Independence and in the fifties' that the Bhabha Committee was formed to look into this Companies Act, 1913 and make recommendations. It was only in 1955 that it was debated here and the Companies Act came into existence in 1956, nearly fifty years ago. In those days there were 30,000 companies, at the time when the 1956 Companies Act came into existence. It was the time that the British had just left us. We wanted to form our own companies.

The wheels of industry had to start rolling again in new direction and that was what we wanted. The growth, industry, self-sufficiency, innovations, all those things had to be put in this 1956 Act. It was debated in 1955. Let me just give you a thought. A lot of thoughts came then and I dug into what really went about in 1955. I have something very interesting but I will just say that late Mr. Bhupesh Gupta, who was a veteran, spoke a lot on this subject. He was respected in this House and that House. He said that the company law should be amended - he is talking about the evils of 1913 and remedy - so that reconstruction work could proceed along on the correct lines and that is how the people feel. But the hon.

Minister, the champion of the big money, brushes aside the wishes and criticisms of the people at large. ...*(Interruptions)*... He goes on to say, "I see some hon. Members trying vainly to search socialistic pattern-- that was thought then-- in this marathon Bill, and having searched it, many of them have been thoroughly disappointed." I am very sorry for the disappointment but I think the labour was a waste. After all this is a Bill to tackle or deal with certain internal affairs of the capitalist class where there can be no question of socialism here.

As far as I am concerned, I do not see an iota of socialism in this Bill. But let me continue. Companies were needed to be formed, as I was saying, and the flavour of that time was that in this independent India we have to grow in the right directions. In that backdrop, the 1956 Act came into existence. Sir, I commend the Minister who has taken such pains to push this Bill. Sixty years ago we had this Bill of 1956, there have only been piecemeal amendments. Everybody wanted a comprehensive Bill because the times have changed from 1956 till now and just these piecemeal amendments cannot really do the work. The Standing Committee very rightly looked into this Bill thoroughly. I must say that they did such a thorough work that came out with nearly 193 recommendations. Out of that, nearly 90 per cent have been accepted. ...*(Interruptions)*... All aspects of corporate governance, best international practices, suited for the country, have been taken care of in this Bill. And, this has been done by the Standing Committee and pushed by the Minister. Times have changed and we think that this is a comprehensive Bill. ...*(Interruptions)*... I think, it is a good Bill. We, today, live in different times, as I have said. We live in the jet age, in the age of digital computers. And, this has been reflected in this Bill of 2012. ...*(Interruptions)*... We live in the times of MNCs. We live in the companies that have to adapt to new times and to international practices. We live in the times of mergers, takeovers, MNCs, FIIs, FDIs, money coming from outside, etc.

All these have to be kept in mind. And, this Bill, I think, is suitable to do this. ...*(Interruptions)*... But having said all this, we need an atmosphere of corporate freedom, opportunities, transparency, regulations, what Mr. Mani Shankar was talking about, and, along with that, speedy justice. Then only an atmosphere of a good industrial hub would come about. We live in a competition from many countries, like, China and others. We have to have a Bill which would be suited to

[Shri V.P. Singh Badnore]

look after all this. Having said all this, let me come to the specifics of this Bill. ...*(Interruptions)*... There are some areas, where I would need some clarifications. There may be some areas, which are grey areas, people might call it, and I would come to that. ...*(Interruptions)*... The general issues....*(Interruptions)*...

The Bill contains 470 clauses, over 300 pages. I think you will take about one hour to pass this, but that is a different issue. But does this make it so cumbersome? Because, when the executives are going to make sub-sections and sections, it would run into thousands of pages. And, that is the time that we will have to ensure that the ambiguity does not come in and everything is clarified. ...*(Interruptions)*... Because, from 300 pages, from 470 clauses, the sub-sections and the rules, which are going to be framed, can become so complicated and may not have the clarity that one seeks for and it would be in the ambit of ambiguity. And, that is what I am really worried about.

Sir, the rules and clauses, as drafted in the definition of 'holding', that is, the parent company, and the subsidiary companies ...*(Interruptions)*... the rotation of auditors, definitions and all this need to be interlinked. It seems to be that there are separate laws, separate norms and the criteria for the holding company and for the subsidiaries. So, if there is not a link between them, it could create problems; there should be some uniformity. I request the Minister to look into that. The concept of One-Person-Company is a new concept. In India, we had not had this before. This could be good in many ways. ...*(Interruptions)*... Suppose in the time that we live in ---we have had so many ghost companies -- one person runs away ...*(Interruptions)*... one should really see that it is not misused. ...*(Interruptions)*... We also live in the times of terrorism, ...*(Interruptions)*... money laundering and if this one person runs away, how are you going to trace him? What is the liability that he is going to hold? So, we need more checking before a one-person company comes in existence. ...*(Interruptions)*... The clauses for appointment of independent Directors ...*(Interruptions)*... is another concept which has come about in this. ...*(Interruptions)*... It is a good concept, because this is where specialisations can come in. ...*(Interruptions)*... But you will have to look into the liabilities of this person ...*(Interruptions)*... and the concept, because if such a person comes in with a liability, he would not want to come in. ...*(Interruptions)*... So, he should not have the liability of the company on him. Whether he gets in the expertise or the

specialisation, that is also not very clear. ...*(Interruptions)*... So, I think that also needs to be looked into.

The auditor's responsibility and penalties on him is another issue. ...*(Interruptions)*... There should be a limited liability. There can be frauds, but not necessarily by the CA. ...*(Interruptions)*... One has to look into the Institute of Chartered Accountants' views on this. ...*(Interruptions)*... If there is some fraud and you nail the CA, I think that can also create some problems. There should be a very limited liability on him. ...*(Interruptions)*... That also needs to be looked into.

The CSR is much talked about. It is the concept that you have got from some country or the other. I congratulate the Minister for this. It is a good concept. But there should be norms, where, how, how much money is going to be spent, etc. There is a limit that you have put; I am in agreement with that. ...*(Interruptions)*... But one has to look into the human rights and labour standards. ...*(Interruptions)*... There are United Nations Global Compact's 10 principles. Everybody knows about those principles. Can you incorporate them? That it should adhere to those, I think, would be a good idea. Kindly look into that as well. ...*(Interruptions)*... Looking at the fast growth, some entities may violate certain ...*(Interruptions)*... technical rules unintentionally. Law should emerge to protect them. The penalty is levied on them if there is a fraud in a different way. But, technically, if there are companies, because it is such a complicated affair, there should be some liability and not a fraud. So, you have to distinguish between the two. That has also to be looked into.

There is another clause which relates to revision of accounts, which has been put into one of your clauses. I feel that the Companies Bill ...*(Interruptions)*... empowers the Board nowadays, that they will be able to review these accounts. ...*(Interruptions)*... If the true picture of a company is something ...*(Interruptions)*... and they want to put up something which is different, because that is where the review will come in by the Board, I think, people will try to misuse it. ...*(Interruptions)*... You must review this as well, because that can create some problems. It can give a different picture to the shareholders and to the world at large. So, this review thing by the Board has to be looked into first. You have looked after the small investor's and the small shareholder's view also. That is a very good thing. But this review by the Board is also to be looked into. RoC has

[Shri V.P. Singh Badnore]

to look into the defaulter companies. ...*(Interruptions)*... The defaulter companies have been specified in one of the clauses. ...*(Interruptions)*... What is a defaulter company? ...*(Interruptions)*... Why should a default come up? ...*(Interruptions)*... If the RoC is really alert or vigilant, this would not happen. ...*(Interruptions)*... I think the RoC has to be more vigilant. ...*(Interruptions)*... That is also to be looked into. ...*(Interruptions)*... These are some of the points that I have put forth; otherwise, I support this Bill. Thank you very much.

प्रो. एस. पी. सिंह बघेल (उत्तर प्रदेश): धन्यवाद, उपसभापति जी, जो आपने मुझे इस बिल पर बोलने का मौका दिया। मैं इस बिल के समर्थन में अपनी बात कहने के लिए खड़ा हुआ हूँ। मैं और मेरी पार्टी इस बिल के सपोर्ट में है, लेकिन मंत्री महोदय से मैं यह भी अनुरोध करना चाहूँगा, निवेदन करना चाहूँगा कि हमारे एक-दो महत्वपूर्ण सुझाव हैं, जिन्हें आप ध्यानपूर्वक सुनें और उन सुझावों को कानून में सम्मिलित करने का कष्ट करें। जैसा हमारे पूर्व वक्ताओं ने बताया, यह कानून लगभग सौ वर्ष पुराना है। एक सेंचुरी पहले, जब ब्रिटानिया हुकूमत हमारे देश में थी और प्रथम विश्व-युद्ध से पहले, 1913 में यह कानून बना था। मैं समझता हूँ कि उस समय शायद कोई एकाध भारतीय कंपनी रही होगी, जिसका मालिक कोई एकाध इंडियन रहा होगा, अन्यथा ईस्ट इंडिया कंपनी के उत्तराधिकारियों की कंपनियां होती थीं और उनके लिए यह कानून बना था। जब 1947 में हम आजाद हुए, तो आजाद भारत की संसद ने भारतीय कंपनियों के हितों की रक्षा करते हुए कंपनी कानून में कुछ अमेंडमेंट करने चाहे। ...*(व्यवधान)*... सर, 1950 में इस कानून को और पुख्ता बनाने के लिए भाबा कमेटी बनी और 1956 में संसद ने उस बिल को पास किया। इसके बाद लगभग 25 संशोधनों के द्वारा इस बिल से काम चलाया गया। यह बड़ी खुशी की बात है कि संसद में जब यह बिल आया तो संसद ने उसे स्टैंडिंग कमेटी को रेफर किया, स्टैंडिंग कमेटी के अध्यक्ष और माननीय सदस्यों ने इस कानून का गहन अध्ययन किया और उपनिवेशकों, शेयरधारकों, कंपनी के मालिकों, सब के हितों को ध्यान में रखते हुए उन्होंने कुछ सिफारिशों के साथ उसे वापस लौटाया। संसद ने पुनः स्टैंडिंग कमेटी को भेजा और स्टैंडिंग कमेटी ने फिर कुछ सिफारिशों के साथ उसे वापस किया।...*(व्यवधान)*...

MR. DEPUTY CHAIRMAN: Please. Don't make comments here. ...*(Interruptions)*...

प्रो. एस. पी. सिंह बघेल: मैं तत्कालीन स्टैंडिंग कमेटी के अध्यक्षों और तमाम मैम्बरान को धन्यवाद देना चाहूँगा कि उन्होंने कोई औपचारिकता नहीं निभाई, बल्कि गहन अध्ययन करते हुए उसमें लगभग 193 सिफारिशें कीं। साथ ही मैं पूर्ववर्ती सरकार, पूर्ववर्ती मंत्रियों का भी आभार प्रकट करना चाहूँगा, उस समय के संसद-सदस्यों का भी आभार प्रकट करना चाहूँगा कि उन्होंने उदार हृदय से स्टैंडिंग कमेटी की उन सिफारिशों में से 186 सिफारिशों को स्वीकार किया। ...*(व्यवधान)*...

उपसभापति महोदय, मैं माननीय मंत्री जी को बधाई देना चाहूंगा कि इन्होंने कुछ बहुत माइल स्टोन स्टेप्स लिए हैं, जिनके बड़े अच्छे, सुखद, दूरगामी परिणाम देश में निकलेंगे। इसमें मुझे खासतौर से जो सबसे अच्छी बात लगी है, वह है सामाजिक दायित्व से संबंधित जो प्रावधान आपने रखा है। दूसरा, सरकार की अधिसूचना के माध्यम से ...(व्यवधान)... कानून बनाने का अधिकार ...(व्यवधान) और स्वतंत्र निदेशकों संबंधी प्रावधानों में जो आपने बदलाव किया है, यह भी आपने कंपनियों के हित में बड़ा अच्छा काम किया है। अब नए कानून के अनुसार, जब हम इस बिल को आज पास कर लेंगे, तो एक व्यक्ति को कंपनी बनाने का अधिकार आप देंगे। इससे छोटी-छोटी कंपनियों का भी उदय होगा, छोटे-छोटे ग्रुप भी तैयार होंगे और कंपनी के बहीखातों को जांचने वाले लेखा-परीक्षकों, ऑडिटरों में नियमित बदलाव, यह बहुत महत्वपूर्ण क्लॉज़ आपने डाला है और वह पांच साल से अधिक न हो, यह ठीक है, ताकि इन ऑडिटर्स और निवेशकों के बीच कुछ इस प्रकार के मधुर संबंध न हो जाएं कि शेयरधारकों को कोई दिक्कत हो, खास तौर से छोटे शेयरधारकों को। ...(व्यवधान)... साथ ही इस दंड के लिए आपने दस साल की सीमा रखी है, मैं इसका समर्थन करता हूं। यह भी तय किया गया है कि एक व्यक्ति बीस कंपनियों से ज्यादा का ऑडिट नहीं कर सकता। अगर एक व्यक्ति ज्यादा कंपनियों का ऑडिट करेगा तो निश्चित तौर से वह अपने कर्तव्यों का निर्वहन सक्षम तरीके से नहीं कर सकता है। ...(व्यवधान)... सबसे बढ़िया, जो घोटाले को रोकने के लिए आपने एक संस्था बनाई है -एस.एफ.आई.ओ., मैं उसके लिए बधाई देना चाहूंगा। जो **Serious Frauds Investigation Office** है, किसी कारोबारी घोटाले के मामले में एफ.आई.आर. करने का जो अधिकार आपने उनको दिया है, इन्वेस्टिगेशन करने का जो अधिकार दिया है, घोटाले संबंधी अपराधों के खिलाफ जो शक्ति आपने दी है, उससे कारोबारी घोटाले ज़रूर रुकेंगे। एस.एफ.आई.ओ. का लक्ष्य होना चाहिए कि वह बड़ी कंपनियों की देखरेख के साथ-साथ छोटे निवेशकों के हितों की रक्षा भी करे।

