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Monday

29 July, 2019

7 Shrawana, 1941 (Saka)

PARLIAMENTARY DEBATES

# RAJYA SABHA

OFFICIAL REPORT

(FLOOR VERSION)

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[P.T.O.]

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## **RAJYA SABHA**

*Monday, the 29th July, 2019/7 Shravana, 1941 (Saka)*

*The House met at eleven of the clock,*

MR. CHAIRMAN *in the Chair.*

### **OBITUARY REFERENCE**

MR. CHAIRMAN: Hon. Members, I refer with profound sorrow to the passing away of **Shri S. Jaipal Reddy**, a former Member of this House, on the 28th of July, 2019, at the age of 77 years.

Born in January, 1942, at Madgul village in Mahbubnagar District of Telangana, Shri Reddy was educated at the Osmania University, Hyderabad.

Shri S. Jaipal Reddy took keen interest in politics right from his student days. He started his legislative career as a Member of the Andhra Pradesh Legislative Assembly in the year 1969 and went on to serve as its Member for four terms till 1984. He also served as a Member of the 8th, 12th, 13th, 14th and 15th Lok Sabha. *Shri Reddy* served as a Cabinet Minister holding various portfolios, such as, Information and Broadcasting, Food Processing Industries, Culture, Urban Development, Petroleum and Natural Gas, Science and Technology and Earth Sciences, during the period from 1997 to 1998 and from 2004 to 2014, in the Union Council of Ministers.

Shri S. Jaipal Reddy represented the State of Andhra Pradesh in this House for two terms - from April, 1990 to April, 1996 and again from September, 1997 to March, 1998. He also served as the Leader of the Opposition in the Rajya Sabha, from July, 1991 to June, 1992 and as Chairman of the Committee on Government Assurances, Rajya Sabha.

Shri Reddy was the recipient of the Best Parliamentarian Award for the year 1998.

In the passing away of Shri S. Jaipal Reddy, the country has lost a veteran parliamentarian, an outstanding orator and an able administrator.

I had the privilege of working with him for two terms in Andhra Pradesh Assembly. Both of us used to sit on the same bench, and then, used to effectively argue the peoples' cause in our own way. I remember the memories of the days I spent with him all these years. For forty years, four decades, he had been my friend, senior, and also at times, used to guide me also because I am six years younger than him.

We deeply mourn the passing away of *Shri S. Jaipal Reddy*.

I request Members to rise in their places and observe silence as a mark of respect to the memory of the departed.

*(Hon. Members then stood in silence for one minute)*

MR. CHAIRMAN: Secretary-General will convey to the members of the bereaved family our sense of profound sorrow and deep sympathy.

Hon. Members, those days, the Assembly used to meet at 8'o clock in the morning, and both of us used to meet at 7'o clock and discuss issues over breakfast. The amount of knowledge, the depth of understanding and the mastery over the language, both in English and Telugu, and, of course, at times, Urdu and Hindi also, is really remarkable; and he was here in both the Houses, and also he was spokesperson of his party at that time. It is really painful that he has left us. I was there in Hyderabad, went to his house yesterday to pay my last respects. I am sorry that I could not control my emotion because of 40 years of personal association.

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#### FELICITATIONS BY THE CHAIR

MR. CHAIRMAN: Hon. Members, on behalf of the whole House and on my own behalf, I congratulate Shrimati Mary Kom, a Nominated Member of this House, for winning the Gold Medal in the 51 Kg category at 23rd President's Cup in Labuan Bajo, Indonesia, on the 28th of July, 2019. I also congratulate the other Indian boxers, Ms. Simranjit Kaur, Ms. Jamuna Boro, Ms. Monika, Shri Ankush Dahiya, Shri Neeraj Swami and Shri Ananta Pralhad Chopade, for winning Gold and Silver Medals in their respective categories and the 'Best Team' Award in the said Tournament.

By their spectacular achievements, these pugilists, particularly the women, have made our country proud in the comity of nations. The achievement of Shrimati Mary Kom is not only a matter of great pride for the entire nation, but also for this House and for all of us, being her colleagues.

The perseverance and commitment of these pugilists is a source of inspiration for our youth and budding sportspersons to emulate and improve upon their achievements.

I wish Shrimati Mary Kom and all other pugilists success in their future endeavours and hope that they continue their winning spree and bring many more laurels to the country.

SHRI K.J. ALPHONS (Rajasthan): Sir, there is smoke coming at our desk!

श्री शिव प्रताप शुक्ल (उत्तर प्रदेश) : सभापति जी, यहां पर कहीं wire touch कर रही है, जिसकी वजह से धुआं निकल रहा है।

MR. CHAIRMAN: The staff will check it; please don't touch it.

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#### LEAVE OF ABSENCE

MR. CHAIRMAN: I have to inform Members that a letter has been received from Shri Beni Prasad Verma, stating that he is unable to attend the sittings of the Rajya Sabha on health grounds. He has, therefore, requested for grant of leave of absence from 22nd July, 2019 till the end of the current 249th Session of the Rajya Sabha.

Does he have the permission of the House for remaining absent from 22nd July, 2019 till the end of the current 249th Session of the Rajya Sabha?

*(No Hon. Member dissented)*

MR. CHAIRMAN: Permission to remain absent is granted.

SHRI K.J. ALPHONS (Rajasthan): Sir, the smoke is continuously coming.

MR. CHAIRMAN: Don't be panicky. You may sit in other seats till it is attended to. The staff will take care of it. ...*(Interruptions)*...

AN HON. MEMBER: Sir, you may adjourn the House for some time. ...*(Interruptions)*...

MR. CHAIRMAN: I adjourn the House for fifteen minutes. Meanwhile, the staff should take care of this and set it right.

*The House then adjourned at nine minutes past eleven of the clock.*

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*The House reassembled at twenty-four minutes past eleven of the clock,*

MR. CHAIRMAN *in the Chair.*

**OBSERVATION BY THE CHAIR**

MR. CHAIRMAN: Hon. Members, it will be inquired into to find out the reasons behind short-circuit.

During the last day of the last week, there was a request from Prof. Rajeev Gowda and also from others about Zero Hour. I have gone through the rules, regulations and procedure. As we are not having Question Hour, I have decided to continue with Zero Hour and give opportunity to as many Members as possible between 11.00 am and 12 noon. Accordingly, the Members can give notices for Zero Hour and they will be taken up according to the merits of the issue.

Secondly, ...

SHRI MADHUSUDAN MISTRY (Gujarat): Sir, I have a point to make.

MR. CHAIRMAN: No more points now. ...*(Interruptions)*...

SHRI MADHUSUDAN MISTRY: Sir, I just wish to draw your attention. ...*(Interruptions)*...

MR. CHAIRMAN: No, no. This is not the time. ...*(Interruptions)*...

PROF. RAM GOPAL YADAV (Uttar Pradesh): Sir, I wanted to make a point.

MR. CHAIRMAN: Ram Gopalji, I am going to allow you. Please sit down.

Hon. Members, in fact, I wanted to share a point with the leaders today. Today being Monday, many of them were a little late in arrival because they have to come from their respective Constituencies or States.

I have an observation to make.

The other day, I received a letter from fifteen Members of the Rajya Sabha belonging to fourteen parties, with their signatures, on 25th July, 2019, conveying what they called as their anguish and concern over passing of Bills without scrutiny either by the Department-related Parliamentary Standing Committees or the Select Committees.

Members from three other parties are also mentioned in the said letter without their signatures.

The contents of this letter have been widely reported and highlighted in both print and electronic media, thereby sending a message that Parliament is not making laws in a proper way that is expected of it. All of you would agree with me that this has cast a cloud over functioning of our apex legislature which is not good for our Parliamentary democracy.

