

MR. DEPUTY CHAIRMAN: Shrimati Nirmala Sitharaman to move the Industries (Development and regulation) Amendment Bill, 2015.

The Industries (Development and Regulation) Amendment Bill, 2015

THE MINISTER OF STATE OF THE MINISTRY OF COMMERCE AND INDUSTRY (SHRIMATI NIRMALA SITHARAMAN): Mr. Deputy Chairman, Sir, I move:

That the Bill further to amend the Industries (Development and Regulation) Act, 1951, as passed by Lok Sabha, be taken into consideration.

The question was proposed.

श्री नीरज शेखर (उत्तर प्रदेश): सर, मैं एक चीज़ कहना चाहता हूँ। आपको शायद कुछ कन्फ्यूजन होता है। मैं संजीव कुमार नहीं हूँ, नीरज शेखर हूँ। संजीव कुमार जी यहां बैठते हैं।

श्री उपसभापति: ठीक है, sorry ...(व्यवधान)... One more addition to the list. अभी तो पांच हो गए हैं। ...(व्यवधान)...

SOME HON. MEMBERS: Sir, please take it up tomorrow.

श्री नीरज शेखर: सर, इसे कल लीजिए। ...(व्यवधान)... सर, सदन में कोई नहीं है, फिर भी बिल लिया जा रहा है।

MR. DEPUTY CHAIRMAN: She has already moved it. उन्होंने मूव कर दिया है। Shri Ananda Bhaskar Rapolu. Are you speaking? Otherwise, I will call the next speaker, Mr. Rangasayee Ramakrishna.

SHRI ANANDA BHASKAR RAPOLU (Talangana): I am speaking.

MR. DEPUTY CHAIRMAN: Then, you speak.

SHRI ANANDA BHASKAR RAPOLU: Respected Deputy Chairman, Sir, in this environment of decreasing business confidence, lowering industrial production and lowering manufacturing in India, we are going to have a small amendment to the beautiful piece of 1951, the Industries (Development and Regulation) Act. In that Act, in the First Schedule, at the heading of the 26, keeping the times and the industrial process of the times in view, 'fermentation industries' was mentioned. As the times grew, as the law is evolutionary and the industrial processes are also evolutionary, in 1997, a tussle between Bihar Distillery *versus* Union of India came before the hon. Supreme Court of India. The Supreme Court asked the potable alcohol fermentation to be handled by the State Governments wherein the industrial alcohol fermentation would be with the Union Government. That has necessitated, but even after that, the times have changed. There is a lot of improvement in the

[Shri Ananda Bhaskar Rapolu]

biotechnology and micro biology. The fermentation based food processing and other industrial needs have grown. This latest piece, as decided by the Union Cabinet in 2015, is now having only one small addition of a phrase, that is, fermentation industries other than potable alcohol. Sir, fermentation itself is making of spirit. Fermentation itself is a chemical reaction. Fermentation itself is chemical conversion of sugars, carbohydrates into acids, gases, ethanol and alcohol. The food processing is having the preservation technique in the fermentation. It will be producing lactic acid so as to make some pickles or yogurt.

[THE VICE-CHAIRMAN (DR. SATYANARAYAN JATIYA) *in the Chair*]

Likewise, we are used to have the acetic acid. We are very much used to have the citric acid. We are used to have, in a very large quantity, the ethanol. These are all by fermentation.

At this juncture, with this enactment, I appreciate that this enactment transfers the authority to regulate potable alcohol to the State Governments. This is welcome. But, at the same time, keeping the growing bio technology and the micro biology-based, fermentation based, food processing needs and food processing industrial units, I call upon the Union Government to broadly look at the needs of addition in the headings so as to address to the modern requirements based on the advanced technologies. You are just confining to the same basic word of fermentation with small addition of other than potable alcohol. But, the hon. Supreme Court has already dealt with it elaborately. Law Commission of India on its own, *suo motu*, in its 158th Report, elaborately studied and advised. But, based on that, what are the larger ramifications that we are going to come across and what sort of litigations that will be before the courts has to be kept in mind while making the enactment. This small piecemeal enactment is going to be shown towards federalism, co-operative federalism. Federalism itself is the basis of co-operation. At the same time, the industrial production shall ensure such modern environment. For that, modern technologies on the fermentation involving biotechnology, microbiology and all other advanced technologies shall be kept in mind while making the addition to this beautiful piece of 1951. Anyhow, since this is going to empower the State Governments with their right to regulate the potable alcohol, we welcome the Amendment and we support the Bill. Thank you very much.

SHRI RANGASAYEE RAMAKRISHNA (Karnataka): Sir, I rise to support this Bill. It is a very simple Bill which is in pursuance of a decision of the Supreme Court and which was then examined in depth by the Law Commission. So, we are accepting the Law Commission's Report and we are including fermentation industries, other than potable alcohol, in the IDR Act, 1951, by substituting the Heading 26.