इस कानून को बनाने के पीछे जो आपकी मंशा है, वह तभी चरितार्थ होगी जब एस.एफ.आई.ओ. को आप ज्यादा से ज्यादा शक्ति प्रदान करेंगे। ...(व्यवधान)...अभी पिछले दिनों हम सब लोगों ने बंगाल में जो हुआ, वह देखा और आए दिन, देश के अलग-अलग हिस्सों में हम लोग पढ़ते हैं, सुनते हैं, टेलीविज़न के माध्यम से लाइव भी देखते हैं कि किस प्रकार से कोई कंपनी आती है, मार्केट में बहुत बढ़िया ऑफिस खोलती है, बहुत लगज़री फर्नीचर डालती है, बड़े-बड़े विज्ञापन देती है और छोटे निवेशक, खास तौर से रिक्शे वाले, तांगे वाले, खोमचे वाले या जो चतुर्थ श्रेणी के कर्मचारी हैं, लघु सीमान्त किसान हैं, गरीब लोग हैं और खेतिहर मज़दूर हैं, वे इस उम्मीद के साथ उस कंपनी में पैसे का निवेश करते हैं कि हमारी बेटी पैदा हुई है, यदि आज इस कंपनी में हम अपने पैसे का निवेश करेंगे, तो बीस साल जब लड़की की शादी होगी तो इतना अमाउंट हमें मिलेगा। ...(व्यवधान)... कोई अपने बुढ़ापे का इंतज़ाम करता है, कोई बीस साल बाद मकान की कल्पना करता है और अचानक अखबारों से, टी.वी. से पता चलता है कि कंपनी रातोंरात गायब हो गई, कार्यालय को छोड़

[प्रो. एस. पी. सिंह बघेल]

गई, अपना सारा सामान भी ले गई। हम सबने, आपने उन निवेशकों को रोते हुए देखा है, आत्महत्या तक करने के ऐसे तमाम केसेज़ हैं, क्योंकि जब रिक्शे वाला, तांगे वाला, खोमचे वाला, कमज़ोर गरीब लोग, शोषित-पीड़ित लोग, जो अपनी रोज़मर्रा की ज़िंदगी से पैसे बचाकर निवेश करते हैं और जब कंपनियां रातोंरात भाग जाती हैं, उनके जीवन भर का पैसा लेकर चली जाती हैं, तो उनके सपने टूट जाते हैं। आप विशेष तौर से उनका ध्यान रखेंगे, ऐसी मैं आपसे उम्मीद करता हूँ। ...**(व्यवधान)**...

महोदय, एक छोटी सी शंका यह लग रही है कि इस कानून से पहले विदेशी कंपनियों को यह अधिकार था कि भारतीय कंपनियों को वे खरीद सकें। पहले यह था कि वे अपनी ब्रांच बना सकते हैं, उसका मर्जर नहीं कर सकते हैं। जहां तक मैंने पढ़ा है, अब नए कानून से विदेशी कंपनियां भारतीय कंपनियों को खरीद लेंगी, उनका मर्जर करेंगी और भारतीय कंपनियां भी विदेशी कंपनियों को खरीद सकती हैं। अभी कुछ समाचार-पत्रों में मैंने देखा कि कुछ भारतीय कंपनियों ने यूरोप की कुछ कंपनियों को, अमेरिका की कुछ कंपनियों को खरीदा है, लेकिन यहां थोड़ी सी शंका है, थोड़ी सी चिंता है, थोड़ा सा डर है कि कहीं ऐसा न हो कि ज्यादा विदेशी कंपनियां भारतीय कंपनियों को खरीद लें और भारतीय कंपनियां कम खरीद सकें और कहीं विदेशी लोगों का आधिपत्य न हो जाए। ...**(व्यवधान)**... मैं इस बात के लिए आपको बधाई देना चाहूंगा कि आपने आधी आबादी का भी ख्याल रखा है और कंपनी में एक महिला डायरेक्टर की नियुक्ति के लिए कानून बनाया है। इसके लिए मैं आपको धन्यवाद देना चाहूंगा, लेकिन जो बात कहने के लिए मैं खड़ा हुआ हूँ, उसमें मैं माननीय मंत्री जी ...**(व्यवधान)**...

MR. DEPUTY CHAIRMAN: The House is adjourned for ten minutes.

*The House then adjourned at fifty minutes past two of the clock.*

*The House re-assembled at three of the clock,*

MR. DEPUTY CHAIRMAN in the Chair.

MR. DEPUTY CHAIRMAN: Prof. S.P. Singh Baghel to continue.

प्रो. एस. पी. सिंह बघेल: महोदय, मैं जिक्र कर रहा था कि आधी आबादी, जो महिलाओं की है, उनको ध्यान में रखते हुए कम्पनी में महिला डायरेक्टर बनाने का आपने अनिवार्य कानून बना दिया है, उसके लिए मैं आपको बधाई देना चाहता हूँ। ...**(व्यवधान)**.. उसी के साथ मैं आपसे उपसभापति महोदय के माध्यम से कहना चाहता हूँ और जो बात मैं कहने जा रहा हूँ उसके संबंध में सदन में आपसे आश्वासन भी चाहूंगा कि जिस प्रकार से आपने कम्पनी में महिला डायरेक्टर की अनिवार्यता को लागू किया है, उसी प्रकार से एससी, एसटी और ओबीसी के व्यक्ति को भी प्रत्येक कम्पनी में आप डायरेक्टर बनाएं। मैं चाहूंगा कि मेरे भाषण

के बाद अथवा अपने रिप्लाय में आप सदन को इस संबंध में आश्वस्त करें क्योंकि यह भी एक बहुत बड़ी आबादी है। ..(व्यवधान).. ये शोषित, पीड़ित, दबे हुए लोग, जो वीकर सेक्शन हैं, इनका भी प्रतिनिधित्व कम्पनीज़ में होना चाहिए। जब इनके डायरेक्टर बन जाएंगे, तो जो एससी, एसटी और ओबीसी के निवेशक हैं, जो डायरेक्टर्स हैं, जो कर्मचारी हैं, जो अधिकारी हैं, उनके हितों की रक्षा वे मजबूती के साथ कर पाएंगे।..(व्यवधान).. सर, पिछले 64 साल से इनका शोषण हो रहा है। मैं आपसे चाहूंगा कि जब आप उत्तर दें तो इस संबंध में जरूर बताएं। ..(व्यवधान)..सदन भी इस बात को जानना चाहेगा और विशेष तौर पर बहुजन समाज पार्टी और हम लोग यह चाहेंगे कि आप महिला डायरेक्टर की तरह एससी, एसटी और ओबीसी के डायरेक्टर की अनिवार्य पोस्टिंग की घोषणा करें।

दूसरा, मैं सीएसआर के संबंध में कहना चाहूंगा। ..(समय की घंटी).. महोदय, मैं समय पर अपनी बात समाप्त कर दूंगा। कार्पोरेट सोशल रिस्पॉन्सिबिलिटी के बारे में सारे माननीय सदस्यों को चिंता है। मैं धन्यवाद देना चाहूंगा कि सीएसआर के लिए आपने यह घोषणा की है कि प्रत्येक कम्पनी, जिसकी वेलिड इनकम है, वह उसका दो परसेंट सामाजिक, शिक्षा, साहित्य और संस्कृति के क्षेत्र में खर्च करेगी। ..(व्यवधान).. मैं मंत्री जी से अनुरोध करना चाहूंगा कि इसमें उन्हें थोड़ी सख्ती बरतनी पड़ेगी। मैं स्टैंडिंग कमेटी, इंडस्ट्री का मेंबर हूँ। हर जगह हम लोगों ने बड़ी-बड़ी महारत्न कम्पनियों से, नवरत्न कम्पनियों से, मिनी रत्न कम्पनियों से सीएसआर के बारे में पूछा है, लेकिन गोलमाल जवाब आते हैं कि हम कर रहे हैं। ..(व्यवधान).. जब यह पूछा जाता है कि क्या कर रहे हैं तो..(व्यवधान).. इस मामले में मैं आपसे कहना चाहूंगा कि समता मूलक समाज की स्थापना करने में सब लोगों का योगदान होना चाहिए।

लोकतंत्र के जो चार स्तम्भ हैं, कार्यपालिका, विधायिका, न्यायपालिका और मीडिया, हम सबका यह दायित्व है कि हम समता मूलक समाज की स्थापना करें। ..(व्यवधान).. सीएसआर का मतलब है, कार्पोरेट सोशल रिस्पॉन्सिबिलिटी। सोशल रिस्पॉन्सिबिलिटी हम सबकी है - विधायिका की भी है, कार्यपालिका की भी है, न्यायपालिका की भी है और मीडिया की भी है कि जो समाज का अंतिम व्यक्ति है, लास्ट व्यक्ति है, उसके चेहरे पर मुस्कान आए। यह मुस्कान लाने की सामाजिक जिम्मेदारी हम सब लोगों की है। ..(व्यवधान).. आप कानून बना रहे हैं, यह बहुत अच्छी बात है। अगर नैतिकता के नाते भी देखा जाए तो जो भी आदमी सक्षम हो जाता है, अगर उसके पास एक सरप्लस इनकम है, उसके पास कुछ पैसे हैं तो वह उन्हें समाज कल्याण में लगाए। ..(व्यवधान).. महोदय, हिन्दू धर्म में दान की बड़ी महिमा है। आज आखिरी रोज़ा है। रमजान का महीना चल रहा है, मुस्लिम समाज में जकात की व्यवस्था है कि वे ढाई परसेंट जकात करते हैं।

इसी तरह से हमारे सिख धर्म में भी दसवांश की प्रथा है कि अपनी कमाई का दसवां हिस्सा वे नेक काम में लगाते हैं। ..(व्यवधान).. जब आपने कह दिया है कि दो परसेंट उन्हें खर्च करना है तो मैं आपसे यह अनुरोध करना चाहूंगा कि इस मामले में आपको सख्ती

[प्रो. एस. पी. सिंह बघेल]

बरतनी पड़ेगी। यह बात सच है कि आज़ादी के 64 साल में प्रत्येक गांव तक सड़क नहीं गयी है, प्रत्येक गांव तक बिजली नहीं गयी है, हम उन्हें शुद्ध पानी नहीं पिला पा रहे हैं, हर गांव में स्कूल नहीं है, हर गांव में अस्पताल नहीं जा पाया है। आदमियों का तो छोड़ो, अभी तक हम पशुओं का अस्पताल भी नहीं दे पाए हैं।..(व्यवधान)..

MR. DEPUTY CHAIRMAN: Prof. Baghel, please conclude. Your time is over.  
...(Interruptions)...

प्रो. एस. पी. सिंह बघेल: पशुओं को ट्रांसपोर्ट करना पड़ रहा है। मैं यह भी कहना चाहूंगा कि आप यह रूल बना दें कि कम्पनियां सीएसआर का सर्टेन परसेंट एससी, एसटी और ओबीसी आबादी पर खर्च करेंगी। इसे आपको सख्ती के साथ लागू कराना पड़ेगा। ...(व्यवधान)... अगर आखिरी गांव तक सड़क बन गई है, तो प्रधान मंत्री ग्रामीण सड़क योजना क्यों बनाई गई? ...(समय की घंटी)... अगर बिजली आ चुकी थी तो राजीव गांधी विद्युतिकरण योजना क्यों बनाई गई? ...(समय की घंटी)... अगर सबके लिए आवास बन गए थे, तो...(व्यवधान)...

MR. DEPUTY CHAIRMAN: Mr. Baghel, please conclude.

प्रो. एस.पी. सिंह बघेल: उत्तर प्रदेश की मुख्य मंत्री को उत्तर प्रदेश में काशीराम शहरी आवास योजना क्यों बनानी पड़ी? ...(व्यवधान)...

MR. DEPUTY CHAIRMAN: Mr. Baghel, please conclude.

प्रो. एस.पी. सिंह बघेल: वे इन्कम्प्लीट हैं। इसका मतलब है कि प्रत्येक व्यक्ति के लिए रहने का इंतजाम नहीं है। ...(व्यवधान)...

MR. DEPUTY CHAIRMAN: Mr. Baghel, please conclude.

प्रो. एस.पी. सिंह बघेल: प्रत्येक गांव तक सड़क नहीं गई है, प्रत्येक गांव तक बिजली नहीं गई है। ...(व्यवधान)... इसलिए मेरा माननीय मंत्री जी से अनुरोध है कि सीएसआर में अगर आप दो परसेंट बढ़ा दें, तो बहुत अच्छा है। इन कम्पनियों को पता ही नहीं होता है कि क्या करना है? ...(व्यवधान)...

MR. DEPUTY CHAIRMAN: Please conclude.

प्रो. एस.पी. सिंह बघेल: इसलिए अगर माननीय सांसदों से पूछ लिया जाए, विधायकों से पूछ लिया जाए कि आपके क्षेत्र में कौन-से गांव हैं जहां पर सड़क नहीं है, ...(समय की घंटी)... बिजली नहीं है, स्कूल नहीं है, पीने का पानी नहीं है, चिकित्सा नहीं है, तो वह दे दे। ...(व्यवधान)... यह उनकी रिकमंडेशन नहीं है। वहां यह है कि अगर वह गांव सड़क से, बिजली से, पानी से, नाली से, खड़जा से वंचित है। ...(समय की घंटी)...

MR. DEPUTY CHAIRMAN: Please conclude. ...(Interruptions)...

No, no. What is this? ...*(Interruptions)*... Nothing will go on record.

That is all. What is this? You are not even bothered about the Chair. ...*(Interruptions)*... Nothing more will go on record.

प्रो. एस.पी. सिंह बघेल: \*

MR. DEPUTY CHAIRMAN: Nothing more will go on record. Now, Mr. P. Rajeeve. ...*(Interruptions)*...

DR. NAJMA A. HEPTULLA (Madhya Pradesh): Sir, I have to say something on a matter of procedure. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Please switch on the mike. ...*(Interruptions)*...

DR. NAJMA A. HEPTULLA: Sir, it is on a point of procedure. Sir, I believe when we were outside, this statement was circulated in House. Has it been laid on the Table of the House, and, if it is being laid on the Table of House, when are we going to seek clarifications on the statement of the Defence Minister regarding firing at the LoC? Could you please explain to us?

MR. DEPUTY CHAIRMAN: See, I wanted the statement to be read and I called the hon. Defence Minister for reading it. He started reading the same but because there was so much ruckus in the House, I had to adjourn the House. Most of the Members wanted the House to adjourn. So, I adjourned the House. I have not said that it is to be laid on the Table. I did not say that. Once I have not said this, how can it be laid on the Table?