As the Vice-President of India and as the Chairman of the Rajya Sabha, with considerable experience in the public life and as a person concerned about the standing of parliamentary institution in the eyes of public, I thought that it is necessary to put the record straight, so that whatever misconceptions created could be addressed. While doing so, I can only speak as the Chairman of the Rajya Sabha and address the issues that are within the domain of the Chairman of the Rajya Sabha.

Given the implications of the message sent out by the said letter, I thought that I should touch upon the issues raised at the earliest and hence I am taking this opportunity, since the said letter is received in the Secretariat.

Well, four broad issues were raised in the said letter. There are two issues which are not clear with regard to the domain in which they fall. About the remaining two issues, they directly concern our House. I, certainly, clarify the position in clear terms.

Firstly, the hon. Members in their letter have quoted some statistics about the number of Bills referred/not referred for scrutiny, either by the Department-related Parliamentary Standing Committee or the Select Committee in the Fourteenth, Fifteenth, Sixteenth and the present Lok Sabha. If their complaint is that Bills first introduced in this Lok Sabha Session were not referred to Parliamentary Committee for scrutiny, it is not, certainly, in my domain as the Chairman of the Rajya Sabha. So, I am not in a position to respond to this complaint and I feel that this complaint, if any, has been addressed to a wrong person.

The second complaint relates to what they call the thirty long sittings of the Lok Sabha till the last week during its first Session since the General Elections this year as against such sittings in the past. I am a little surprised again as to why the complaint



referred to this issue given to the Chairman of the Rajya Sabha. I would have expected them to take objections, if any, to number of Sessions of the Rajya Sabha, soon after the General Elections this year. But, how can I question their wisdom in doing so? I failed to understand how complaints can describe such longer sessions and passing a good number of Bills during that period as ‘dubious record’ since Parliament’s core functions include legislation for socio, economic transformation of the country. However, since a broad message has gone about hurried legislation by Parliament of which Rajya Sabha is an important constituent, I would like to clarify, as its Chairman, the factual position regarding scrutiny of Bills introduced in the Upper House.

You are all aware, the procedure regarding referring Bills to a Department-related Parliamentary Standing Committee for a detailed scrutiny. Briefly, the Presiding Officer of either House of Parliament wherein a Bill is first introduced can refer that Bill to the concerned Department-related Parliamentary Standing Committee for scrutiny and report. If it is not done, the House of Parliament to which such a Bill is transmitted after passage by the other House, can collectively decide to refer such a Bill to a Select Committee of that House, if the House so desires. It is important to note that it is for the House to decide on referring a Bill to a Select Committee, not its Presiding Officer.

As the Chairman of the Rajya Sabha, I can only speak for the last two years I have presided over the Rajya Sabha as far as referring the Bills to the concerned Department-related Parliamentary Standing Committees for a detailed scrutiny is concerned, because they referred to the Thirteenth, Fourteenth, Fifteenth, Sixteenth Lok Sabha which, automatically, includes the Rajya Sabha. I am there only for the last two years. During the last five Sessions –I don’t know whether they had addressed similar letters to the then Chairman also, I have no information –which I have presided over, that is, 244th to 248th Sessions, ten Bills have been first introduced by the Government in the Rajya Sabha. I am happy to inform you that, as the Chairman of this august House, I have referred eight, out of those ten Bills, to the respective Department-Related Parliamentary Standing Committees, though it is not mandatory to do so; it is advisable; and, at times, that is the wish of the Members also. The other two Bills, related to inclusion of some more groups in the category of Scheduled Tribes -- were not so referred, as they did not warrant a detailed scrutiny by Standing Committee. And, I am just reminding the Members that those two Bills were unanimously approved by the House unanimously without any discussion, with the consent of all. So, there was no justification in sending them to the Standing Committees.

The Motor Vehicles (Amendment) Bill, as received from the Lok Sabha, after detailed scrutiny by the concerned Standing Committee and passage by the other House, was again referred to the Select Committee of the Rajya Sabha.

I hope that all of you would agree that such a record would not justify the allegation, if it is so intended that the Rajya Sabha is a part to hurried legislation. There has been approval by the Standing Committee, then, by the Select Committee. But, still, the Motor Vehicle (Amendment) Bill is yet to be passed, and it is before us.

During the current 249th Session of the Rajya Sabha, four Bills have so far been introduced first in the Rajya Sabha. Of these, three Bills have been taken up for consideration and passed. These Bills could not be referred to the Standing Committees because they are still to be constituted. The Opposition insisted on only the RTI Bill to be referred to the Select Committee of the House. Any Member or Members have got every right to demand and suggest or move amendment for reference of any Bill to a Select Committee. As I said earlier, it is for the House to decide if a Bill is to be referred to a Select Committee, and not me as the Chairman of the House. The Chairman does it only if there is a broad consensus in the House.

The Fourth Bill, that is, the Insolvency and Bankruptcy Code (Amendment) Bill, first introduced in the Rajya Sabha, is still to be taken up for consideration and passing and, I am sure, the House would collectively take a view on this, as they may think appropriate.

For your information, the Banning of Unregulated Deposit Schemes Bill, 2019, listed for consideration and passing in Rajya Sabha, as passed by the other House, has already been looked into by the Standing Committee. Seven more Bills to be taken up in the Rajya Sabha for consideration, as received from the other House, I am told by my Secretariat, have already been scrutinized by Standing Committees, seven plus one.

Regarding the timing and duration of the Sessions of Parliament, it is the prerogative of the Government of the day, and the Presiding Officers of the Houses of Parliament have no say in it. Governments schedule the Sessions and extend the same, based on the quantum of legislative Business to be transacted. Keeping in view the concerns over declining number of sittings of Parliament over the years, it would be appropriate if Parliament can meet for longer periods than at present. I am of this view. And, that is the view of the Members also. We have to sit for longer periods. But, for your information,

when I took it up with the Government, they said, "Sir, first utilize the time, which is given, in a proper and constructive manner. Then, there will definitely be a case for extension of the Session or for longer-duration sittings of the House." So, that was the initial response. But, I do agree that Parliament needs to sit for more time.

The third concern voiced about not giving the Members of Rajya Sabha adequate time under Rule 95 to propose amendments to the Protection of Human Rights (Amendment) Bill, which has been passed during this Session. In this regard, I would like to say, as the complaining MPs have themselves stated in their said letter, that this Bill was laid on the Table of the House, as passed by Lok Sabha on the 19th of this month, and was listed for consideration in the House on the 22nd of this month. This gave sufficient time for the Hon. Members to go through the Bill. On the day of the consideration of the Bill, when Members had brought to my notice that there were two non-working days, though I do not go by that argument, all days are working days, as far as we are concerned. We also work, you also work. Then, studying it at home does not require any special thing. That is your choice. However, I do see a point that giving notice requires a working day. But, now it is online. Any notice can be given online. That is the main line, as of now. You can use the online facility, as and when you want to send the notice to the House also. So, I have allowed Members to submit their notices of amendment till the mid-day. Rules of Business of the House do permit the Chairman to accord waiver for both the Government and the Opposition, and that is what I did. There has been no violation of any rule in this regard. Such a waiver, however, is given very sparingly by the Chairman within the provisions of the Rules of the House. I am aware of it.