6.00 P.M.

Now industries engaged in the manufacture of alcohol meant for potable purposes shall be under the total and exclusive control of States in all respects. The Central Government will continue formulating policies and regulating foreign collaboration for all products of fermentation industries including industrial alcohol and potable alcohol. Now this Amendment is simple. There is no problem in that. But I wanted to participate in this debate to focus on a very larger issue. The larger issue is that ever since the British days and ever since the Constitution came into force, the Central Excise Duty is applicable to all the industries. But for the alcohol industry, the power rests with the State Government. Now this has led to a situation where most of the political lobbies in the States are, actually, in the control of the alcohol manufacturers. This is the only country in which we have given a very interesting status to the consumption of alcohol. We do not encourage healthier liquors like beer or wine and a lot of encouragement is there, directly or indirectly, for spurious liquors. And this is causing undue harm to the health of the nation, and particularly, the womenfolk all over the country are in total distress. Every now and then, this becomes a big issue. Now, for instance, currently in Tamil Nadu, one of the major issues in the electoral struggle is whether there should be prohibition or not. I had been the Excise Secretary in the State Government and I have seen bootleggers, actually, wanting to promote prohibition because that way their business interests will be further increased by this partial type of prohibition. I think it is high time that we regulate the whole process of the consumption of alcohol and encourage only health drinks and totally ban spurious liquors.

This will be in the interest of the public health of the nation as well as in the interest of, particularly, the women folk.

With these words, I support the Bill. Thank you.

SHRI BHUPINDER SINGH (Odisha): I thank you for giving me this opportunity to speak on this Bill. I myself and my party — BJD — support the industrial (Development and Regulation) Bill, 2015. I rather congratulate and thank the Government that it took 20 years after the verdict of the Supreme Court to amend this Act.

Although the Constitution of India clearly defines the role and jurisdiction of the Center and the States, certain issues keep cropping up and in such situations the onus of interpretation falls on courts. This Bill also flows from such a court judgment. In 1997, the hon. Supreme Court had asked for a clear demarcation of powers between the Center and the States in the matter of regulating potable alcohol and the other types of alcohol used for industrial purposes.

[Shri Bhupinder Singh]

Now, through this amendment to the First Schedule of the original Act, it has been provided that the States would exclusively regulate potable alcohol while the alcohol, other than potable, would be regulated by the Centre. In fact, this is a very minor but an important amendment. I am saying so because some States take unilateral decision to ban alcohol in their respective States. In that case, alcohol used for industrial purposes also falls in jeopardy. So, a clear-cut demarcation of power was much needed. Moreover, alcohol is a sensitive issue for masses and especially with regard to potable alcohol the State Governments should have the final say. The State Government is always in a better position to assess the ground impact of alcohol consumption. So, it should be free to frame its policies accordingly.

Thus, while supporting this Bill, I would urge upon the Government to bring about further transparency as far as the Center-State jurisdiction is concerned in other matters as well. Our party is a strong votary of a solid federal framework. And this is precisely the underlying spirit of the Constitution also. The present Government also talks, eloquently, about co-operative federalism. So, it must not falter on this count. Decisions should not be taken because of political exigencies.

Secondly, I am also a bit surprised that why it took us about 20 years to implement a judgment of the Supreme Court! It is a poor reflection on the efficacy of our executive.

With these words, I support the bill. Thank you.

SHRIMATI NIRMALA SITHARAMAN: Sir, this is a minor amendment to the Industries (Development and Regulation) Act, 1951. The Bill presented before this House is as passed by the Lok Sabha.

I am glad that the Members who have participated in the discussion have really gone into the details of the Bill. I would very quickly recall, this is something which the Supreme Court had broadly indicated in its judgment in 1997. Since then, at different times, different actions were taken. However, because there were some cases which were pending, actually speaking, since 2008, this has gone through a lot of waiting.

(MR. DEPUTY CHAIRMAN *in the Chair*)

In 2012, there was a Cabinet Note circulated, opinions were gathered from different Ministries. However, the Bill couldn't be placed in time. As a result, as soon as this Government came in, we picked it up because this is a matter which had been considered by the Cabinet, and the Cabinet had moved a Note and the judgement

had come from the Supreme Court. It was necessary for us to act. Therefore, from 2014 onwards, we have started working, and it was placed in the Lok Sabha in 2015, and it was duly passed. Very quickly, what it does is to just amend Entry 26 in the First Schedule of this Act, from what it read as, "Fermentation Industries" to now read as "Fermentation Industries (Other Than Potable Alcohol)". It is this amendment which has now become necessary. A few responses may be just in time and appropriate because Members have raised certain issues, which I would certainly like to respond. Hon. Member, Shri Ananda Bhaskar Rapolu had raised this issue of -- we should keep this in mind -- litigations which might come in the future. I just want to draw his attention to the Act itself, the Bill which has been placed before this House wherein under Clause 2, there is Section 29E. That entire paragraph has been inserted only to keep in mind any possibility of a future litigation that might arise which is a very legitimate point that the Member has raised. I am not sure that I need to spend time of this valuable House reading that paragraph.