DR. NAJMA A. HEPTULLA: The statement cannot be made in a vacuum and circulated.

MR. DEPUTY CHAIRMAN: Yes, the statement is not read.

DR. NAJMA A. HEPTULLA: The main thing is that the Chair can ratify the mistake or whatever happened. You adjourned the House. You can say that it is being laid because...

MR. DEPUTY CHAIRMAN: How can I?

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\*Not recorded.

DR. NAJMA A. HEPTULLA: Because the Defence Minister was on his legs, and, if you feel, because it has already been laid in the Lower House. So, something has to be done.

MR. DEPUTY CHAIRMAN: So many things were circulated; List of Business was circulated. It did not happen, it did not happen.

DR. NAJMA A. HEPTULLA: So, it is not a part of the record.

MR. DEPUTY CHAIRMAN: No, it cannot be a part of the record because I have not allowed the Minister to lay it on the Table. When I have not asked him to lay it on the Table, then, how can he do that?

DR. NAJMA A. HEPTULLA: I wanted only clarification, Sir? You don't have to. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: If the Defence Minister wants, he can make another statement.

DR. NAJMA A. HEPTULLA: I only wanted to find out as to whether it is laid on the Table. If yes, we have a right to seek clarification, and, if it is not being laid, then, it is a piece of paper, which we don't have to. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Yes, yes. It is because I have not asked him to do so.

THE MINISTER OF OVERSEAS INDIAN AFFAIRS (SHRI VAYALAR RAVI): Mr. Deputy Chairman, Sir, I think, the clarification is necessary. The Defence Minister had started reading the statement; maybe he read two, three sentences. Thereafter, due to some problem in the House, the Chair had to adjourn the House.

MR. DEPUTY CHAIRMAN: I was forced to adjourn. I was forced to adjourn.

SHRI VAYALAR RAVI: But the fact remains that he had started reading the statement. He might not have completed it.

MR. DEPUTY CHAIRMAN: No, he had read only two or three sentences.

SHRI VAYALAR RAVI: That is enough, Sir.

MR. DEPUTY CHAIRMAN: No.

SHRI VAYALAR RAVI: Then, what is the status of the statement?

MR. DEPUTY CHAIRMAN: The status of the statement is that two, three sentences which he read are on record. Nothing more is on record. ...*(Interruptions)*...

श्री थावर चन्द गहलोत (मध्य प्रदेश): सर, मेरा एक निवेदन है । अगर यह स्टेटमेंट अपने यहां रिकार्ड में दर्ज नहीं हुआ है, तो हम आपसे निवेदन करना चाहेंगे और यह जानना चाहेंगे कि माननीय मंत्री जी यहां आकर स्टेटमेंट कब देंगे?

MR. DEPUTY CHAIRMAN: Yes, it is possible. I have no objection. The Minister can come and make the statement. ...*(Interruptions)*...

श्री थावर चन्द गहलोत: सर, इसके बारे में गवर्नमेंट क्या कह रही है?

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND THE MINISTER OF STATE IN THE MINISTRY OF PLANNING (SHRI RAJEEV SHUKLA): Sir, the hon. Defence Minister had come here, he was ready for clarifications. ...*(Interruptions)*...सर, मुख्य विपक्षी दल यहां नहीं था। कोई बात नहीं, हम उनसे फिर रिक्वेस्ट करेंगे और आगे क्लेरिफिकेशन करवा देंगे।

श्री थावर चन्द गहलोत: नहीं, अब दोहरी बात हो गई। आसंदी से सदन को जानकारी दे दी गई है कि यह कार्यवाही का हिस्सा नहीं बना है। इसके लिए फिर से आपको स्टेटमेंट दिलवानी पड़ेगी और उसके बाद ही क्लेरिफिकेशन की बात होगी।

श्री राजीव शुक्ल: आप जैसा चाहेंगे, करवा देंगे, दोबारा स्टेटमेंट करवा देंगे।

श्री थावर चन्द गहलोत: जैसा चाहेंगे वैसा नहीं, जो नियम है, उसी का पालन करवाना है।

श्री राजीव शुक्ल: थावर चन्द जी, आप जो चाहते हैं, वही करवा देंगे। जैसा थावर चन्द जी कहते हैं, वैसा ही करवा देंगे।

श्री उपसभापति: नियम यह है, उन्होंने पढ़ा नहीं है, उन्होंने ले नहीं किया, इसलिए रिकार्ड में नहीं है, मिनिस्टर साहब को सदन में आकर स्टेटमेंट देनी पड़ेगी। ...*(व्यवधान)*... अगर चाहिए तो।

श्री थावर चन्द गहलोत: सर, मैं आपके माध्यम से मंत्री महोदय से यह जानना चाहता हूं कि वे यहां कब आएंगे और कब स्टेटमेंट देंगे?

MR. DEPUTY CHAIRMAN: That he can say.

श्री राजीव शुक्ल: Monday को करा देंगे।

MR. DEPUTY CHAIRMAN: Shri P. Rajeeve.

SHRI P. RAJEEVE (Kerala): Sir, I am very happy to hear the remarks of our learned colleague and hon. Member Shri Mani Shankar Aiyar regarding the Marxian analysis of superstructure.

MR. DEPUTY CHAIRMAN: You started being happy with him!

SHRI P. RAJEEVE: On his remarks.

MR. DEPUTY CHAIRMAN: Since when?

SHRI P. RAJEEVE: Only on his remarks, Sir. *...(Interruptions)...* But I would like to treat his remarks as a safety valve. *...(Interruptions)...* There is no space for that type of school of thought in today's Congress leadership and in governance. *...(Interruptions)...* Only because of that, he lost his Ministership and our learned veteran leader from our State, Vayalarji, is still having a very low profile portfolio for having that type of thought. *...(Interruptions)...* Anyway, it was an interesting remark. *...(Interruptions)...*

Sir, I would like to congratulate our young and dynamic Minister Mr. Sachin Pilot on introducing this Bill. *...(Interruptions)...* We have been waiting for this Bill for several years. *...(Interruptions)...* After its introduction in the Lok Sabha, we have to wait for several years for its coming to this House. *...(Interruptions)...* I would also like to congratulate him on incorporating most of the recommendations of the Standing Committee on Finance. *...(Interruptions)...*

Sir, amending the existing Act and replacing the old Act is a good sign, a progressive sign of a legislative society. *...(Interruptions)...* While doing that, he should recognise the objective realities prevailing in the States. As Shri Mani Shankar Aiyar clearly stated, at the time of old Companies Act, the economic activities were controlled by the state. That was the time of Jawaharlal Nehru, the time of Nehruvian thought. *...(Interruptions)...* Jawaharlal Nehru considered the public sector enterprise as the temple of nation. *...(Interruptions)...* But the situation has changed. *...(Interruptions)...* As per Article 19(1) *...(Interruptions)...* of our Constitution, every person has the right to start an industry, business, etc. *...(Interruptions)...* But our Constitution clearly states *...(Interruptions)...* the intent of the economic activity. *...(Interruptions)...* Article 39 (c) under the Directive Principles of our Constitution clearly states that the function of the economy should not

result in the concentration of wealth. *...(Interruptions)...* That is Article 39 (c) of the Constitution. *...(Interruptions)...* The function of the economy should not result in concentration of wealth. *...(Interruptions)...* What is the reality now? *...(Interruptions)...* Some statistics have already been quoted by Mani Shankar Aiyarji. *...(Interruptions)...* Ten per cent of the super rich in our country control 53 per cent of the assets of the nation. *...(Interruptions)...* Ten per cent of the poorest of the country control only .2 per cent of the assets of the nation. *...(Interruptions)...* This has intensified inequality. *...(Interruptions)...* That is the result of neoliberal policies of our country. *...(Interruptions)...* This is totally against Article 39(c) of the Constitution which gives direction to the economic activity of our country. *...(Interruptions)...*

Sir, while a new Bill is presented, it should address changes in society. *...(Interruptions)...* You just trust *...(Interruptions)...*the corporate. *...(Interruptions)...* Crony capitalism has already been mentioned here. *...(Interruptions)...* Who are the cronies of the capitalists here? *...(Interruptions)...* Crony capitalism is not a new way. *...(Interruptions)...* It is connected with the classical capitalism. *...(Interruptions)...* But in India, crony includes political leadership, bureaucracy, corporate and some sections of the media as clearly reflected at the time of Spectrum scam in our country. *...(Interruptions)...* I wanted to know whether a specific provision is given in this Bill to address increasing crony capitalism after 1991 when Liberalisation Policy came. *...(Interruptions)...* I could not find anything in this Bill regarding that class. What is the social condition in our country. You are disinvesting public sector units. *...(Interruptions)...* You are *...(Interruptions)...*on the reservation for the Scheduled Castes and the Scheduled Tribes in the public sector units and in the Government sector also. But the share of the public sector is diminishing drastically. The demand raised by several sections of the society is that there should be reservation for the Scheduled Castes and the Scheduled Tribes in the private sector. I think the previous Government had taken some steps for promoting concert between the corporate houses but nothing has materialised. It is still in the air. But there is nothing to protect the interests of the Scheduled Castes and the Scheduled Tribes in this Bill which consists of 70 clauses, Seven Schedules and 29 Chapters.

One of the specific features of this Bill is making Corporate Social Responsibility of the companies under Chapter IX, clause 135 of the Bill. But clause 135(5) the last sentence *...(Interruptions)...* for diluting the real intent of the *...(Interruptions)...* position of the CSR. It says,

[Shri P. Rajeev]

"Provided that if the company fails to spend such amount, the Board shall, in its report made under clause(o) of sub-section(3) of section 134, specify the reasons for not spending the amount." ...*(Interruptions)*... If this sentence is there, then, there is no relevance of clause 135 on CSR. Most of the companies are ready to prepare the format for presenting their results and not spending the CSR amount. I have already moved an amendment to delete the last sentence of clause 135 (5), that is, exclusion of diluting the clause on CSR. ...*(Interruptions)*...

Then, while going through the Schedule VII regarding the area of the CSR, already one of my learned colleagues has mentioned that there is no specific utilisation of percentage for the SC and ST communities. In respect of public sector there is a certain provision and for utilisation of MPLAD funds, there is also a certain provision. While framing the rules it should be made mandatory that certain percentage of the CSR should be spent for the benefit of the SC and ST communities. Then, there is no specific mention regarding the area. What is the experience of the public sector units? Most of the public sector units utilise or spend their CSR where the corporate ...*(Interruptions)*... or where the Minister is coming from. Take for example, the Petroleum Ministry, major part of the CSR amount is spent in the constituency of the Petroleum Minister. In this Schedule there is no specific mention regarding the area of the implementation of the CSR activities. It should be incorporated, if possible, in the Bill itself; otherwise in the rules while framing it.

The next point is about rural areas and backward areas. There is no specific mention regarding that. It should be incorporated in this Bill.

Then, regarding the regulatory mechanism, already my predecessors have mentioned about it. Several regulators are there. It is the era of regulating. Then, what has happened in the Harshad Mehta scam? What has happened in the 2G spectrum scam? What has happened in the latest Saradha scam? The RBI is there. The SEBI is there. The Serious Fraud Investigation Office is there. Multi-regulators are there without any responsibility. Now, we have a mechanism, that is, the Indian Institute of Chartered Accountants for the corporate sector as per the Act of Parliament. Now, NRI is coming. There is a contradiction. Who will prevail NRI or the IICA? The functions of the NRI and the IICA should be specifically defined. The NRI is a 15-Member Body. What is the relevance of 15-Member Body? It is the wastage of money. It should be reduced. What is the minimum requirement?

...(Time-bell rings)... There are two or three more points. Sir, there is some provision for Independent Directors. That is good. But there was a demand earlier, and we still have this demand from various sections of the society that there should be workers' participation in the management of industries. ...(Interruptions)... Having Independent Directors is good. But there should be, at least, one Director, either elected or nominated, from amongst employees. So, there should be workers' representation in the management of public sector corporations. ...(Interruptions)... Regarding acquisitions and mergers, there is a new provision, namely, clause 234 (ii), which allows a foreign company to merge with an Indian company. There should be some safeguard to protect the interests of our workers. ...(Interruptions)...

Sir, there is another phenomenon which is cross media ownership, whereby the media can control the production unit, the distribution unit and telecom. This is 'cross media ownership'. That is a great threat to democracy. Several countries have banned that type of cross media ownership. ...(Interruptions)... There is no specific provision regarding that.

MR. DEPUTY CHAIRMAN: Please conclude.

SHRI P. RAJEEVE: My next point is regarding winding up issue. As regards winding up by a tribunal, I could not find any specific provision for protecting the interests of workmen. ...(Interruptions)... Whether it is compensation or other legal liabilities of management towards workmen, this has not been specifically mentioned in the Bill.

Lastly, Sir, in these 472 clauses of the Bill, the words 'as may be prescribed' have been used in, say, 336 places; that is, this legislation depends on subordinate legislations. This is not good for legislation like this. This type of drafting is a window for the Executive to overrule the legislative intent of Parliament. Therefore, I urge upon the Government to look into these issues and close the loopholes. Thank you, Sir.