The fourth and important complaint is about the alleged smothering of the voice of the Opposition in Rajya Sabha. In support of this allegation, the hon. Members have raised in their letter the inadequacy of Short Duration Discussions in the House. In support of this complaint, the Members have referred to what they called the long-standing convention of having one such Short Duration Discussion every week. Dictionary meaning of ' smothering ' says, it is killing someone by covering their nose and mouth so that they suffocate. That is the dictionary meaning of ' smothering ' . Given the implications and seriousness of this complaint, I have asked the Secretariat to verify the facts regarding the convention of having one such Discussion every week during the Session. The publication ' Rajya Sabha Statistical Information: 1952 to 2013 ' has

information about such Short Duration Discussions taken up year-wise for 36 years, between 1978 and 2013. The trend of such discussions revealed contrary to what the complainants have asserted in their letter. For 16 of these 36 years, the Rajya Sabha took up Short Duration Discussions in the range of one to five in a year. Only one such Discussion was taken up in 1984. That can be an exception of that year. For another 14 years, such discussions were taken up in the range of six to eight per year. Since there are a minimum of three Sessions of Rajya Sabha every year, going by the above data, the number of Short Duration Discussions taken up in Rajya Sabha during those 30 years was less than three per Session. This does not support the contention that by convention, one such Discussion is taken up every week during the Sessions of Rajya Sabha. During this Session, two such Discussions have already been taken up. One more such discussion could have been taken up now, but the House was not allowed to transact any Business for two-and-a-half days. There is a certain scope of taking up more during the coming days. Three Calling Attention Motions have already been taken up in this Session. This shows that there is no violation of the convention in this regard. This empirical evidence goes to prove that the complaint of smothering the voice of the Opposition in Rajya Sabha also does not stand scrutiny. But, at the same time, I do agree that there is a need to have Short Duration Discussions and also Calling Attention Notices to the extent possible in the House frequently, so that the current issues which could not be discussed in normal circumstances can be taken up in that. But to make a charge about this word, the word I am also not very familiar with! I hope all of you would appreciate the concern and anguish with which I am responding to the issues raised by the Members. I am happy about what they said in the letter and I quote: “..any attempt by the Government to undermine the privileges of Members, the Rules and established conventions will diminish the role of the Council of States as envisaged by our founding fathers.” Any Government of the day would be anxious to have as many Bills as possible passed by the Parliament. But there are necessary checks and balances in the form of Rules of both the Houses, conventions and earlier rulings of the Chair. Besides, there is an eternal vigilance by the Opposition Members. As you may recall, I have often been urging the Members of all sections not to break such rules and conventions and desist from disrupting the proceedings of the House. During the discussion on the RTI Bill in the House last week, ignoring the Rules and conventions, some sections of the House insisted on voting first, resulting in prolonged pandemonium in the House. This could have been clearly avoided. On the last day of the previous

Session, I presented a report to the people of the country on the functioning of Rajya Sabha during 2014- 2019. I had given the details. About 40 per cent of the valuable time was lost due to disruptions and the Upper House, as a result, passed lesser number of Bills than the other House during that period. Which rules and conventions justify disruption, dysfunctional legislatures? Under which rules of Rajya Sabha, some sections of the House rush into the Well of the House, tear and throw papers, at times, at the Chair and against others also, sometimes? Under which rules are the Members granted the privilege of disrupting the proceedings of the House? This is not to find fault with anybody. I appeal to all sections of the House to see that decency and decorum is maintained, the House is allowed to function in a normal way, so that we can have maximum of time available for discussion, decision and also for debate. This is my appeal to all of you. So, it is collective introspection of both sides, collective introspection and reflection so that the House of Elders can function as envisaged by our founding fathers. Proposing legislations is in the domain of the Executive and ensuring effective scrutiny of such proposals is the right and responsibility of the Opposition. This should be ensured in a harmonious manner by taking each other's concerns on board. I can assure you all, as the Chairman of the House, that I will not allow any effort from anybody to undermine the rights and privileges of the Members. I followed this dictum during the last two years as is borne out of the facts I have stated earlier and will continue to do so in future. You can be rest assured.

With regard to scrutiny of Bills by Parliamentary Committees, there is perhaps a need for codification of guidelines that could make the road ahead much clear. Anyhow, we have asked the Rules Committee to examine this and come with suggestions. They have come with suggestions. We will be meeting shortly to discuss all those. All this is just for information because in the entire country a news has gone widespread and I thought it is my duty as the Chairman to clarify the situation. Now, Shri Ram Gopal Yadav. ...(*Interruptions*)... I have not allowed the notice, but just ...

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#### REGARDING ATTEMPT TO KILL THE RAPE VICTIM

**प्रो. राम गोपाल यादव** (उत्तर प्रदेश) : सर, कभी-कभी बहुत असाधारण परिस्थितियां हो जाती हैं और जब जनमानस में बहुत असंतोष होता है, तो नियमों से हट कर भी बात को उठाना पड़ जाता है।

**श्री सभापति :** उसको allow करने या नहीं करने का अधिकार चेयरमैन के पास है।

**प्रो. राम गोपाल यादव :** सर, कल जब उन्नाव से एक रेप पीड़िता जा रही थी, आज से इलाहाबाद में ट्रायल शुरू था, गवाह पेश होने थे, उसको जिस तरह से मारने की कोशिश की गई, जिसमें उनकी गवाह मौसी और चाची, दोनों की डेथ हो गई, ड्राइवर की डेथ हो गई और जो वकील उनके साथ जा रहे थे, वे ventilator पर हैं और दुर्भाग्य यह है कि उनको जो security मिली हुई थी, वह security छुट्टी पर चली गई थी। जिस ट्रक ने टक्कर मारी, उसके आगे और पीछे जो नंबर प्लेटें थीं, उन पर ग्रीस लगी हुई थी।...**(व्यवधान)**...प्रश्न यह है कि इस मामले जब रेप पीड़िता के पिता थाने में रिपोर्ट लिखाने गए थे, तब पुलिस ने उनकी इतनी पिटाई की कि उनकी डेथ हो गई, फिर लड़की को मुख्य मंत्री के आवास पर जाना पड़ा। जब उसने मुख्य मंत्री के आवास पर आत्मदाह की कोशिश की, तब मुख्य मंत्री के आदेश पर जांच हुई।...**(व्यवधान)**...

MR. CHAIRMAN: Right. You have brought it to the notice of House. ...**(Interruptions)**... I suggest ...

**प्रो. राम गोपाल यादव :** सर, यह बहुत गंभीर मामला है।...**(व्यवधान)**...

**श्री सतीश चन्द्र मिश्रा (उत्तर प्रदेश) :** सर, यह बहुत serious issue है।...**(व्यवधान)**...

**प्रो. राम गोपाल यादव :** सर, मेरी मांग तो सुन लीजिए कि मैं कहना क्या चाहता हूँ?...**(व्यवधान)**... उसमें एक व्यक्ति जेल में है।...**(व्यवधान)**... एक एमएलए जेल में है।...**(व्यवधान)**...

MR. CHAIRMAN: There is no discussion. ...**(Interruptions)**... There is no discussion. ...**(Interruptions)**... We are in Zero Hour ...**(Interruptions)**... We are in Zero Hour; there is no discussion. ...**(Interruptions)**... The Home Minister will take note of the same. ...**(Interruptions)**... The Home Minister will take note of the same. ...**(Interruptions)**... Shri Vishambhar Prasad Nishad. ...**(Interruptions)**... Shri Vishambhar Prasad Nishad; Demand for Uniform SC/ST certificates in all States. ...**(Interruptions)**...

**श्री विशम्भर प्रसाद निषाद (उत्तर प्रदेश) :** माननीय सभापति महोदय, चूंकि उन्नाव का मामला बहुत गंभीर है, इसलिए माननीय मंत्री को इस पर जवाब देना चाहिए कि उन्नाव के केस में क्या हो रहा है।...**(व्यवधान)**... हाउस ऑर्डर में लाइए, तब हम लोग बोलें।...**(व्यवधान)**...