SHRI BHUPINDER SINGH: That Clause is there.

SHRIMATI NIRMALA SITHARAMAN: That is what I am saying; Section 29E which is there definitely does take care of the concern which you have raised.

Then, hon. Member, Shri Ramakrishna spoke on this Bill. I am also grateful to Shri Rapolu who did support the Bill and as did Shri Ramakrishna. But, he said, 'while this amendment is simple, there is a larger issue that he would want to address'. I certainly would want to answer as much as I can. In that matter, Central Excise Duty governs all industries, but in alcohol industry alone, this power is with the States and that is leading to a lot of ambiguity. I would want to draw his attention to the fact that during the consultation which happened, the Department of Revenue had given its viewpoint on it, and I just want to assure the Member here that the input which has come from the Department of Revenue duly addresses his concern. I just would want to read that line which has been given from by the Finance Ministry in response to the Note. It says, "This expression 'potable alcohol' is not familiar to the revenue. It is the Excise Department that uses its nomenclature while imposing excise duty. As a result, does potable alcohol get taxed under the State, thus, the Centre does not have an excise duty." All this gets covered under the very way the Excise Department has responded saying, "Potable, non-potable, other than potable are not expressions that they use. They look at levying Central Excise Duty on ethyl alcohol and other spirits de-natured of any strength". So, for them it doesn't matter whether you are talking about potable or non-potable. They only go looking at that particular description. Therefore, I suppose, hon. Member, Shri Ramakrishna should have clarity now as this has been further explained. I am

[Shrimati Nirmala Sitharaman]

also grateful to the BJD Member, Bhupinder Singhji who supported this amendment. I, too, fully take his point that co-operative federalism can better work with greater execution and better execution of many of these Acts. With these words, I suppose, I have addressed the questions and concerns raised by the hon. Members.

MR. DEPUTY CHAIRMAN: Now, the question is:

That the Bill further to amend the Industries (Development and Regulation) Act, 1951, as passed by Lok Sabha, be taken into consideration.

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall, now, take up clause-by-clause consideration of the Bill. In Clause 2, there is one Amendment (No.3) by the Minister.

Clause 2 – Insertion of new section 29E.

SHRIMATI NIRMALA SITHARAMAN: Sir, I move:

(3) That at page 2, line 3, *for* the figure "2015", the figure "2016" be *substituted*.

The question was put and the motion was adopted.

Clause 2, as amended, was added to the Bill.

MR. DEPUTY CHAIRMAN: On Clause 3, there is one Amendment No.4 by Shri T. Subbarami Reddy. He is absent.

Clause 3 was added to the Bill.

Clause 1 – Short title.

MR. DEPUTY CHAIRMAN: On Clause 1, there is one Amendment (No. 2) by Shrimati Nirmala Sitharaman.

SHRIMATI NIRMALA SITHARAMAN: Sir, I move:

(2) That at page 1, line 3, *for* the figure "2015", the figure "2016" be *substituted*.

The question was put and the motion was adopted.

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

ENACTING FORMULA

MR. DEPUTY CHAIRMAN: On the Enacting Formula, there is one Amendment (No.1) by Shrimati Nirmala Sitharaman.

SHRIMATI NIRMALA SITHARAMAN: Sir, I move:

(1) That at page 1, line 3, *for* the word "Sixty-sixth", the figure "Sixty-seventh" be *substituted*.

The question was put and the motion was adopted.

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

The Title was added to the Bill.

SHRIMATI NIRMALA SITHARAMAN: Sir, I beg to move:

That the Bill, as amended, be passed.

The question was put and the motion was adopted

SPECIAL MENTIONS*

MR. DEPUTY CHAIRMAN: Shri Ahmed Patel is not present.

Demand to enact a legislation to protect the interests of consumers from being misguided by celebrity endorsement of consumer products

SHRI SHANTARAM NAIK (Goa): Sir, the issue widely discussed in the country is how far the celebrities who endorse the products of various companies in electronic media, print media, radio or in public hoardings should be held liable as regards genuineness of the respective products, and be punished for misrepresentation, falsehood, cheating etc.

In this connection, claims being made by certain individuals regarding magical or divine treatment with respect to their recommendations, advice, astrological or otherwise, as regards marriages, business, health-related problems, studies, foreign visits etc., also need to be probed into by concerned Government Departments, agencies or Ministries.

Question arises whether a celebrity or other individual can really be deemed to know about the products they advertise, particularly, items like electronic, electric products, motor vehicles, medical equipments and the like.

Therefore, it is neither possible that celebrities can be expected to have a thorough knowledge of the products that they endorse, nor can it be said that it is not necessary

*Laid on the Table.