**श्री विवेक गुप्ता** (पश्चिमी बंगाल): थैंक्यू, चेयरमैन साहब, आपने मुझे बोलने का मौका दिया। ...**(व्यवधान)** सर्वप्रथम मैं माननीय मंत्री जी को बहुत-बहुत धन्यवाद देना चाहूंगा और बधाई देना चाहूंगा, शायद बहुत सालों के बाद इनकी मेहनत रंग ला रही है। धन्यवाद मैं इसलिए देना चाहता हूँ कि लोक सभा में जितनी हड़बड़ी में यह बिल पास हुआ है, कम से कम राज्य सभा में इस बिल को डिस्कशन का पूरा-पूरा मौका मिल रहा है। ...**(व्यवधान)** हालांकि इस बिल को सपोर्ट करना या न करना इनकॉन्सिक्वेंशियल सी बात हो गई है, क्योंकि सब मेजर

[श्री विवेक गुप्ता]

पॉलिटिकल पार्टीज़ इसे सपोर्ट कर रही हैं, फिर भी मैं मंत्री जी के ध्यानार्थ कुछ चीज़ों को लाना चाहता हूँ। ...**(व्यवधान)**

जब हम लोग स्कूल में हिस्ट्री की किताबें पढ़ रहे होते हैं, तब "ईस्ट इंडिया कम्पनी और "कम्पनी" वर्ड्स सबसे पहले हमारी नॉलेज में आते हैं, लेकिन जैसे-जैसे हम बड़े होते हैं, "कम्पनी" वर्ड हम लोगों की डिक्शनरी और एजुकेशन से दूर होता चला जाता है। ...**(व्यवधान)** सबसे पहले तो मैं मंत्री जी से यह कहना चाहूंगा कि यह जो नया ऐक्ट आ रहा है और इसमें जो इतने व्यापक चेंजिज़ हैं, इन चेंजिज़ के बारे में लोगों में अवेयरनेस लाई जाए, इसके बारे में लोगों को एजुकेशन दी जाए, खासकर स्टुडेंट्स को, जो कि आज यंग आंतरप्रेन्योर्स बनने जा रहे हैं, उन सबको इसके बारे में थोड़ी जानकारी दी जानी चाहिए। ...**(व्यवधान)**

दूसरा, मैं यह बिल ध्यान से पढ़ रहा था, मैंने कई बार इस बिल को पढ़ा है और कई ऐंगल्स से पढ़ा है, मगर आंतरप्रेन्योर्स को एनकरेजमेंट मिलने वाला काम मुझे इस बिल में कहीं नजर नहीं आया। इस पर अगर आप कुछ ध्यान दे सकते हैं, तो अच्छा रहेगा। ...**(व्यवधान)**

तीसरा, इस बिल को पढ़ते-पढ़ते एक ऐसी फीलिंग आ रही है कि जो छोटे व्यवसायी हैं, छोटे आंतरप्रेन्योर्स हैं, वे वैसे ही बहुत स्ट्रगल कर रहे हैं, उनके लिए कम्प्लायंस की कॉस्ट और कम्प्लायंस के तरीके, दोनों इतने बढ़ जाएंगे कि उनको अपना काम छोड़ कर अपनी सारी एनर्जी कम्प्लायंस और रेगुलेशंस में लगानी पड़ेगी। ...**(व्यवधान)** अगर उनके लिए इसमें कोई सिम्प्लिफिकेशन हो सके, कोई आसान तरीका बनाया जा सके, तो यह सबके लिए अवश्य ही अच्छा रहेगा और इसका बैनिफिट सबको मिलेगा। ...**(व्यवधान)**

सर, कम्पनियां बैंकरप्ट हो रही हैं, बन्द हो रही हैं और नयी कम्पनियां चालू भी हो रही हैं, इस प्रोसेस पर भी थोड़ा ध्यान देना चाहिए। सर, मैं यह बिल ध्यान से पढ़ रहा था। एक चीज़ पर मैं आपका और पूरे सदन का ध्यान आकर्षित करना चाहूंगा कि इस बिल में करीब 390 बार, the words, 'as may be prescribed' आए हैं, जो बहुत सारी चीज़ों पर बहुत सारे सवाल खड़े कर देते हैं। ...**(व्यवधान)** अगर इन चीज़ों के बारे में थोड़ी क्लैरिटी रहती या इन चीज़ों के बारे में लोगों को जानकारी मिलती, तो वह हम लोगों के लिए भी अच्छा रहता और बाकी लोगों के लिए भी अच्छा रहता, क्योंकि और रूल्स बनाने के टाइम पर इससे और ज्यादा एम्बिग्युइटी और और ज्यादा क्लैरिफिकेशन की जरूरत होगी। ...**(व्यवधान)**

सबऑर्डिनेट लेजिस्लेशन बनाना आपका हक है, आप जैसा चाहें कर सकते हैं, मगर बहुत बार एग्जीक्यूटिव इसको मिसयूज़ करती हुई नजर आती है। ...**(व्यवधान)** इसलिए, मैं चाहूंगा कि आप इस पोर्शन पर भी थोड़ा ध्यान दें। ...**(व्यवधान)**...

दूसरा, आज कई एक्ट्स में कम्पनीज़ को अलग-अलग तरह से डेटा दिया जाता है। इस बारे में मेरे दो सुझाव हैं। ...**(व्यवधान)**... सेल्स टैक्स का रिटर्न, इनकम टैक्स का रिटर्न, इन सब को एनुअल रिपोर्ट का हिस्सा बना देना चाहिए, ...**(व्यवधान)**... ताकि माइनॉरिटी शेयर होल्डर्स को यह पता चले कि कम्पनी अलग-अलग जगहों पर क्या-क्या दे रही है। क्योंकि, बहुत बार ऐसा होता है कि उसके द्वारा एक जगह एक डेटा दिया जाता है, तो दूसरी जगह दूसरा डेटा दिया जाता है। ऐसे में माइनॉरिटी शेयर होल्डर्स बेचारा ठगा जाता है। ...**(व्यवधान)**... दूसरा, *ambiguity* की बात बहुत जगह आती है। चूँकि अलग-अलग जगह अलग-अलग चीज़ें रहती हैं और अलग-अलग ऐक्ट में अलग-अलग डिफिनिशन रहती है, तो मैं चाहूँगा कि उन सबको किसी भी तरीके से स्ट्रीमलाइन कर दिया जाए।

सर, सी.एस.आर. के लिए मेरे बंधुगण जो पहले बोल चुके हैं, उसे मैं भी दोहराना चाहूँगा। जो इकोनॉमिकली बैकवर्ड हैं, माइनॉरिटीज़ हैं, उन सब के लिए थोड़ा सी.एस.आर. का प्रावधान करना चाहिए। मैं माननीय मणि शंकर जी की बात से मैं एकदम सहमत हूँ कि आप *Do's and Don'ts* बता दें, ...**(व्यवधान)**... तो कम्पनीज़ के लिए भी आसान रहेगा कि सी.एस.आर. में वे क्या कर सकते हैं और क्या नहीं कर सकते हैं। ...**(व्यवधान)**...

सर, मैं डिप्रिसिएशन की ओर आपका ध्यान आकर्षित करना चाहूँगा। ...**(व्यवधान)**... डिप्रिसिएशन इनकम टैक्स में अलग होता है और कम्पनीज़ ऐक्ट में अलग होता है। ...**(व्यवधान)**... इससे हर बार कन्फ्यूजन पैदा होगा। ...**(व्यवधान)**... इससे हर बार बहुत तकलीफ सबको उठानी पड़ती है तथा इससे बहुत लिटिगेशन होता है। ...**(व्यवधान)**... मैं इस बात की ओर भी आपका ध्यान आकर्षित करना चाहता हूँ कि अगर इस डायरेक्शन में आप कुछ कर सकें, तो सभी लोगों को इससे बहुत फायदा होगा। ...**(व्यवधान)**...

सर, सिक यूनिट्स के लिए आपने बहुत अच्छा काम किया है, इसके लिए मैं आपको बधाई देता हूँ। मगर इसमें थोड़ी-सी सेंसिटिविटी भी होनी चाहिए। ...**(व्यवधान)**... बहुत बार आदमी आदतन सिक नहीं होता, बल्कि मजबूरी और परिस्थितियों के कारण वह सिक हो जाता है। ...**(व्यवधान)**... अगर यह व्यवस्था हो कि बैंक्स यदि उस पर कार्रवाई करना चाहते हैं, तो वे थोड़ा सेंसिटिव होकर कार्रवाई करें, तो अच्छा रहेगा। ...**(व्यवधान)**...

सर, वन परसन कम्पनी का कंसेप्ट बहुत अच्छा है, मगर इसमें कोई भी क्लेरिटी नहीं है। ...**(व्यवधान)**... यह क्लेरिटी कब और कैसे हम लोगों को मिलेगी, अगर यह पता चल जाए, तो हमें थोड़ा-सा संतोष हो जाएगा।

सर, आप एन.एफ.आर.ए.(नेशनल फाइनांशियल रिपोर्टिंग अथॉरिटी) जो लाना चाह रहे हैं, ...**(व्यवधान)**... तो इससे आई.सी.ए.आई. खत्म होगी या दोनों साथ में चलेगी? ...**(व्यवधान)**... कब कौन खत्म होगा, इन सब के बारे में भी कोई क्लेरिटी नहीं है। ...**(व्यवधान)**... इन सब चीज़ों पर थोड़ा क्लेरिफिकेशन मिल जाता, तो लोगों को यह पता करने में आसानी हो जाती कि आगे कब, कहाँ, क्या और कैसे करना है। ...**(व्यवधान)**...

[श्री विवेक गुप्ता]

सर, मैं कम्पनी लॉ बोर्ड के बारे में एक प्वायंट कहना चाहूँगा। यहाँ लिटिगेशंस बढ़ते जा रहे हैं, क्योंकि जहाँ नए केसेज़ बहुत ज्यादा फाइल हो रहे हैं, वहाँ पुराने केसेज़ डिस्पोज़ नहीं हो रहे हैं। ...**(व्यवधान)**... आप नेशनल कम्पनी लॉ ट्राइब्यूनल बना रहे हैं और उसमें भी नए ऐक्ट के हिसाब से पुराने केसेज़ द्राई किए जाएँगे। तो यह कैसे होगा, यह हम लोग नहीं समझ पा रहे हैं, शायद इस पर आप कुछ रोशनी डाल सकें। ...**(व्यवधान)**... मगर, हम चाहेंगे कि जो सत्यम टाइप के बड़े केसेज़ होते हैं या कोई भी बड़ा केस होता है, इनको किसी फास्ट ट्रैक मैकेनिज्म में डाला जाए, ताकि माइनॉरिटी शेयर होल्डर्स और आम लोग जो बड़े-बड़े केसेज़ से अफेक्टेड होते हैं, उनको भी राहत मिल सके। ...**(व्यवधान)**...

सर, हमारे यहाँ यह नियम है कि कोई आदमी अपने डीपेस्ट सिक्रेट्स या तो अपनी वाइफ को बताता है या अपने ऑडिटर अथवा लॉयर को बताता है। अपना ऑडिटर बार-बार बदलने का सुझाव बड़ा अच्छा है, मगर इसे भी इस तरीके से करना चाहिए या ऑडिटर के ऊपर ऐसी जिम्मेदारी होनी चाहिए कि ऑडिट करते वक्त हमारी कम्पनी के जो सिक्रेट्स उसे पता चलें, उनको वह प्रोटेक्ट करे, ...**(व्यवधान)**... ऐसा नहीं कि वह कभी बाज़ार में उन्हें बेच दे या उनका गलत इस्तेमाल करे। तो वह जिम्मेदारी जो उसके ऊपर है, वह इस एक्ट में कहीं पर भी डिफाइन नहीं की गई है। ...**(व्यवधान)**... **...(समय की घंटी)**...

सर, इन्हीं शब्दों के साथ मैं अपनी बात समाप्त करता हूँ। धन्यवाद।

DR. ASHOK S. GANGULY (Nominated): I thank you, Sir, for giving me this opportunity. I cannot rise above what is going on in this House, but I must declare in the opening statement that I spent all my life in the corporate sector; so, there may be a vested interest in what I say. It might be suspected, although I do not have any vested interest. I also must mention that when I was the Director of Reserve Bank of India, a Ganguly Committee was formed for corporate governance in the banking sector. The recommendations of the Committee were accepted and implemented in the private sector banks, but the Government of India has yet to have a code of corporate governance in the State sector of the bank. The hon. Minister for Company Affairs has succeeded a distinguished group of predecessors, as distinguished, if not more, and I must also compliment you, hon. Minister, your predecessors and your Department for having given the widest hearing and consultation that I am aware of any Bill receiving in recent times. Therefore, nobody can complain that there have not been wide-ranging discussions and debate. Not everything may have been agreed upon, but everything has been taken on board. ...**(Interruptions)**... Now, the point of the fact is, for several years, modernization of corporate rules and regulations are overdue. ...**(Interruptions)**... The new Companies Bill is attempting to fulfill it. It is a very commendable and is very timely. However,

there is one thing. We talk about auditors and we talk about audit. I think, one of the institutions which need to be modernized and really brought into the 21st Century is the auditing profession in India which, ...(Interruptions)... I don't think, should be allowed, in the name of professionalism, to be controlled by a closed group. Audit is an international system of checks and balances; it does not work well all the time. There are several audit standards internationally. But that does not mean that we should abandon an attempt to modernize and make our auditing profession competitive. I request you to really look into this far more seriously, because there will be lot of pressures from established groups in order not to permit this. ...(Interruptions)...

Secondly, Sir, I think, we must give even a bigger prominence to the role of Independent Directors. If you want checks and balances in the operations of a company, I underline and give in capital letters the word "Independent", then Independent Directors must enter into an official covenant while accepting the role of an Independent Director, in order to understand his or her responsibilities and obligations not only toward company, not only towards the shareholders, not only towards employees, but to society in general. ...(Interruptions)... Therefore, the quality of Independent Directors that we are seeking is not easy to get. I would seriously urge that definition Independent Directors proposed must not be an easy entry for those with a spare time in order to pass their time as Independent Directors. I think that is a very, very important role. ...(Interruptions)...

Now, we have to accept the fact that there is malfeasance in every section of society. And, therefore, the corporate sector cannot stand back and say that it is not true. ...(Interruptions)... But the corporate sector, either rightly or wrongly, receives far more blame than it possibly deserves all or is proportionately due to it. That is a different issue. However, we must make sure that in order to regulate handful of wrongdoers, we do not create such obstacles that would seriously not be in the interest of growth of industry and our economy.

I think we also need to pay a lot of attention – I think, somebody has mentioned it – in modernizing and acknowledging the role of the 21st Century trade unions. What role do they play? What is the place they have? What recognition they should get? And, what sort of modern bilateral negotiations should be done? What sort of conciliatory mechanism should be brought into it? That is also another important issue. That needs to be taken into consideration.