MR. CHAIRMAN: Please. Please. बैठ जाइए। ...**(Interruptions)**... It is Zero Hour. ...**(Interruptions)**... As a special case, I have allowed him to mention. He has mentioned it. ...**(Interruptions)**... It will go on record. ...**(Interruptions)**... The Home Minister will take note of the same. ...**(Interruptions)**... Shri Vishambhar Prasad. ...**(Interruptions)**... राम गोपाल जी, मैंने आपको मौका दिया, आपने बोला। प्लीज़ आप बैठ जाइए।...**(व्यवधान)**... कृपया

आप लोग बैठ जाइए।...**(व्यवधान)**...I have not allowed it under Rule 267. ...**(Interruptions)**... I have allowed Ram Gopalji because the matter which he mentioned is serious. ...**(Interruptions)**... That is why it has gone on record. ...**(Interruptions)**... होम मिनिस्टर को मैंने already बता दिया।...**(व्यवधान)**... The Home Minister will take note of it. ...**(Interruptions)**... बैठ जाइए, प्लीज़।...**(व्यवधान)**... Nothing shall go on record. ...**(Interruptions)**... Nothing shall go on record. Please. ...**(Interruptions)**...

श्री सतीश चन्द्र मिश्रा : \*

श्री जावेद अली खान (उत्तर प्रदेश) : \*

श्री सभापति : बैठ जाइए।...**(व्यवधान)**... प्लीज़, बैठ जाइए।...**(व्यवधान)**... कृपया आप लोग बैठ जाइए।...**(व्यवधान)**... आप सब लोग अनुभवी हैं।...**(व्यवधान)**... It is a State issue. It is a State issue but still I allowed it because of seriousness of a woman and what has happened after the CBI inquiry. ...**(Interruptions)**... Ram Gopalji has mentioned that. That has gone on record. Please understand. Do justice. ...**(Interruptions)**... If you don't want to hear further, then I leave it to your collective wisdom. ...**(Interruptions)**... प्लीज़, बैठ जाइए।...**(व्यवधान)**... I have already told the Government to take note of the same. ...**(Interruptions)**... He has made out the issue. बैठ जाइए।...**(व्यवधान)**... Others also can associate. ...**(Interruptions)**... प्लीज़, बैठ जाइए।...**(व्यवधान)**... Nothing else will go on record. ...**(Interruptions)**... Nothing else will go on record. ...**(Interruptions)**...

श्री सतीश चन्द्र मिश्रा : \*

श्री जावेद अली खान : \*

MR. CHAIRMAN: Shri Vishambhar Prasad, are you... ...**(Interruptions)**...

श्री विशम्भर प्रसाद निषाद : सर, हाउस ऑर्डर में नहीं है।...**(व्यवधान)**...

श्री सभापति : मैं क्या करूँ।...**(व्यवधान)**... आप रोकिए।...**(व्यवधान)**... आप अनुरोध कीजिए।...**(व्यवधान)**... Shri Vishambhar Prasad. ...**(Interruptions)**... Nothing is going on record. ...**(Interruptions)**... Other than what Ram Gopalji has said, nothing is going on record. ...**(Interruptions)**...

श्री आनन्द शर्मा (हिमाचल प्रदेश) : \*

श्री विशम्भर प्रसाद निषाद : सर, हाउस ऑर्डर में नहीं है।...**(व्यवधान)**...

श्री सभापति : Live telecast भी नहीं हो रहा है, फिर यह क्यों?...*(व्यवधान)*... Shri Vishambhar Prasad Nishad. ...*(Interruptions)*... It is a very important issue regarding Scheduled Castes/Scheduled Tribes. ...*(Interruptions)*... आनन्द जी, कृपया बैठ जाइए।...*(व्यवधान)*... You are all seniors. You are all seniors. ...*(Interruptions)*... कृपया बैठ जाइए।...*(व्यवधान)*... Ram Gopalji, ask your Members to sit down...*(Interruptions)*... You are the Leaders of your Party, please ask them to sit down. ...*(Interruptions)*... मैंने आपको मौका दिया, प्लीज़ बैठ जाइए।...*(व्यवधान)*... बाकी लोग भी बैठ जाएं, प्लीज़।...*(व्यवधान)*... उनको बैठाइए।...*(व्यवधान)*...

The House is adjourned to meet at 1200 hours.

*The House then adjourned at forty-five minutes past eleven of the clock.*

*The House reassembled at twelve of the clock,*

MR. DEPUTY CHAIRMAN *in the Chair.*

#### GOVERNMENT BILLS

#### Statutory Resolution Disapproving the Banning of Unregulated Deposit Schemes Ordinance, 2019

And

#### The Banning of Unregulated Deposit Schemes Bill, 2019

MR. DEPUTY CHAIRMAN: The Statutory Resolution and the Banning of Unregulated Deposit Schemes Bill, 2019 to be discussed together. Shri Binoy Viswam to move the Statutory Resolution; absent.

SHRI TIRUCHI SIVA (Tamil Nadu ): Are you not taking up Zero Hour?

MR. DEPUTY CHAIRMAN: No; we will take it up tomorrow. Now, Shri Elamaram Kareem, you move the Statutory Resolution and speak.

SHRI ELAMARAM KAREEM (Kerala): Sir, I move the following Resolution:-

"That this House disapproves the Banning of Unregulated Deposit Schemes Ordinance, 2019 (No.7 of 2019) promulgated by the President of India on 21st February, 2019."



[Shri Elamaram Kareem]

Sir, I rise to oppose the route of Ordinance. I am not entering into the merit of the Bill. Merit needs to be supported; that is another thing. This Ordinance was just before the declaration of General Elections. There was no exigency or emergency to bring it through Ordinance at that point of time. This type of Bill or Bills should be brought before this august House so that Members can have a chance to debate elaborately on such Bills. But the practice of bypassing the parliamentary procedure and promulgating Ordinance needs to be curtailed. That is my point. To raise that point, I have moved the Statutory Resolution.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE; AND THE MINISTER OF STATE IN THE MINISTRY OF CORPORATE AFFAIRS (SHRI ANURAG SINGH THAKUR): Sir, I rise to move:

"That the Bill to provide for a comprehensive mechanism to ban the unregulated deposit schemes, other than deposits taken in the ordinary course of business, and to protect the interest of depositors and for matters connected therewith or incidental thereto, as passed by Lok Sabha, be taken into consideration."

*The questions were proposed.*

MR. DEPUTY CHAIRMAN: The Statutory Resolution and the motion for consideration of the Bill are now open for discussion.

DR. T. SUBBARAMI REDDY (Andhra Pradesh): Sir, I agree with the various clauses of the Bill, but mere banning of unregulated deposits will not solve the purpose. There should be simplified norms and rules to be issued by the State Government and the Central Government. Of course, I would also like to draw your attention to the fact that the Bill could not be considered and passed in Rajya Sabha. Since it was extremely critical to tackle the menace of illicit deposit taking activities in the country, the Banning of Unregulated Deposit Schemes Ordinance 2019 was promulgated by the President on 21st February, 2019. It has now come before us. Of course, we actually welcome this Bill. The Bill seeks to put in place a mechanism by which the depositors can be repaid without delay by attaching the assets of defaulting establishments. This is also a very good clause and I support it. The Bill also ensures that no hardship is caused to genuine businesses or individuals borrowing money from their relatives and friends for personal reasons to tide over various crisis. This is also a good clause which I support. Sir, the

Banning of Unregulated Deposit Schemes Bill, 2019 which seeks to replace Banning of Unregulated Deposit Ordinance, 2019 provides for some good clauses to which I would like to draw the attention of the House. Making provisions for banning unregulated deposit schemes is very good and I support it. Imposing an obligation on the deposit-taker, pursuant to a regulated deposit scheme, not to commit any fraudulent default in the repayment or return of the deposit is also a very good clause; I support it. Providing for deterrent punishment for promoting or operating an unregulated deposit taking scheme and providing for punishment for fraudulent default in repayment to depositors is also very good and it will actually strengthen the depositors coming forward to deposit in various schemes. Conferring powers and functions upon the competent authority including the power to attach assets of a defaulting establishment is also very good.