[Dr. Ashok S. Ganguly]

I don't want to talk about Corporate Social Responsibility, because, I believe, it an oxymoron. Either a corporation has social responsibility or it does not. It should be a belief that we can impose rules and regulations and that it will be followed. I think, it is something that we need to be tested. ...*(Interruptions)*... I am not going to comment on it. But, I must say that we are called 'law-makers.' And, when the rest of the public, including my own relatives and grandchildren, watch law-makers in action and we are trying to impose discipline on rest of the society, we must recognize that our credibility is hugely challenged. We cannot ignore the fact that we can behave anyway we want in the House and expect the rest of the society to be bound by rules that we create on their behalf. I am using this opportunity to share with you my deep anguish and am very hesitant to even pontificate on the Companies Act, because I ask myself – I don't ask anybody; I am not blaming anybody – have we still got the rights and responsibilities to preside over society's behaviour and should we not look into ourselves first before doing that...*(time-bell rings)*... I will take only one minute.

Finally, Sir, having passed the Act which I supported and having supporting this Bill which I am sure will go through, kindly let it not be an end point; kindly let it be a beginning point, so that we look at it, at least, once in two years in order to see whether all the provisions are still relevant or new provisions required or should we modernize them.

Thank you once again Mr. Deputy Chairman. I must thank you for the opportunity once again. Mr. Minister, thank you very much.

SHRI N.K. SINGH (Bihar): Sir, thank you Mr. Deputy Chairman.

I wish to compliment the hon. Minister for having taken the pains of what I consider to be a historic regulation to replace the Companies Act, 1956, in view of the altered economic and commercial milieu which now face India. ...*(Interruptions)*... Having said this, I have nine points to make for hon. Minister's consideration.

First, I want to make a point that the Parliamentary Standing Committee has recommended, based on the CAG's Report, that the Board of Directors should consider the implications of Government directives on the financial position of company. ...*(Interruptions)*... In my view, this is a very important suggestion which the CAG had made and which the Standing Committee has accepted. ...*(Interruptions)*... For instance, in the context of Government Directives for

disinvestment, unless the financial impact of Government's directives are really considered by the Board of Directors, this would be incomplete.

My second point really relates to the fact that the Bill provides Members of the existing Law Board must be made eligible to become Members of the NCLT. *...(Interruptions)...* However, the Parliamentary Standing Committee noted that the functioning of the CLB has been very unsatisfactory and, therefore, the Membership of the NCLT should be considered afresh.

My third concern is about the excessively delegated powers which are contained in this Bill. There are nearly over 100 matters on which rules have to be made and here the subordinate legislation becomes necessary. *...(Interruptions)...* The Standing Committee noted that, for instance, on rules to facilitate rotation of auditors, manner of selection of auditors, number of auditors and firms which can be undertaken, the definition of key management personnel, the qualification of Independent Directors, the contents of the prospectus should have been, Mr. Minister, included in the Bill instead of being left for subordinate legislation and rule-making.

My fourth point, Sir, is that the Bill does not have any provision of what may be called a Sun-Set Clause in terms of companies which have really structured themselves in accordance with the old regulation and when they transit to the requirements of the new law, the Bill should have provided or, at least, we should provide for a Sun-Set Clause to prevent dislocation or any transitional difficulties.

My fifth point relates to Corporate Social Responsibility. I must compliment the fact that this has now been made mandatory. This is a very satisfactory provision. *...(Interruptions)...* But, there is an escape Clause in this provision. For instance, it says, 'if company fails to meet the desired standards, it can provide reasons for it.' This really could be an escape clause for companies not meeting the necessary CSR requirements. Also, for instance, since the requirement of the CSR is based on the net-worth of turnover of a company, there is a risk that it could be reduced to an exercise of accounting. Also, for instance, since the requirement of the CSR is based on the net worth or the turnover of a company, there is a risk that it could be reduced to an exercise of accounting, or, for instance, that the net worth of a company may change from year to year. It is unclear how this will affect the responsibility to make the CSR spending, or, for instance, that the CSR Committee,

[Shri N.K. Singh]

which is mandatory now, does not have any provision for external auditing of the CSR Committee, which is to be appointed, since this is only advisory in nature to the company concerned.

Finally, I think on the CSR, the Minister might like to consider and clarify the tax treatment to CSR spending by companies whether it is to be treated as non-deductible income, since it is an allocation of profit, or, whether it is to be treated as an allowable expenditure under the Income-tax Act.

Sir, my sixth point is about regulatory overlaps and conflicts. There are several issues of regulatory overlaps and conflicts. For instance, on the prospectus of a company as prescribed under the Bill, Clause 26 says it is different from the listed requirements under SEBI (Issue of Capital and Disclosure Requirements) Regulations. There is also a difference in the interpretation and definition of what constitutes a "promoter".

So, I think there are several features, Sir, in which there are overlaps and there are discrepancies of what is contained in the Bill and what is contained in many other regulations, particularly, the SEBI Regulations.

Sir, my next point is on the impact of this Bill on Auditors. Whereas I welcome the fact that the limit of 20 has been imposed on the number of firms which an auditor or a partnership firm can undertake, nonetheless, Sir, issues like "investment advisory services", "investment banking services" and "management services" are not clearly defined and they impose limits on what an auditor firm can do.

My eighth point, Sir, is about the issue of Independent Directors. ...*(Interruptions)*... The Bill should consider aligning the definition of "Independent Director" in the Bill with the definition in the Listing Agreement under SEBI. Notably, Sir, the definition of an independent Director in the listing requirement also specifies a disqualification if a person has any material pecuniary relationships or transactions. On this issue, Sir, the definition, as contained in the SEBI is, perhaps, more rational and more comprehensive. ...*(Interruptions)*...

My next point, Sir, is about the consequences which will come on Directors of companies and on Independent Directors, namely, that the fiduciary function of a Director is not just to the company, but also to its employees, the shareholders and

the community or the environment as a whole. This, Sir, will be a serious handicap in companies being able to attract Independent Directors with this kind of debilitating restrictions and enlarging the fiduciary ambit of what Independent Directors should do.

Sir, my final point is about Clause 177, referred to as the whistleblower mechanism. It is pertinent for the Minister to note that the Whistleblowers Bill is on the anvil in the Parliament. How do we ensure that the provisions of the Whistleblowers Bill, which is to be enacted by Parliament, would be consistent with the Companies Law Bill which we are just about to consider and hopefully approve. ...*(Interruptions)*...

With these words, Sir, I would like to once again compliment the Minister for, particularly, the extent of diligence which he has shown and the extent of perseverance which he has shown in bringing this important, historic legislation. With these words, I support the contents of the Companies Bill, 2012, Sir.

SHRI RABINARAYAN MOHAPATRA (Odisha): Thank you, Sir, for giving me this opportunity to speak on the Companies Bill in this august House. Sir, at the outset, I would like to say that this is a very important period from national and international economic structure point of view when we are going to repeal the Companies Bill, 1956 and to enact a new legislation aiming at the changed national and international economic environment and to accelerate the economic growth of our country.

[THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA) in the Chair].

Sir, hon. Minister moved the Bill with 470 Clauses having 7 Schedules and introduced several new concepts like e-Governance to strengthen the corporate governance, making the concept of corporate social responsibility mandatory, enhanced accountability on the part of companies, audit accountability, empowering, Serious Fraud Investigation Office, including one woman director in the company, as pointed out in para-5 of the Statement of Objects and Reasons.

Sir, when our basic object is to accelerate the expansion and growth of our economy, in this context we should remember the words and idea of Gram Swarajaya of our beloved Mahatma Gandhi, the Father of the Nation. Our late Leader Shri Biju Patnaik's vision and conceptualization of Panchayat industries in 1960, a bird's eye

[Shri Rabinarayan Mohapatra]

view of relevant dimensions in India appears necessary. Sir, nations will prosper if villages prosper.

Sir, one of the new provisions of this Bill which has been proposed in Chapter-II, Sub-Section (c) of Section 3 is 'one person company' to recognize the essential role, which the knowledge industry will be playing in the future. But, the Bill does not take into consideration the profile of typical start-ups for developing country like India with a huge rural population; of which, by 2018, 50 per cent will be demanding jobs. The number of persons below 30 years, seeking jobs, will run into millions. So, the start-ups have to be created mainly from these job-seeking people in the rural areas. The country needs a definite answer. I hope, the hon. Minister will answer this and it should be contained in the Bill.

Sir, in my opinion, the answer lies in changing the provision of 'One Person Company' to one family or to one SHG entrepreneurship. Both categories will come under one generic category of 'micro Industries'.

Then, the Bill lays down the criteria for recognizing legally the individual entities taking care that paper work required is minimum as for illiterates; access to funding is provided through micro financing mechanism dedicated for each district of India without the need for collaterals; local resources and existing industrial possibilities at the village level, like food processing industries, khadi industries and mobile-based services, biotechnological products—all these are sustained by the Government.

Sir, the objective of the Bill would be to create the necessary and sufficient conditions for rural employment and opportunities for the young knowledge entrepreneurs in the shortest possible time within the constraint of shortages and infrastructure inadequacies to counterbalance and involving private partnership is a must.

My second submission is to accept the recommendation of the Standing Committee regarding public sector undertakings. Nothing should be made public to protect the PSUs who are going through major turbulence, which has not been included and it should be included in the Bill.

The Companies Bill dilutes the progressive intent of the producer company. There is a need to involve farmers as stakeholders in growth process by giving them access to technology and market in a first growing economy.

THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA): Mr. Mohapatra, please conclude, your time is over.

SHRI RABINARAYAN MOHAPATRA: Sir, I would like to touch corporate social responsibility component. I congratulate the Minister as the CSR is being made mandatory for the first timers too. I would like to know the definite definition of the profit of a company. That differs from one company to another company.

Sir, I come from Odisha State where vast mineral treasures and immense industrial potentialities have established its identity in international arena.

THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA): Please conclude.

SHRI RABINARAYAN MOHAPATRA: Sir, I am concluding. The companies are mining here and establishing plants there. ...*(Interruptions)*... But, instead of Odisha, they are doing their CSR activities in other States. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA): Mr. Mohapatra, your time is over. ...*(Interruptions)*...

SHRI RABINARAYAN MOHAPATRA: Sir, my next point is, 'implementation holds the key to its success'. For this purpose, the corporate and regulator would need to work together so as to tread a balance between freedom and regulation. I hope, the hon. Minister will clarify my above points. With this, I support the Bill. Thank you, Sir.

THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA): Now, Shri D. Raja. ...*(Interruptions)*...

DR. V. MAITREYAN: Sir, I think, I would request the Leader of the Opposition to make an appeal.

THE LEADER OF THE OPPOSITION (SHRI ARUN JAITLEY): Can we request the Government and if the Government is agreeable because our colleagues from the TDP have been agitated over some issues? Of three days, there is a weekend, on Monday, the issue of Telangana is already listed in the Business List; if, immediately after the Question Hour that subject is taken up, the Government can respond and, maybe, a satisfactory response comes.

SHRI RAJEEV SHUKLA: Sir, as the hon. Leader of the Opposition has urged the hon. Member to give up his stand right now, I would also appeal him to call it off right away.

THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA): It is three days now.

SHRI RAJEEV SHUKLA: On Monday, the issue of Telangana is already slotted, as no clarifications have been sought as yet, after the Home Minister's Statement. So, I would ensure that on Monday it is slotted in the Business, immediately after the Question Hour, maybe, as per the convenience of the Members. After that, definitely, I would request the Home Minister to make a statement by which, at least, the feelings can be addressed and assuaged.

THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA): That is fair enough. I request the hon. Member to go to his seat and resume his seat. ...*(Interruptions)*... Shri D. Raja.

SHRI D. RAJA (Tamil Nadu): Sir, the corporate sector has grown in our country. It has grown to the extent of dictating to the Government, influencing its policies. Shri Sachin Pilot is one of the young, articulate and talented Ministers in the Government. To face the corporate sector is a big challenge. I do not know whether his party will allow him to take up this challenge in the interest of the country. But he understands the emerging situation in the country. There is a need to regulate the corporate sector and discipline them in the interest of the nation. I hope the young Minister understands.

Sir, I would like to ask the Minister to clarify a few issues. Number one, what is the alignment between the Company Law Bill provisions and the Sebi Consultative Paper on Corporate Governance? While the Sebi Consultative Paper says that shareholder approval is needed for a company to divest its subsidiaries, I do not see there is any provision in the Company Law.

Number two, while there is a provision for appointing Minority Shareholder Director, there is no provision for workers' nominees on the Board. Such a practice is there in several countries. It has done good things in a country like Germany. What is the response of the Minister? Number three, Sir, the Nominee Directors of financial institutions are not considered to be Independent Directors under the Bill.

**4.00 P.M.**

If I am wrong, I stand to be corrected. They should be considered to be independent because they are not appointed by promoters. You can take the views from experts and you can clarify it. Sir, then I come to the question of Corporate Social Responsibility. It is good that the Government is proposing two per cent Corporate Social Responsibility Expenditure. But there is a problem as to how this is going to be monitored, how many corporate houses or companies will adhere to it, how they will spend this 2 per cent which has been mentioned in the Bill, what is the mechanism to monitor their budgets, etc. There, I think, not now, the Minister can revisit the issue of Social Corporate Responsibility. Now it is good that you are trying to make it part of the legislation and mandatory. But you can think of making it a cess payable to the Government because there is no real control over the Corporate Social Responsibility. I wish that should be controlled and the Government should think of this issue with all seriousness - not now, with an open mind whether it can be turned into a kind of cess payable to the Government. I am making this suggestion. Finally, Sir, there are some apprehensions with some non-banking financial institutions. Yes, there is a need to regulate many non-banking financial institutions. We have come across many incidents of cheating of our people. It does not confine itself to one State; maybe, it is there in several other States. At the same time, there are some apprehensions in the minds of these institutions. The Government will have to give some attention to their concern, if not now, in the coming days. So, I think the Minister understands the situation. I once again reiterate that the corporate sector needs to be disciplined and regulated because they have grown now. As I mentioned, they have grown to the extent of dictating to you, the Government are influencing your policies. These are all in public domain. ...*(Interruptions)*... These are all in public domain. ...*(Interruptions)*... These are all before the judiciary and there is nothing to hide. But how the Government is going to respond, whether this legislation alone is enough to control them, there the Minister will have to be very serious. I hope the young Minister, Mr. Sachin Pilot, who has brought the Bill in the House will be able to respond, take the House into confidence and clarify these issues. I am asking in the interest of the nation. That is all I wanted to say on this Bill. Thank you very much.

THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA): Shri Shantaram Naik – not present. Shri Piyush Goyal – not present. Shri Hishey Lachungpa.