Clause 37 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Act. The matters in respect of which the rules may be made and also the information and other particulars to be taken into consideration before issuing an order and the manner of attachment under sub-clause (3) of Clause 7, is also a very welcome Clause. Clause 38 of the Bill empowers the State Government to make rules in consultation with the Central Government, for carrying out the provisions of the Act. This Clause is also a welcome Clause. Clause 41 empowering the Central Government to add or omit scheme or arrangement, to or from the list of Regulated Deposit Schemes specified in the First Schedule of the proposed legislation, is also a welcome Clause. Then I would like to say that unauthorised chit funds and ponzi schemes are invalid. Unscrupulous people lure the innocent people by offering so many incentive schemes and prize money. These poor people should be saved. This is going to help the people who are innocent, not getting struck by unscrupulous people. Cryptocurrency is another area where the Government should take strict action. They are not legal tenders. The Inter-Ministerial Group has already given the report to the Government. The interest of investors should be protected. This is also very important. As the House is aware, Non-Banking Financial Companies (NBFC) is in a bad position. So, the Government should bring in some scheme to help the NBFC sector. There has been a lot of confusion going on in NBFC. NBFC is very, very important in the growth of Indian economy. No doubt, there were some unscrupulous people, who have misused it. Banks have also suffered. The Reserve Bank of India has been putting a lot of conditions on NBFC schemes. Still

[Dr. T. Subbarami Reddy]

I would like to draw the attention of the Finance Ministry to see to it that NBFC's problems are solved and they are made use of in the growth of the Indian economy. They have also been regulated by the Reserve Bank of India and they are allowed to raise money and deposits from the public under the provisions of various statutes. I want to draw the attention of the hon. Minister regarding the regulation of NBFC. A lot of confusion is going on in the NBFC. Around 9 months back, they were playing a very important role in giving the funds to the various industries. Suddenly, some two or three unscrupulous people played mischief and because of that the entire system has been shattered. The Reserve Bank of India has been very firm and cracking the whip on NBFCs. But every NBFC cannot be considered as wrong and unscrupulous. There are good NBFCs also. So, this is a very important thing to which I would like to draw the attention of the hon. Minister, Smt. Nirmala Sitharaman, to see how NBFCs can be much more utilised by raising the funds for the growth of industry and economy. The Government should announce some package to revive the industry and they should be allowed to bring bonds to raise money. I support the Bill. I am very happy that a number of provisions are there. Of course, there are some amendments given by me which will come up in some time. Thank you, Sir.

SHRI SURESH PRABHU (Andhra Pradesh): Sir, I would like to support the Bill and congratulate the Government for bringing a very comprehensive legislation on a subject which was really a long-term felt need that we must bring in a proper structure regulated regime for making sure about this particular segment of deposit mobilisation, which was outside the purview of deposit mobilisation generally made under the so-called regulated schemes. So, there have been several regulators functioning in the financial services sector. There is the Reserve Bank of India, which regulates banking as well as the non-banking system. There is the National Housing Bank, which regulates housing sector. There is the Insurance Regulatory and Development Authority, which regulates the insurance sector. There is the SEBI, which is the regulator for the capital markets. Similarly, there are regulatory bodies for things like provident fund and many others. So, those schemes, which were governed and were designed and devised under such regulated frameworks, were already regulated by the regulators. But, there have been a large number of schemes which do not come into any of these regulatory frameworks, yet they mobilize large resources. We have seen that there have been huge defaults as

well as so many wrong-doings on their part. As a consequence of that, a large number of depositors have lost money. Therefore, this particular legislation, which is very comprehensive, deals with all those schemes which really do not come under any regulator as mentioned earlier. Therefore, it is actually a very welcome Bill. The deposit mobilization is a necessity for the economy. There are persons and companies who go to the households, try to solicit money from them, bringing them into the mainstream, and, therefore, hasten the economic progress. It is a very welcome thing. So, deposit mobilization, per se, is a very welcome activity. If you can reach out to the people and get their money into the productive means, it is the best thing that can happen. I remember, in 1969, the nationalisation of banks took place. Before that, in 1966, we had brought social control on the banking system, thinking that the banking system must cater to the social needs. In 1969, the banks were nationalised and we have just celebrated the 50 years of banks' nationalisation. We must really compliment the hon. Prime Minister for his efforts when despite the social controls and despite the nationalisation of banks with the stated objective of benefiting the people, a large number of people were still out of the banking system. The banks could never reach them, and those people could never enter the banks. Therefore, a vacuum had been created in respect of deposit mobilization which could happen through household savings, which had to be brought into the system. So, this is a welcome thing that deposit mobilization now happens. Nobody is against deposit mobilization. But, the question is: how to make sure that deposit mobilization also happens, and, at the same time, nobody is taken for a ride. So, one segment of this deposit mobilization process, which happens in so-called unregulated space, will now be brought under this comprehensive legislation and, therefore, we really wish to congratulate the hon. Minister.

Sir, as we know, our big challenge, which is also stated in the Economic Survey, is how to mobilize more savings. China has 50 per cent savings rate. That means, in their 12.4 trillion dollar economy, about 6.2 trillion dollars of savings are generated. That could be brought back into the investments. We have to increase the savings rate and savings rate can improve only when there are intermediaries which are operating in the system, but these intermediaries need to be regulated because there has to be a fine tradeoff between those who mobilize the deposits, and, at the same time, public interest demands that we protect the interests of the depositors also. Therefore, this is a very welcome Bill.

[Shri Suresh Prabhu]

Now, I wish to draw the attention of the hon. Minister as well as the Minister of State to some important clauses. They have brought a very comprehensive legislation. I would draw their attention to Clause 2, which is normally a definition clause. The Bill is very comprehensive about what is a deposit under Clause 2, sub-clause (iv) and it has given a large number of exemptions on deposits which should not be covered, and rightly so. If you do not do that, then normal business will be hampered, which should not happen. That is the objective because in the normal course of business, you have to take deposits. A car dealer takes deposits. When a person sells a flat, he takes deposits, and there are many such examples. So, they, obviously, had to be exempted. They have been rightly exempted as well. But, I still feel that you must make sure that such exemptions also cover even other possible normal business transactions which should not inhibit the growth of business. For example, in normal course, a vendor may be keeping deposit for a simple reason as of some default. So, I think, that also should be properly covered. Though it is a very wide definition, I really wish it gets covered. I would like to point it out.

Then, if you look at Clause 5 and Clause 6, these Clauses also relate to different exemptions. I think, inter-corporate deposits, which are also a part of normal course of business which always happens, one company giving deposit to other company, should also be properly covered. Therefore, I think, Clause 5 and Clause 6 should really try to talk about it. Sir, I am talking about sub clause (10) of Clause 2, which says that “person” includes, and obviously gives a long list of an individual; a Hindu Undivided Family; a company; a trust; a partnership firm; but, I think we should go at the last part, which is part (ix) of sub Clause (10) of Clause 2 which says, “every artificial juridical person, not falling within any of the preceding sub clauses” . Sir, I really do not know what that could mean, but, I think, it is good that everything is covered. But, at the same time, it should be done in a way so that normal business should not be hampered, and should be carried out in a proper manner.

Sir, Chapter II, which again is about “Banning of Unregulated deposit Scheme” , is a very important thing. Sir, nobody is saying that mobilisation should not do it, but, do it in a way so that it can come into the realm of regulation. So, anything unregulated, including any scheme giving advertisement for a ponzi schemes, everything else is covered by this, which again, I think, is a very important thing. Sir, Clause 6 very rightly

talks about “a prize chit or a money circulation scheme banned under the provisions of the Prize Chits and Money Circulation Scheme (Banning) Act, 1978 shall be deemed to be an unregulated activity” . This is the clarification of the clause, but, at the same time, it is very important because that also brings into the ambit of it in a very comprehensive way.

Sir, Chapter III, deals with the “Authorities” . The question is who will actually implement the law? Once a Bill is passed by the Parliament, it becomes a law when it is notified. But, the main question is who is going to implement it? So, the authorities are something like that. I am very happy that the powers have been vested in the authorities at a level not less than that of a Secretary. I think, we really need as an abundant precautionary measure try to codify the role of the authorities, because sometimes the authorities can go over-board and sometimes they need to pay proper attention. So, I think it is imperative that we also make sure that authorities are authorised but, their authority should not necessarily be constrained, and also when we talk about the regulation of the deposit itself, we should also bring in some sort of a codification and a regulation on the role of authorities. I think that generally we should try to do to make sure that we also bring in a new generation of regulation which ensures that while we regulate, we also make sure that a normal business activity does not get hampered.

Sir, Chapter IV which talks about “information on deposit takers” , is a very welcome thing. We are trying to create an online database of all the depositors and I think, this is going to be a central database. So, I think, this is a very good thing, and anybody can know about it. Also, I feel that rather than looking at the central database only as a regulatory issue, it can be looked at for promotional issue also. For example, if somebody wants to know or any depositor wants to know, where he should keep the money, it will bring all the deposit schemes where they are avenues for investment for a depositor. If that can be known to somebody, it will also serve the role of promotion. So, rather than saying that we only want to regulate in terms of knowing what are the depositors, I think, you should look at it from that perspective also because the regulation is one part but it should also result in positive development of economy. Therefore, I think that it can be put into that.

Sir, now, Chapter V and I would request the hon. Finance Minister to look at it very seriously, Clause 12 where we are saying that “Save as otherwise provided in the

[Shri Suresh Prabhu]

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 or the Insolvency and Bankruptcy Code, 2016, any amount due to depositors from a deposit taker shall be paid in priority over all other debts and all revenues, taxes, cesses and other rates payable to the appropriate Government or the local authority” . Sir, as you know, soon here after, we are going to talk about the amendments. If you permit me, I would like to speak on a very positive and a very welcome amendment. Sir, there is Section 53 of IBC. Section 53 is saying, and rightly so the amendments are brought because of the hon. Supreme Court judgment, which says that “all the creditors will be pari passu in a way” which is not right because the financial creditors and the operational creditors have to be differentiated. Otherwise, who is going to lend money? The Banks will never lend money. What is the concept of secured debt? If the secured debt is not secured enough, how is it secured? Therefore, you are bringing an amendment, which I welcome and I will speak about it later. But I am saying, let there not be dichotomy between that amendment that you will be bringing in soon and what we are saying here in Clause 12 that depositors will also get priority. How do you now reconcile the two? I wish you please try to look into that and make sure that it is taken care of. As I said, this Bill is very comprehensive one; institutional depositors and every other part has been taken care of; offences, punishments have been provided for; investigation, search and seizure have been mentioned. It is a very comprehensive piece of legislation, and, I am sure, everyone would support it and we will take it forward.

As I was saying, the broad picture is that we should use all possible means to raise savings and bring the savings into productive means because capital market functions on the basis of domestic savings and household savings. Household savings can never be mobilised unless we have intermediaries. Bank itself is an intermediary. Non-Banking Financial Companies are intermediaries. All of them act as intermediaries and help to link a very important missing area between the depositors and the investment which can go into that.

Whenever it is necessary, we should regulate because regulation also ensures growth. If you regulate, probably, it will result in more growth. But, at the same time, I would request that there should be an ongoing evaluation of legislation that we bring in, whether it will result into positive impact and make sure that growth happens as a

result of this in terms of mobilising the savings and bringing them into positive aspect of it. I am sure the Government will do that but I really wish to congratulate the Finance Minister as also the Minister of State for making this happen. I think, we really look forward to this resulting into an assurance to all the depositors that they are very safe, they are properly taken care of, they are regulated properly, and, in view of the growth of technology, it is possible now to provide information, disseminate information in a manner that was not possible earlier. So, I support the Bill and I wish to congratulate them again. I thank you for giving me the opportunity to speak. Thank you.

SHRI DEREK O'BRIEN (West Bengal): Sir, this is a good Bill. This has been scrutinised. It is watertight to the best of its abilities. We welcome this Bill. We congratulate the hon. Finance Minister as also the Minister of State because this is the way, we believe, legislation should be done.

I want to congratulate them on a second issue. This is the first Bill in this Session—no matter what everybody tries to spin—Bill No. 15, which is going to be passed in Parliament with Parliamentary scrutiny. Let me repeat myself. None of the first 14 Bills, which have been passed, had any parliamentary scrutiny, and, it is a fact. So, through you, Sir, well done to the Minister and the Minister of State.

Sir, when we scrutinize Bills, we get a better opportunity to tighten the Bills. I have got one suggestion here which came from the Parliamentary Committee, and, I will dwell on that a little, but, I think, we also have to understand as to what this Bill will stop. It is not one State or two States; this Bill will stop a *ghotala*, a chit fund *ghotala* like the Pearl Chit Fund *ghotala*. We don't hear much about the Pearl Chit Fund *ghotala* these days. It is a chit fund *ghotala* involving ₹ 49,000 crores and affected 5.5 crore people. It is going on for 20 years and a major constitutional functionary, now not a constitutional functionary, was the legal advisor of the Pearl Group. This is a serious *ghotala* which took place.

The second *ghotala* is still not solved, but I am glad that with this Bill, these *ghotalas* will not happen again. The second one, the Oscar Chit Fund scam, happened in Gujarat. No one writes about the Oscar Chit Fund scam. It affected 1.2 lakh people. So, first it is Pearl; then, you have Oscar, then, you go to Bengal - *Sanchayita ghotala* of 1980s. Oscar also spread from Gujarat. It went to Odisha, it went to Maharashtra. So, I am glad that with this Bill, all that nonsense will stop. Then, you go to Bengal. From



[Shri Derek O'Brien]

1980, there was a *ghotala* of chit fund called *Sanchayita Chit Fund ghotala*. Lots of poor people were duped and that is history. The Bengal Government, thankfully, in the last five, six years have come out with a Commission to return the money to those who were duped. This is a big issue. On the recommendations of the Committee, I have one point. It was referred to the Standing Committee in 2018. The Standing Committee made one recommendation. I just want to make a point. The Committee recommended deletion of the words 'Save as otherwise provided in the SARFAESI Act, 2002 or the Insolvency and Bankruptcy Code, 2016'. This is from Clause 12. My understanding is that it was done to fortify the interests of the depositors. We have not moved any amendments, because we are completely in support of the Bill. But if the Minister clarifies this in the response, we will be happy.

Sir, there are four other points and suggestions on the Bill itself which my colleague, who will speak after this, will make. Thank you, Sir.