SHRI HISHEY LACHUNGPA (Sikkim): Sir, with the permission of the Chair, I rise here to mention the serious objections which the State of Sikkim has to Section 1(ii) of the Companies Bill, 2012, extending the Act to the whole of India and, Section 465(1) repealing the Registration of Companies (Sikkim) Act, 1961, as these grossly infringe upon the special provisions contained in Clause (k) of Article 371F of the Constitution of India, which protects all laws in force in the State of Sikkim, at the time of its merger with the Union of India.

The necessity of consultation with the State Government, inherent under that Article, was not complied with nor views were sought for before the Bill was introduced.

Article 371F(k) reflects the solemn promises and assurances of the Union of India when Sikkim merged, by the will of the people, as its 22nd State. A repeal of a pre-merger law of Sikkim in this inconsiderate manner, without the State Government even being Consulted, is contrary to the solemn trust placed by the people of Sikkim when joining the Indian Union. Article 371F begins with a non-obstante clause: "Notwithstanding anything in this Constitution,- " . It follows that all other provisions of the constitution will yield to Article 371F to the extent to which they conflict with the Article.

In *State of Sikkim versus Surendra Prasad Sharma and Others* (1994) 5 SCC 282, the Hon'ble Supreme Court, while dealing with the spirit of Article 371F, has held as under, paragraph 23, "Effect must be given to the intendment of the said provision specially introduced in the Constitution to comply with the understanding on which Sikkim had agreed to merge with India...". Therefore, any action by the Centre or the Parliament, displacing the present circumstance, shall amount to gross infraction of the overriding provisions of Article 371F.

The proposed repeal of the Registration of Companies Act, 1961, has seriously been resented to by the people and this has the potential to disrupt the peaceful ambience prevailing in the State. Sikkim is a strategic Himalayan border State with three international borders where elements inimical to the Nation are constantly making efforts to create such a situation by fuelling discontent and resentment. All political parties in the State, both National and Regional, including the Ruling Party, are unanimous in their objections to it.

Additionally, apart from transgressing upon the federal structure of our

country, the provisions will also negate the very object of exempting the minuscule population of the 'Sikkimese' under Section 10 (26AAA) of the Income Tax Act, 1961, from its purview. For these reasons the Companies Act, 1956, has neither been extended nor been enforced in the State thus far.

The Sikkim Registration of Companies Act, 1961, was amended in 1989 to be "confined to the entries in List II (State List) of the Seventh Schedule to the Constitution of India". The legislative lists, in the Seventh Schedule, which allocate power to the Union and States exclusively, permit any State to have Corporate Laws for intra-State operations. It follows that the Union cannot repeal Sikkim's corporate legislation to the extent it operates within Sikkim. All local Companies in the State have so far been functioning under the local Act. This sudden change in the regulatory and legal framework will have an overwhelming impact on the existing businesses and will stifle the nascent-free enterprise in Sikkim. Article 371F cannot be read as divorced from the historical development before the merger, and a legislation which tries to cater to local needs is not *ipso facto* unreasonable. In *Saurabh Chaudri and Others versus Union of India and Others*: (2003) 11 SCC 146, the Supreme Court has held, paragraph 39, "Whereas larger interest of the country must be perceived, the lawmakers cannot shut their eyes to the local needs also. Such local needs must receive due consideration keeping in view the duties of the State contained in Articles 41 and 47 of the Constitution of India." I, therefore, strongly propose and request the hon. Minister that the Bill, in the larger interest of the Nation, the State and the Sikkimese people, and in direct (*Time-bell rings*) conflict with the spirit of article 371 F of the Constitution, be reconsidered and amended as below:

In clause 2 (67) (ix), on page 9, line 9 of the Bill "(ix) the Registration of Companies (Sikkim) Act, 1961;" be deleted. In clause 465(1), on page 231, lines 34 and 35, "...and the Registration of Companies (Sikkim) Act, 1961...." be deleted. In clause 465(3), on page 232, lines from 47 to 50, "The mention of particular matters in sub-section (2) shall not be held to prejudice the general application of Section 6 of the General Clauses Act, 1897, with regard to the effect of repeal of the repealed enactments as if the Registration of Companies (Sikkim) Act, 1961, were also a Central Act." be deleted.

I also propose that the consent of the State Government be taken into consideration. I also expect from the hon. Minister a specific reply in regard to the State of Sikkim. Thank you.

SHRI PIYUSH GOYAL (Maharashtra): Hon'ble Vice-Chairman, Sir, I apologise for not being there. But I was under the impression, after talking to you, that Shantaramji will be speaking before me. Please accept my apology. Sir, I thank you for having given me the opportunity to speak on this very important Bill, a Bill which we all have been waiting for about four years, and before that, for many more years when it was under preparation. वैसे तो इस बिल के बारे में मेरे मित्रों ने काफी कुछ कहा है, खासकर मेरे मित्र मणि शंकर अय्यर जी ने। उन्होंने इस बिल का स्वागत भी किया है और निन्दा भी की है। मुझे लगता है कि वास्तव में उनकी निन्दा के बाद इस बिल पर कहने के लिए, हम सब के पास ज्यादा कुछ नहीं बचता है, परन्तु इन सब विषयों को ध्यान में रखते हुए, मैंने अपने विषय थोड़े बदले हैं। श्री एन.के. सिंह जी ने काफी चीजें सदन के सामने रखी हैं। उन्होंने इस बिल में जो प्रावधानिक कमियां हैं, कमजोरियां हैं, उनसे सदन को अवगत कराया है। मैं श्री मणि शंकर जी की बात को आगे ले जाते हुए कुछ आर्थिक विषयों के बारे में कहूंगा और फिर अभी तक की चर्चा में इस बिल के जो प्रावधान नहीं आए हैं, उनके ऊपर सदन का ध्यान आकर्षित करूंगा। मणि शंकर जी ने कुछ चीजों पर इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स को बहुत क्रिटिसाइज किया है। अभी कुछ दिन पहले ही कुछ चार्टर्ड एकाउंटेंट्स मेरे पास आए थे। वे पूछ रहे थे कि आप कब तक सत्यम जैसे एक केस या दो केस के ऊपर हमारे प्रोफेशन की निन्दा करते रहेंगे? अगर कल को फिर उसी मापदंड से राजनीतिज्ञों के ऊपर जनता प्रहार करे कि आपके कितने राजनीतिज्ञों ने कितने गलत काम किए हैं और उनको क्या सजा हुई है? अगर उसी मापदंड पर ऑडिटर और चार्टर्ड एकाउंटेंट्स को खड़ा करना पड़े, उसी मापदंड पर राजनीतिज्ञों को, लॉयर्स को या बाकी और प्रोफेशनल्स को खड़ा करने की कोशिश करें, तो मेरे ख्याल से हम सब के लिए बड़ी तकलीफ की बात होगी और खासकर मणि शंकर जी के मित्रों के लिए बड़ी तकलीफ की बात होगी। मुझे लगता कि किसी भी प्रोफेशन को एक स्वीपिंग ब्रूम से कमेंट्स करने के बदले we will have to isolate the bad cases, the bad acts and the people who are serving the profession honourably and the people who are auditing 10 lakh companies. शायद मणि शंकर जी ने गर्मागर्मी में कह दिया कि 30 लाख बोगस कम्पनियां हैं। मुझे पता नहीं है कि उनको यह फिगर कहां से मिली है, लेकिन इस देश में तीस लाख कम्पनियां ही नहीं हैं, ये तो शायद उनके मन में हो सकती हैं। जिस देश में कम्पनियां ही दस-ग्यारह लाख हैं, तो उनमें से कुछ कम्पनियां जरूर बोगस होंगी, लेकिन...(व्यवधान)...

श्री मणि शंकर अय्यर (नाम-निर्देशित): तेरह लाख हैं, तीस लाख नहीं।

श्री पीयूष गोयल: चलो तेरह लाख तो इक्वली बैड है, क्योंकि कम्पनियां ही साढ़े दस, ग्यारह लाख हैं। तेरह लाख हों या तीस लाख हों, ये जरूर उनके मन में हैं। अगर ऐसी

कम्पनियां हैं तो मेरे ख्याल से इसकी जिम्मेदारी भी सरकार की है। इसकी जिम्मेदारी सरकार के डिपार्टमेंट/ विभागों की है कि उनके खिलाफ सख्त से सख्त कार्यवाही करे और उनको बाहर निकालकर उन प्रमोटर्स, डायरेक्टर्स के ऊपर कार्यवाही हो। श्री एन.के.बाबू ने एक चीज़ कही थी, जिसको मैं थोड़ा सा ठीक कर दूँ। इस सरकार ने 100 क्लॉज़ेज में नहीं, बल्कि 336 क्लॉज़ेज में यह प्रावधान रखा है कि वह उनको रूल्स द्वारा तय कर सके। मुझे लगता है कि अगर 336 क्लॉज़ेज के रूल्स द्वारा सबऑर्डिनेट लेजिस्लेशन तय होने हैं, तो चेयरमैन सर, उन्हें ये सभी सबऑर्डिनेट लेजिस्लेशन इस सदन में पेश करते रहने पड़ेंगे। इस सदन के मैम्बरान के द्वारा वह सब फिर से पढ़कर, अध्ययन करके, उस पर चर्चा हो सकती है, जो कि हमने पिछले दो-तीन सेशन में सबऑर्डिनेट लेजिस्लेशन पर देखी है। मुझे लगता है कि इस बिल को अमेंड करने का या इस बिल को एक नया रूप देने का जो परपज़ था, जिस प्रकार से सरकार के प्रतिनिधि बड़ी-बड़ी आवाज़ें करते थे कि हम पूरे कम्पनीज़ ऐक्ट को रीवैम्प कर रहे हैं, हम देश के सामने एक आधुनिक स्थिति को, इंटरनेशनल पैरामीटर्स को देखते हुए कम्पनीज़ ऐक्ट को एक नया आयाम दे रहे हैं, नई दिशा दे रहे हैं, मुझे लगता है कि *in the bureaucratic tussle or in the typical small mindset of a Government which does not have direction*, यह जो पूरा कानून बना है, *it is basically a rehash of the existing Companies Act; 336 provisions for rules* और साथ में लगभग 450 क्लॉज़ेज की वजह से कल को सरकारी अफसर किसी भी प्रमोटर, डायरेक्टर, ऑडिटर से कहेगा कि *ignorance of the law is no excuse*. यह तो देश का *accepted principle* है। *I can challenge the Minister, I can challenge every Government official in India and I can probably challenge myself and every other Chartered Accountant in India* कि ये देश के हरेक कानून के बारे में जानकारी रख सकें, देश के हरेक कानून का बिना कोई उल्लंघन करे, पूरा पालन कर सकें।

जो प्रेस्क़ाइड रूल्स होते हैं, वे तो और ज्यादा मुश्किल होते हैं। उनके बारे में तो बहुत आसानी से पब्लिक डोमेन में जानकारी भी नहीं मिलती है। मुझे लगता है कि अगर सरकार वास्तव में यह चाहती थी कि लोगों की समस्याएं कम हों, एक आसान और सरल कानून आए, एक कानून, जिसको इस सदन में एक नौजवान मंत्री पेश कर रहे हैं - वैसे तो इस सरकार में नौजवान मंत्री बहुत कम हैं, ये नौजवानों की बात बहुत करते हैं, लेकिन इन्होंने गिने-चुने नौजवानों को ही मौका दिया है, पर मुझे बड़ी प्रसन्नता है कि मेरे मित्र ने सदन में इस कानून को पेश करने में बहुत मेहनत की है। उन्होंने इसके ऊपर बड़े खुले दिल से लोक सभा के सुझावों को मद्देनज़र रखते हुए अमेंडमेन्ट्स किए हैं। मैं उस बात पर जरूर मंत्री जी की तारीफ़ करूंगा, लेकिन सरकार को यह चेतावनी भी दूंगा कि आप और युवा मंत्रियों को सामने लाएं, जो इस प्रकार के खुले दिल से देश की रणनीति और राजनीति को आगे लेकर जा सकें। मुझे समझ में नहीं आता कि सरकार की क्या मजबूरियाँ हैं कि वह एक या दो नौजवान मंत्रियों को ही आगे लेकर आती है।

[श्री पीयूष गोयल]

आर्थिक स्थिति पर तो बड़ी गंभीर समस्याएँ हैं। हम जानते हैं कि देश की स्थिति बिगड़ रही है। जब बिगड़ती हुई स्थिति का सामना करना हो, तो आप कानून को सरल बनाएं, लोगों को प्रोत्साहन दें कि वे देश में आकर निवेश करें, देश में आकर व्यापार करें। मैं जानना चाहता हूँ कि हमारा वह तौर-तरीका ठीक रहेगा या इस सरकार के हिसाब से इतना ज्यादा कॉम्प्लिकेटेड कर दो, इतनी ज्यादा मुश्किलों का सामना ले आओ कि इस देश में कोई भला आदमी भी धंधा, व्यापार न कर सके और कंपनियाँ भी कोई बिजनेस और कॉर्पोरेट एक्टिविटीज न चला सकें, वाला तरीका ठीक रहेगा? मैं समझता हूँ कि मेरे मंत्री मित्र की एक जिम्मेदारी है कि वे कानून और कानून के प्रावधानों को सरल बनाने के ऊपर ध्यान दें और हो सके तो देश के सामने जो समस्याएँ हैं, उनको लिप सिम्पली देने की बजाय वास्तव में सरकार और उसके डिपार्टमेंट्स कुछ ऐसे ठोस कदम उठाएँ जिससे फिस्कल डेफिसिट, करंट अकाउंट डेफिसिट, महंगाई, ब्याज की दरें, *falling industrial index of industrial production* हो। *Manufacturing, services और agriculture*, ये तीनों, जो इस देश में कभी भी एक साथ नहीं गिरे, जो पहली बार इतने स्ट्रेस्ड हैं, सरकार इन सब के ऊपर ध्यान दे। यह सरकार सिर्फ नया कानून लाने, नये कानून में और ज्यादा कॉम्प्लिकेशन्स, नये प्रावधानों को करने की बजाय "ease of doing business" पर फोकस करे। ...*(Time-bell rings)*... Sir, but I have enough time. What is the hurry? Sir, just look at the watch! ...*(Interruptions)*... I am the last speaker from my Party.