**श्री विशम्भर प्रसाद निषाद** (उत्तर प्रदेश) : माननीय उपसभापति जी, “अविनियमित निक्षेप स्कीम पाबंदी विधेयक, 2019”, जो माननीय मंत्री जी लाई हैं, इसको इस समय लाना बहुत जरूरी था, क्योंकि पूरे देश में यह देखने में आ रहा है कि स्कीम्स के नाम पर गरीबों का पैसा लिया जा रहा है। ऐसा अभी से नहीं, बल्कि कई सालों से, वर्षों से जिले-जिले में, जहां-जहां factories है, कारोबार हैं, वहां बाजारों में कोई बी.सी. चला रहा है और पासबुक्स भी रोज जारी की जा रही हैं। वे प्रतिदिन का पैसा जमा करते हैं, मासिक जमा करते हैं, त्रैमासिक जमा करते हैं, वार्षिक जमा योजना चलाते हैं और फिक्स्ड डिपॉजिट की राशि भी जमा करते हैं। जो ऐसे लोग होते हैं, वे चिट फंड कंपनी में अपना रजिस्ट्रेशन करा लेते हैं और सेल टैक्स में भी रजिस्ट्रेशन करा लेते हैं। कुछ प्रभावशाली व्यक्ति सरकार के बड़े-बड़े लोगों से उसका उद्घाटन करा लेते हैं, उनके परिवार के लोगों को एजेंट बना देते हैं और भारी कमीशन देने का काम करते हैं, जिससे मजबूती के साथ अपने काम को कर सकें। किसी फैक्टरी में जितने भी कामगार होते हैं, उन्हें उनका मैनेजर मजबूर करता है कि नहीं, राशि जमा करानी है। इस तरह से यह जाल पूरे देश में फैला हुआ है।

महोदय, गरीब आदमी, जो अपनी बेटा के शादी के उद्देश्य से या अपना मकान बनाने के उद्देश्य से जिंदगी भर अपनी गाढ़ी कमाई का पैसा जमा करता है, उनके लिए वे ऐसी स्कीम्स लाते हैं, जिनमें वे बैंक से, पोस्ट ऑफिस की स्कीम्स के साथ कंपिटिशन करते हैं कि आपका पैसा पोस्ट ऑफिस में जमा कराने पर सात साल या आठ साल में दोगुना होगा, बैंक में इतने सालों में दोगुना होगा, लेकिन हम आपको तीन साल में दोगुना करके दे रहे हैं। अगर आप per

day जमा करेंगे, तो हम तीन सालों में आपको इतना पैसा दे देंगे और लड़की की शादी तक आपके पास चार गुना, पांच गुना पैसा हो जाएगा। वे ऐसा भ्रम जाल फैलाकर गरीब गुरबा लोगों को और जो कामगार लोग हैं, उन्हें प्रभावित करके उनका पैसा जमा करने की स्कीम्स पूरे देश में चला रहे हैं। पेपर्स में तमाम घोटाले सामने आए, लेकिन उसके लिए कोई ऐसा कड़ा कानून नहीं बना था, जिससे कि उन पर पाबंदी लगाई जा सके, उन्हें जेल भेजा जा सके। उन्होंने पैसा जमा किया और रातों रात गायब हो गये। वे जिस मकान में रहते थे, उस मकान में ताला लगाकर रातों रात ट्रक भरकर फर्नीचर उठाकर चले गए। पूरे देश में ये स्कीम्स चल रही हैं। सुप्रीम कोर्ट में, हाई कोर्ट में तमाम cases चल रहे हैं। पश्चिमी बंगाल में एक फेवरिट investment कंपनी चलती थी, पीयरलेस कंपनी चलती थी। जो लोगों की जमा राशि लेकर भाग गई। उनकी पूरे देश में तीन सौ, चार सौ, पांच सौ, हजारों branches खुली हुई थीं। इनका पूरे देश में चाहे गुजरात हो, बिहार हो, पश्चिम बंगाल हो, उत्तर प्रदेश हो, हरियाणा हो एक नेटवर्क था। यहां तक कि बाजारों में, जो सर्राफा व्यापारी लोग हैं, वे भी स्कीम्स चलाते हैं। वे जानते हैं कि किसके पास पैसा है। वह गरीब आदमी का पैसा होता है। वह गरीब आदमी इस विश्वास से कि यह बड़ा आदमी है, सर्राफा व्यापारी है, बेईमानी नहीं करेगा, अपना पैसा जमा करता है, लेकिन वह व्यक्ति डबल पैसा करने की अपनी स्कीम से उनका पैसा, सोना, गहना आदि तक जमा करने का काम करता है और जब मौका आता है, उनका टर्न पूरा होने वाला होता है, तो टर्न पूरा होने से पहले-पहले ताला बंद करके चला जाता है, जिससे गरीब आदमी ठग लिया जाता है। इससे परेशान होकर गरीब आदमी आत्महत्याएं तक कर लेते हैं, तमाम लोग अपनी बेटों की शादी करने से वंचित रह जाते हैं और उन्हें तमाम परेशानियां भी होती हैं।

मान्यवर, क्योंकि ये Non Banking संस्थाएं पूरे देश में चल रही हैं, इनके लिए माननीय मंत्री जी ने इस एक्ट में तमाम सजाओं का प्रावधान भी किया है, परंतु इसमें और कड़े कानून बनाने चाहिए थे। अगर यह बिल सेलेक्ट कमेटी में जाता, इस पर और चर्चाएं होतीं, इससे भी अधिक और कड़े कानून बनाए जाते, जो तमाम बड़े लोग हैं, वे इस तरह से देश के गरीब लोगों का पैसा न ले पाते। हमने देखा कि कोई उद्योगपति आया, उसने अपने मैनेजर को भेजा, एक बड़ा आलीशान कांच का ऑफिस बना कर शहर के किसी बड़े आदमी से या सरकार के मंत्री से उसका inauguration कराया और एक बड़ी स्कीम निकाल दी कि जो इतना पैसा जमा करेगा, उसको कार मिलेगी, जो इतना जमा करेगा, उसको मोटरसाइकिल मिलेगी, जो इतना जमा करेगा, उसको यह चीज मिलेगी। हमने यहां तक देखा कि उन्होंने कई ऐसे स्कीमें बनाईं। हम एक बहुत पुरानी बात बता रहे हैं, जब हम लोग बांदा, बुंदेलखंड में पढ़ा करते थे। वहां एक कंपनी आई और उसने कहा कि हम आपको दो हजार रुपए में मोटरसाइकिल देंगे। उस समय साइकिल एक हजार रुपए में मिला करती थी। उन्होंने कहा कि हम तीन सौ रुपए में साइकिल देंगे। वे वहीं बाजार से साइकिल खरीद कर दे देते थे। इन चीजों में कुकर, फ्रिज, टीवी, सभी चीजें होती थीं। इसमें तमाम पुलिस के अधिकारी और तमाम लोग involve हो गए और लोगों ने पैसा

[श्री विशम्भर प्रसाद निषाद]

जमा करना चालू कर दिया। वे 15 दिन में सामान देते थे। उन्होंने बाजार से लेकर साइकिल दे दी, कुकर दे दिया। जब बड़ी रकम जमा होने लगी, क्योंकि कोई कार के लिए रकम जमा करने लगा, कोई मोटरसाइकिल के लिए जमा करने लगा और इतना पैसा जमा हो गया कि करोड़ों रुपए जमा हो गए, तो वे रातों-रात ताला बंद करके फरार हो गए। इससे वहां बेचारे बहुत से लोग सल्फास खा कर मर गए। महिलाओं ने अपने पति से छिपा कर सोचा कि वे टीवी नहीं ले पा रहे हैं और यहां सस्ते में टीवी मिल रहा है, तो वे स्कीम में पैसा जमा कर आईं। बेचारी अपने घर-परिवार में प्रताड़ित हुईं। देश में जो ऐसी तमाम स्कीमें चल रही हैं, प्राइवेट चिट फंड कंपनियां चल रही हैं, उन पर पाबंदी लगाने के लिए यह विधेयक बहुत ही important है। इसमें कड़ी से कड़ी सजा दी जानी चाहिए। हम तो कहते हैं कि इसका review भी किया जाना चाहिए कि आजादी के बाद अभी तक इन तमाम कंपनियों ने जितने घोटाले किए हैं, उनमें कौन-कौन लोग शामिल रहे हैं और उनको भी इसके दायरे में लाया जाना चाहिए, जो बड़ी-बड़ी कंपनियां और संस्थाएं बना कर गरीब लोगों का पैसा खा गए। अभी सुप्रीम कोर्ट और हाई कोर्ट्स में तमाम मामले चल रहे हैं। उनमें कुछ लोग पेपर्स जमा कर पाए, कुछ नहीं जमा कर पाए। इसलिए उनका भी review किया जाना चाहिए कि देश में ऐसे कितने लोग हैं, जिन्होंने चिट फंड कंपनियां खोल कर गरीबों के अरबों रुपए हड़प करने का काम किया है।...**(समय की घंटी)**...