श्री वी.पी.सिंह बदनौर (राजस्थान): और कोई नहीं है।

THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA): You are the last speaker. But we have other Business for the day.

SHRI PIYUSH GOYAL: Well, I have a lot of issues. This is my subject, Sir. ...*(Interruptions)*...

उपसभाध्यक्ष (श्री भुवनेश्वर कालिता): आपके दो स्पीकर्स और हैं।

श्रीमती माया सिंह (मध्य प्रदेश): हमारा और कोई सदस्य बोलने वाला नहीं है। पार्टी का टाइम काफी बचा हुआ है।

श्री पीयूष गोयल: मुझे लगता है कि मैंने मित्र मंत्री की थोड़ी तारीफ कर दी, ऑनरेबल चेयर को शायद वह पसन्द नहीं आया, इसलिए अब मैं तारीफ कम करूँगा और थोड़ा उनकी आलोचना पर लगता हूँ। श्री एन.के. सिंह साहब ने कुछ विषय सदन के सामने रखे, मैं पूरी तरह से उनका समर्थन करता हूँ। उन्होंने नौ विषय रखे। अभी मैं उनसे कह रहा था कि मेरे विषय तो आपने ही रख दिए और मुझे भाग कर बाहर जाना पड़ा कि जल्दी से जा कर देखूँ कि और क्या विषय मैं उठा सकता हूँ। उनके द्वारा उठाए गए विषयों का समर्थन करते हुए मैं कुछ और चीज़ों की ओर सदन और सरकार का ध्यान दिलाना चाहूँगा।

लिस्टिड कम्पनीज़ के बारे में जो श्री एन.के. सिंह साहब ने कहा, वह बहुत जरूरी विषय है। मंत्री जी इस पर ध्यान दें, क्योंकि अब जिस प्रकार से कानून में लिखा गया है, उसके हिसाब से जो भी लिस्टिड कम्पनी के अंतर्गत आ जाता है, वे कोई भी बॉण्ड इश्यू करें, that is debt instrument. चूंकि सेक्योरिटी की डेफिनेशन में काफी कुछ आ जाता है, इसलिए मुझे लगता है इसे बहुत गहराई से समझने और देखने की आवश्यकता है।

कई मैम्बर्स ने सीएसआर का विषय उठाया है। व्यक्तिगत तौर पर मेरा यह मानना है कि सीएसआर या समाज सेवा की जो भावना है, वह दिल से होती है, कानून से नहीं होती। हमारी स्टैंडिंग कमेटी में भी यह सबजेक्ट आया था, लेकिन पंचों की राय थी कि सीएसआर को कानून में लाया जाए, इसलिए हम सब उसको स्वीकार करते हैं। हालांकि यह एक अच्छा प्रावधान है, लेकिन इस प्रावधान का उल्लंघन करने पर कोई सजा नहीं है। इस तरह तो एक तरीके से सरकार ने लोगों को गलत रास्ता दिखाया है। इसमें कहा गया है कि हर कम्पनी को उनके नेट प्रॉफिट का 2% सीएसआर करना पड़ेगा। आप यह प्रावधान तो लाए हैं, लेकिन अगर कोई कम्पनी इस प्रावधान का उल्लंघन करती है, तो उसके ऊपर कोई सजा नहीं है।

[MR. DEPUTY CHAIRMAN in the Chair].

उसको सिर्फ सेक्शन 134 सब-सेक्शन (3) क्लॉज़ (ओ) द्वारा कारण देने पड़ेंगे कि वे क्यों सीएसआर का पालन नहीं कर पाए। एक बार वे कारण दे देते हैं, उसके बाद उनके ऊपर कोई कार्यवाही नहीं की जाएगी। मैं मंत्री महोदय से अपील करूंगा कि अगर सीएसआर लागू करने के लिए इस सरकार की नीयत सही है, तो इस प्रावधान के अन्दर कुछ न कुछ सुधार की जरूर आवश्यकता है। जैसे एग्रीकल्चर लेंडिंग में होता है कि अगर आप एग्रीकल्चर लेंडिंग कम करते हैं तो वह पैसा आपको "नाबार्ड" के पास देना पड़ता है, वैसे ही अगर सीएसआर कम हो, तो वह पैसा भी जब्त हो या प्रधान मंत्री रिलीफ फंड में जाए या कुछ और प्लान किया जाए कि एक, दो या तीन साल के अन्दर वह पैसा खर्च होना चाहिए। इस तरह इसमें कुछ सुधार किया जाना चाहिए।

एक विषय "number of audits" के ऊपर काफी बार डिस्कस हुआ है, लेकिन मुझे खुशी है कि सरकार ने उसे करेक्ट कर दिया है और उसको "as prescribed" कर दिया है। मैं चाहूंगा कि सरकार इस बात पर गौर करे कि इस देश में इतने प्रेक्टिसिंग चार्टर्ड एकाउंटेंट्स हैं ही नहीं जो 10-11 लाख कम्पनीज़ का ऑडिट कर सकें। अगर सिर्फ 20 का प्रावधान रखते हैं, तब भी ठीक रहेगा। मुझे लगता है कि पब्लिक लिमिटेड कम्पनीज़ के लिए इसकी लिमिट रखना आवश्यक रहेगा, जिससे नये चार्टर्ड एकाउंटेंट्स और नये ऑडिटर्स को भी मौका मिल सके।

एक चीज़ मैं और कहना चाहूंगा, सरकार ने क्लॉज़ 145, सैकेंड प्रोवीज़ो में ऑडिटर्स के ऊपर कुछ हार्श पैनल्टीज़ रखी हैं या क्लॉज़ 447 की पैनल्टीज़ एप्लाइ की हैं, यह ठीक

[श्री पीयूष गोयल]

नहीं है। इससे होगा यह कि अगर एक ऑडिटर गलत हो, उसके गलत काम के लिए पूरी फर्म के ऊपर जिम्मेदारी आएगी। **How can the whole firm be held responsible for the acts of one person?** मुझे लगता है कि इसके ऊपर थोड़ी क्लैरिटी की आवश्यकता है ताकि पूरी फर्म के ऊपर नहीं, मगर जिस ऑडिटर ने गलत काम किया है, फ़ॉड किया है, मिसफीसेंस किया है या गलत काम किया है, उसके ऊपर इसकी पूरी पैनल्टी लगे और सख्त से सख्त कार्यवाही हो। उस पर तो सख्त से सख्त पैनल्टी, फाइन, इम्प्रिज़नमेंट लगे, लेकिन पूरी ऑडिट फर्म को उसकी सजा नहीं दी जानी चाहिए क्योंकि ऐसा सम्भव नहीं है हर इन्सान की लाइबिलिटी दूसरे के ऊपर डाली जा सके।

इसी तरीके से क्लॉज़ 245 (1) (g) में, **"inclusion of Auditor in class action suits"** प्रोवाइड किया गया है। अब आप एक्सपर्ट्स, एडवाइज़र्स, कन्सल्टेंट्स, हर किसी को **"class-action suits"** में ले आएंगे, तो कहीं भी कुछ लोग इकट्ठे हो करके किसी भी प्रकार के वेस्टिड इंटरैस्ट पर इनको खींच सकते हैं। ऐसे तो हरेक व्यक्ति इतना केयरफुल हो जाएगा और इतने कैविएट्स डालेगा, अपनी रिपोर्ट में इतने ज्यादा एक्सक्लूज़न्स डालेगा कि उस रिपोर्ट की वैल्यू ही खत्म हो जाएगी। मुझे लगता है कि अगर आप यह महसूस करते हैं कि कम्पनीज़ के कामकाज में एक्सपर्ट्स, ऑडिटर्स, कंसल्टेंट्स और एडवाइज़र्स की आवश्यकता नहीं है, तो आप खुले दिल से कहिए, लेकिन अगर उनकी आवश्यकता है, तो उनके भी इंटरैस्ट को प्रोटेक्ट करना पड़ेगा, नहीं तो खर्च बहुत बढ़ जाएंगे। अगर वह प्रोबिटी को एकदम डिटेल में ले जाए **that you may find audit cost to shoot up in companies** या आपको उसमें कुछ सावधानी बरतनी पड़ेगी कि जो **miscreants with mala fide intention** हैं, उनके ऊपर कितनी पेनल्टी होगी और टेक्निकल लैप्सेज़ के ऊपर क्या होगा।

245(7) में **frivolous and vexatious litigation** का प्रावधान है। मुझे लगता है कि जो **frivolous and vexatious litigation** करते हैं, उनके ऊपर जो कार्रवाई या फाइन का प्रावधान है, उसको बढ़ाने की आवश्यकता है तथा उनके ऊपर और ज्यादा सख्ती करने की आवश्यकता है। नहीं तो, एक तरीके से कानून कई बार ब्लैकमेल का टूल बन जाता है। यह ब्लैकमेल का टूल न बने। **When it is adjudicated that the person has done, has committed, or, has filed a case with bad intention**, तो मुझे लगता है कि उसके ऊपर जो कार्रवाई है, उसको भी बढ़ाने की सख्त जरूरत है।

सर, एक क्लॉज़ 67 है। क्लॉज़ 67 में **leveraged buyout** को अलाऊ नहीं किया गया है। सरकार कहती है कि हम मॉडर्न दुनिया में अपने आपको इंटीग्रेट करना चाहते हैं। पूरी दुनिया में **leveraged buyout** का प्रावधान है। मुझे समझ में नहीं आता कि भारत में क्या कठिनाईयां हैं और हम **leveraged buyout** से क्यों डरते हैं। मैं समझता हूँ कि मंत्री जी खुद दुनिया में काम कर चुके हैं। वे विदेशों के कानून को जानते हैं। वे इस **leveraged buyout** के ऊपर जरूर ध्यान देंगे।

सर, एक बड़ा अजीब-सा क्लॉज़ है, जिसके बारे में मुझे लगता है कि ड्राफ्टिंग स्टेज पर कोई गलती हो गई है। यह क्लॉज़ 167(1) है—*Vacation of office of Director. Provision in the law is that a Director will have to vacate his office, अगर किसी कोर्ट ने उनको किसी ऑफिस में कंविक्ट किया है, involving moral turpitude or otherwise and sentenced to imprisonment for not less than six months, तो such Director has to vacate office even if an appeal is filed against such order.* यदि वह डायरेक्टर एक सिटिंग डायरेक्टर है, अगर उसके ऊपर केस हुआ और वह अपील करे तो भी उसको ऑफिस छोड़ना पड़ेगा। लेकिन, जो दूसरा प्रोविजन है, *clause 164(3) which deals with appointment of a Director ab initio, new appointment.* उसमें अगर डायरेक्टर किसी कानून के तहत फँसा हो और उसके ऊपर कन्विक्शन हो, जिसमें उसके ऊपर छः महीने से अधिक के इंप्रिजनमेंट का वर्डिक्ट हो और वह अपील में जाए, तो वह डायरेक्टर बन सकता है। मुझे यह समझ में नहीं आया कि इसका लॉजिक क्या है। शायद मंत्री जी को अभी तक किसी ने यह नहीं बताया होगा, लेकिन इसका यह मतलब हुआ कि मैं जब नया डायरेक्टर अप्वायंट होता हूँ, तब मैं अगर अपील में गया हुआ हूँ, तो यह चलेगा, लेकिन अगर मैं सिटिंग डायरेक्टर हूँ, तो अगर मैं अपील भी करूँ, तो वह नहीं चलेगा और मुझे पद छोड़ना पड़ेगा। मुझे लगता है कि ड्राफ्टिंग में यह एनोमली रह गई है या कोई गलती हुई है, जिसे मंत्री महोदय ठीक करें, तो अच्छा रहेगा।

ये ESOPs के ऊपर पाबंदी लाए हैं कि इंडिपेंडेंट डायरेक्टर्स को ESOPs नहीं दिए जाएँगे। यह भी मुझे समझ नहीं आया कि आप इंडिपेंडेंट डायरेक्टर्स को ESOPs क्यों नहीं देना चाहते हैं। मेरे मित्र गांगुली साहब ने अभी-अभी बताया कि इंडिपेंडेंट डायरेक्टर्स के ऊपर आपने इतनी ज्यादा रेस्ट्रिक्शंस डाल दी हैं, इतने ज्यादा डरावने क्लॉजेज़ डाल दिए हैं कि लोग इंडिपेंडेंट डायरेक्टर्स बनना नहीं चाहते हैं। वे इंडिपेंडेंट डायरेक्टर्स बनने से कतराते हैं। उन्हें भरोसा नहीं है कि आंध्र प्रदेश सरकार कब इंडिपेंडेंट डायरेक्टर्स के ऊपर प्रहार करे या किसी भी राज्य की सरकार कब इंडिपेंडेंट डायरेक्टर्स पर प्रहार करे और उनको देश से बाहर भाग कर जाना पड़े। इंडिपेंडेंट डायरेक्टर्स अपना खुद का समय बिना रिम्यूनरेशन या छोटे-मोटे रिम्यूनरेशन के लिए कम्पनीज़ में देते हैं। अगर उनको ESOPs मिले और उनका स्टेक कम्पनी में हो, तो मुझे लगता है कि और ज्यादा अच्छे तरीके से वे अपनी ड्यूटीज़ का निर्वहन कर सकेंगे। इसलिए, मुझे लगता है कि क्लॉज़ 197(7) में ESOPs का जो प्रोहिबिशन है, इसके ऊपर सरकार पुनः विचार करे, इसको ठीक करे और उनको भी कुछ-न-कुछ कम्पेंसेशन दिया जाए, जैसे विदेश में ESOPs द्वारा उनकी फीस 25 प्रतिशत देने के प्रावधान हैं, वैसे ही भारत में भी कुछ-न-कुछ लाने की आवश्यकता है। सर, क्लॉज़ 131, रिबीजन ऑफ़ एकाउंट्स से संबंधित है। मुझे लगता है कि यह थोड़ा डेंजरस क्लॉज़ है। उसमें जरूर कुछ रिस्ट्रिक्शंस हैं कि ट्राइब्यूनल की रिक्वायरमेंट है कि ट्राइब्यूनल की परमीशन ली जाए। मुझे लगता है कि सरकार इस पर थोड़ा और ध्यान दे। *Revision of accounts can be a very dangerous possibility* और कई कंपनियां जो किसी गलत काम में पकड़ी

[श्री पीयूष गोयल]

गई, वे उस गलत काम को छुपाने के लिए अकाउन्ट्स की रिवीजन कर सकती हैं और फिर इन्वेस्टिगेशन एजेंसी को कह सकती हैं कि देखो, हमने अकाउन्ट रिवाइज कर दिया, हमारे ध्यान में आया, हमने ठीक कर दिया। मुझे लगता है कि इसके ऊपर सरकार को जरूर ध्यान देना चाहिए कि रिवीजन में क्या-क्या प्रावधान रहेंगे और कितनी सख्ती से और कितने rarest of rare cases में यह रिवीजन एलाऊ होगा। ...(समय की घंटी)... Sir, if I am talking out of context, and, if my time is over, I am happy to sit down.

MR. DEPUTY CHAIRMAN: No, no. You are making very valid points.

SHRI PIYUSH GOYAL: Thank you, Sir.

श्रीमती माया सिंह: सर, इनको बोलने दीजिए। ..(व्यवधान)...

MR. DEPUTY CHAIRMAN: But, please try to conclude also. The point is that tomorrow being a holiday, everybody has to go early. So, we have to adjourn the House at 5 p.m. That is the decision taken already. This Bill has to be passed, and, that is why, you have been requested to conclude. ...(व्यवधान)...

श्री पीयूष गोयल: सर, मैं चेयर से समझना चाहता हूँ कि जनता की बातें हम सदन में रखें या जल्दबाजी में बिल पास करें। अगर जल्दबाजी में बिल पास करना है, तो चलिए हम सब बैठ जाते हैं।...(व्यवधान)...

श्री उपसभापति: नहीं, नहीं, ऐसी बात नहीं है। ...(व्यवधान)...

श्री पीयूष गोयल: अगर जनता की बात सदन में नहीं रखेंगे ...(व्यवधान)...

श्री उपसभापति: ठीक है, you have seven minutes. If you want to speak, you can do so. I only made a request. A request is only a request, not an order.

श्री पीयूष गोयल: सर, सरकार की जो नीयत है कि हर बॉडी के ऊपर सरकारी नियंत्रण बढ़े और जो इंडिपेन्डेंट बॉडीज़ हैं, जैसे Institute of Chartered Accountants हैं, Institute of Company Secretaries है, दूसरी तरफ देखें तो मेडिकल काउंसिल है, सरकार ने हरेक बॉडी के ऊपर, आर्किटेक्ट्स के ऊपर, यह प्रहार किया था। इस सरकार की नीयत हमने पिछले कई वर्षों में देखी है कि यह हरेक इंडिपेन्डेंट बॉडी पर अटैक करती है। ये उनकी इंडिपेन्डेंस खत्म करना चाहते हैं और हरेक चीज सरकारी अफसर के पास सेंट्रलाइज़ करने की इनकी पूरी कोशिश रहती है। इस बिल में भी ये एक NFRA - National Financial Reporting Authority का प्रावधान लाए हैं। क्या यह अथॉरिटी 11 लाख कंपनियों को कंट्रोल कर पाएगी? क्या 11 लाख कंपनियों का जो काम है, उसमें एकाउंटिंग स्टैंडर्डज़ सैटअप करना, उनमें ऑडिटर्स के खिलाफ डिसिप्लिनरी ऐक्शन लेना, पियर रिव्यू करना, ये सब काम जो बड़ी खूबी से ये इंस्टीट्यूट्स कर रहे थे, यह सरकार चाहती है कि ये सारे काम सरकारी बाबू

के हाथ में, सरकारी मुलाजिम के हाथ में दे दिये जाएं। मैं समझता हूँ कि यह मनोवृत्ति बड़ी गलत है। सरकार को इंडिपेन्डेंट बॉडीज़ पर प्रहार करना बंद करना चाहिए और एनएफआरए टाइप एथोरिटी को डाइल्यूट करके ये इंडिपेंडेंट बॉडीज़ जो अब तक अच्छे तरीके से काम कर रही हैं, उनमें सरकारी ऑफिसर अपना रोल प्ले कर सकते हैं।

इन्होंने 141(1) में प्रोवाइड किया है, *Firms where majority partners are Chartered Accountants can be auditors.* Again, it is a very dangerous provision, Sir. You can have foreign companies; you can have companies where majority, either in number or percentage, will be held by non-Chartered Accountants becoming auditors. So, this is a backdoor entry to foreign companies. I think, they should either specify what they mean by majority. Is it by the percentage of ownership, economic interest, shareholding or number of partners? How do they decide majority? और क्या यह प्रावधान अच्छा है, जिसमें *non-Chartered Accountants partners* वाली फर्म भी ऑडिटर बन सकती हैं। *Of course, relatives* की डेफिनेशन में भी मुझे ऐसा लगता है कि इसमें फाइनेंशियली डिपेंडेंट रिलेटिव जैसा कुछ लाएं, तो ज्यादा अच्छा रहेगा और इसी तरह आर्म्स लेंथ ट्रांजेक्शंस जो होती हैं, उनको इस कानून के अंतर्गत लाकर, मुझे लगता है कि आप बहुत ज्यादा रिस्ट्रिक्शंस ला रहे हैं। सर, एक विषय श्री एन.के. सिंह ने रेज़ किया था कि जो प्रोहिबिटेड सर्विसिज़ हैं, उनके बारे में सरकार को थोड़ा और ज्यादा विस्तार में समझाना चाहिए कि प्रोहिबिटेड सर्विसिज़ क्या हैं और क्या सर्विसिज़ अलाउड हैं। अभी जिस प्रकार के कानून बने हैं, उनमें स्वीपिंग स्टेटमेंट्स हैं, ऐसे स्वीपिंग स्टेटमेंट्स कि कुछ भी परमिटेड नहीं हैं। कई बार सरकार भी कुछ चीज़ें इन्सिस्ट करती है कि वे ऑडिटर्स के माध्यम से आनी चाहिए, तो मुझे लगता है कि इसमें और क्लैरिटी की आवश्यकता है। यह सरकार जरूर कोशिश करती है कि हरेक चीज़ रिट्रोस्पेक्टिवली अमेंड करे और रिट्रोस्पेक्टिव अमेंडमेंट के चक्कर में इस सरकार ने देश के ऊपर जो आर्थिक संकट डाला है, उसमें हमने पूरी दुनिया के सामने यह देख लिया है कि दो साल से क्या मुसीबतें आयी हैं। अब रोटेशन ऑफ़ डायरेक्टर्स में भी हमें पता नहीं कि यह प्रोस्पेक्टिवली अप्लाई होगा या रिट्रोस्पेक्टिवली। मैं चाहूँगा कि मंत्री जी हमें इस बात से थोड़ा अवगत कराएँ कि यह प्रोस्पेक्टिव है या रिट्रोस्पेक्टिव।

ऑडिटिंग स्टैंडर्ड्स के ऊपर इतने ज्यादा अंकुश लगाए गए हैं, इतने ज्यादा कंट्रोलस लगाए गए हैं कि कल जज़ेज को भी बोलना पड़ेगा कि आप ऑर्डर कैसे लिखो। ...**(समय की घंटी)**... आखिर *auditor performs to the best of his ability and with a lot of independence.*

MR. DEPUTY CHAIRMAN: Only two minutes are left. Please conclude.

**श्री पीयूष गोयल:** सर, मुझे लगता है कि ऑडिटर्स की इंडिपेंडेंस पर सरकार को अटैक

[श्री पीयूष गोयल]

नहीं करना चाहिए। ऑडिटर्स का यह डिस्क्रिशन है कि वह कितना ज्यादा ऑडिट करे, रैंडम सैमप्लिंग कैसे हो, रिपोर्ट पर क्या लिखे और क्या न लिखे और यह स्टैंडर्ड्स लाए कि क्या-क्या सबजेक्ट्स कवर होंगे तो मुझे लगता है कि जैसे जज़ेज को जज़मेंट लिखने की फ्रीडम है, वैसे ही ऑडिटर्स को यह फ्रीडम रहे कि वह ऑडिट रिपोर्ट में क्या कवर करें **as long as it covers all the requirements of law. Of course**, जो फ्रॉड के क्लॉज़ेज हैं, उसमें आपको कोई नहीं रोकेगा। जो भी ऑडिटर या चार्टर्ड एकाउंटेंट फ्रॉड करे, उसके ऊपर आप एकदम सख्ती से प्रहार करें, लेकिन वह फ्रॉड उसकी ड्यूटीज़ में होना चाहिए, उसने ऑडिट का जो काम किया है, उसमें वह फ्रॉड होना चाहिए। **If he is found to have conducted himself with due diligence, if he is found to have exercised due respect for the law and took care**, तो मुझे लगता है कि उसके ऊपर फ्रॉड की लाइबिलिटी नहीं आनी चाहिए।

MR. DEPUTY CHAIRMAN: Please conclude.

**श्री पीयूष गोयल:** मेरे ख्याल से सरकार एक अच्छा क़ानून ला सकती थी, अगर इसको इतना बड़ा और इतने विस्तार में न लाती। अगर यह सरकार इसको सिम्पलिफ़ाई करने की कोशिश करती, तो मुझे लगता है कि यह क़ानून और ज्यादा देश के हित में होता और विदेशी मुद्रा को और अच्छे तरीके से अट्रैक्ट करता।

मैं अभी भी ऑनरेबल मिनिस्टर से यह अर्ज करूंगा कि आज तो हम इस क़ानून का समर्थन करेंगे और इसे पास करेंगे, लेकिन वे इस क़ानून को एक बार फिर गहराई से देख कर इन रूल्स में जितनी ज्यादा सिम्पलिफिकेशन कर सकें, करें ताकि देश की जनता की सहायता हो और यह क़ानून देश की जनता को इन्वेस्ट करने के लिए एनकरेज़ करे। इस पर ऑनरेबल मिनिस्टर जरूर फोकस करें, ऐसी मेरी दरखास्त है। थैंक्यू।

MR. DEPUTY CHAIRMAN: Mr. Anil Desai, your name came very late. I am not able to accommodate you. But if you take only two minutes, I can give you two minutes.

SHRI ANIL DESAI (Maharashtra): Sir, even if I spell out the Companies Law or the Companies Act, 1956, two minutes will be over. I will just restrict myself to minimum of things.

MR. DEPUTY CHAIRMAN: Two minutes.

SHRI ANIL DESAI: Deliberation has taken place at a very good level. All of us know that the Companies Bill, 2011 was due all along. A lot of research has been conducted on it right from the Companies Act, 1956 and how it came into force. The Bhabha Committee did this work. And now a Comprehensive Act is being

enacted. I congratulate the Minister on this and his predecessors too for doing yeoman service. The Standing Committee had recommended around 193 recommendations and most of the recommendations have become part of this Bill. Over the past 50 years, many things have changed, including the way MNCs and companies have been formed. The country has progressed. A lot of development has taken place. The corporate freedom was needed. On that, checks and balances in the form of regulatory authorities and their responsibilities are also contained in this Bill. I would not go into the details of that. The Bill certainly is a very voluminous one. As Mr. Piyush Goyal has said, it needs to be simplified. If you look at the wordings and the jargons which have been used, it looks very complicated. It should be simplified. The terms which have been given like OPC, that is, One Person Company, the clarity needs to come out of that. Then, on the Key Managerial Personnel (KMP), more light needs to be thrown on that because it plays a vital role in the company affairs. Regarding the Auditors' appointment as well as Auditors responsibility is a very vital and a very major aspect of the Bill. It signifies the health of a company. It has ramifications in the society also. After all when the company is formed and the industry comes up, it is made up of the poor people, common people and wise workmen. It goes down to the society. The auditor's role is very important in spite of the restrictions or reforms that you may take up. Beyond that they play a very responsible role towards the society. That needs to be seen. *(Time-bell rings)* I really appreciate the provision for the Woman Director. It is a laudable thing.

MR. DEPUTY CHAIRMAN: That is all. Please conclude.

SHRI ANIL DESAI: Regarding Independent Directors, their expertise and their remuneration have been mentioned. These things are necessary. ...*(Time-bell rings)*... Last point I will make. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: You took full time. You did not leave any time for him.

SHRI ANIL DESAI: Regarding CSR, two per cent of the expenditure is made compulsory and mandatory to be spent. The escape route and loophole are also given that if any company is not able to do that, then, in their financial report they can come out with a special statement specifying why they were not able to spend. I think this should be made compulsory. As my hon. colleague, Mr N.K. Singh, has said on the network..

MR. DEPUTY CHAIRMAN: Please conclude. Message from Lok Sabha. ...*(Interruptions)*... Nothing is going on record. Take your seat.

SHRI ANIL DESAI:\*

MR. DEPUTY CHAIRMAN: Mr. Anil, it is not going on record. You took four minutes instead of two minutes. You have given your name very late. If you wanted to speak for more time, you could have given your name in time. It is not possible to accommodate. I have to pass the Bill by 5.00 p.m. Sit down. Now, Message from Lok Sabha.

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#### MESSAGES FROM LOK SABHA

##### **The Securities and Exchange Board of India (Amendment) Bill, 2013**

SECRETARY-GENERAL: Sir, I have to report to the House the following message received from the Lok Sabha, signed by the Secretary-General of the Lok Sabha:—

"I am directed to inform you that Lok Sabha, at its sitting held on Thursday, the 8th August, 2013, adopted the following motion in regard to the Securities and Exchange Board of India (Amendment) Bill, 2013, which was passed by Rajya Sabha on the 11th March, 2013 and laid on the Table of Lok Sabha on the 12th March, 2013:—

##### **Motion**

"That this House recommends to Rajya Sabha that Rajya Sabha do agree to leave being granted by this House to withdraw the Bill further to amend the Securities and Exchange Board of India Act, 1992, which was passed by Rajya Sabha on the 11th March, 2013 and laid on the Table of this House on the 12th March, 2013."

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#### GOVERNMENT BILLS

##### **The Companies Bill, 2012 - (Contd.)**

MR. DEPUTY CHAIRMAN: Dr. Prabha Thakur, you could have given your name before starting the discussion on the Bill. Now, it is not possible. Now, the Minister will reply.

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\*Not recorded.