महोदय, माननीय मंत्री जी जो विधेयक लाए हैं, मैं चाहता हूँ कि इस संबंध में और भी कड़ा से कड़ा कानून बनना चाहिए। मैं इस बिल का समर्थन करते हुए यह कहना चाहता हूँ कि देश में जितने भी जालसाज लोग हैं, जितने भी चिट फंड कंपनी बना कर व्यापार करने वाले लोग हैं, चाहे वे जिला स्तर पर हों, चाहे राज्य पर हों, चाहे पूरे देश के स्तर पर हों, उन पर पाबंदी लगाने के लिए यह विधेयक बहुत बढ़िया है। मैं इसका समर्थन करता हूँ। बहुत-बहुत धन्यवाद।

**श्री उपसभापति :** श्री ए. नवनीतकृष्णन। अनुपस्थित। श्री प्रसन्न आचार्य। अनुपस्थित। श्री राम नाथ ठाकुर।

**श्री राम नाथ ठाकुर (बिहार) :** उपसभापति महोदय, आपने मुझे इस बिल पर बोलने के लिए समय दिया, इसके लिए मैं अपनी तरफ से कृतज्ञता ज्ञापित करता हूँ। साथ-साथ मैं वित्त राज्य मंत्री को बधाई देता हूँ कि वे इस बिल को लाए और निश्चित रूप से यह बिल पास होगा।

महोदय, मैं 1972 की एक घटना बताना चाहता हूँ। मेरे शिक्षक ने मुझे प्रभावित किया कि पीयरलेस कंपनी के माध्यम से इसमें पैसा जमा करने पर दोगुना हो जाएगा। मैंने लोभवश शिक्षक के कहने पर इसमें एक रुपए, दो रुपए दे कर पैसा लगाया, लेकिन वह कंपनी तीन वर्षों के बाद गायब हो गई। मैं आपके माध्यम से सरकार को बधाई देना चाहता हूँ, क्योंकि मजदूर, किसान और खास कर महिलाओं को पैसे को दोगुना करने के लिए लोग प्रभावित करते थे। इससे महिलाएं आकर्षित हो जाती थीं और वे इसमें पैसा जमा करती थीं। रातों-रात, दो महीने-तीन महीने के बाद

कंपनी वाले भाग जाते थे। इसलिए मैं इस बिल का समर्थन करता हूँ और यह कहना चाहता हूँ कि सरकार यह जो बिल लाई है, उसने बहुत अच्छा काम किया है। जैसा निषाद जी ने कहा है कि इसका review करना चाहिए कि किन-किन लोगों ने ऐसा किया है और उन पर आपराधिक मुकदमा लगा कर हमें उन्हें सजा देने का काम करना चाहिए। धन्यवाद।

SHRI PRASHANTA NANDA (Odisha): Thank you very much, Mr. Deputy Chairman, Sir. I must thank the hon. Minister for bringing in this much needed Bill.

MR. DEPUTY CHAIRMAN: Prashantaji, you have three minutes to speak.

SHRI PRASHANTA NANDA: Okay. In a bid to save gullible investor for ponzi schemes, the Government has introduced the Banning of Unregulated Deposit Schemes Bill, 2019 which will replace the Ordinance on the same.

The Bill seeks to help, tackle the menace of illicit deposit taking activities in the country and to provide for a comprehensive mechanism to ban the unregulated schemes.

Sir, I want to bring to the notice of this House something about the ponzi schemes.

It is a form of fraud that lures investors and pays profit to earlier investors with funds from more recent investors. The scheme leads victims to believe that profits are coming from product sales or other means, and they remain unaware that other investors are the source of funds.

The scheme is named after Charles Ponzi who became notorious for using the technique in the 1920s.

The basic premise of Ponzi Scheme is "To Rob Peter to pay Paul". It is common for the operator to take advantage of a lack of investor knowledge or competence or sometimes claim to use a proprietary, secret investment strategy, to avoid giving information, about the scheme.

Sir, with regard to the magnitude of the fraudulent activities across India, I would like to mention the figures that in the past four years, 146 cases of this nature had been investigated by CBI, 56 by the ED, 32 cases by the Ministry of Corporate Affairs and SFIO and 978 cases were referred to various investigating enforcement agencies by the State Coordination Committees.

In Odisha, the Government had set up Justice M.M Das Commission in July 2013 to verify and return deposits collected by different chit funds. Sir, 3.61 lakh small

[Shri Prashanta Nanda]

investors, around 50 per cent of the total depositors have been identified according to the first interim report in May 2016. Looking at the total dimensions of ponzi scheme menace, it is necessary to pass this Bill. Therefore, I support this bill.

The Legislation has adequate provision for punishment and disgorgement or repayment of deposits in cases where such schemes nonetheless manage to raise deposit illegally.

The Statement of Objects and Reasons of the Bill seeks to put in place a mechanism by which the deposits can be repaid without delay by attaching the assets of the defaulting establishments.

The Bill contains a substantive banning Clause which bans deposit-takers from promoting, operating, issuing advertisement or accepting deposits in any unregulated deposit scheme. ...(*Time Bell rings*)... The law also proposes to create three different types of offences: Running of unregulated deposit scheme; fraudulent default in regulated deposit scheme and wrongful inducement in relation to unregulated deposit scheme. Being a comprehensive Union law, it adopts best practices from State laws, while entrusting the primary responsibility of implementing the provisions of the legislation to the State Governments.

MR. DEPUTY CHAIRMAN: Thank you.

SHRI PRASHANTA NANDA: Sir, I am concluding.

With all these much needed clauses in the Bill, I would like to draw the kind attention of the hon. Minister to clarify Clause 31 of the Bill. It allows Police Officers to search without a warrant, thus, has insufficient safeguards to prevent exploitation. The authorization given to the Central Government to create a database of all deposit activities could raise questions on privacy and surveillance.

MR. DEPUTY CHAIRMAN: Nandaji, thank you very much. ...(*Time Bell rings*)...

SHRI PRASHANTA NANDA: Sir, only one sentence.

MR. DEPUTY CHAIRMAN: No; no, you have crossed your time.

SHRI PRASHANTA NANDA: The Bill could hit the real estate developers who offer fixed returns till possession which come under "unregulated deposits".

MR. DEPUTY CHAIRMAN: I will be forced to call the next speaker. Nandaji, please.

SHRI PRASHANTA NANDA: Thanking you once again, I conclude.

DR. BANDA PRAKASH (Telangana): Respected Mr. Deputy Chairman, Sir, thank you very much for giving me the opportunity. First of all, on behalf of our party, we congratulate our hon. Finance Minister for bringing in this Bill and placing it before the House.

Sir, as our earlier speaker said, the magnitude of the problem is very high. According to one Report of the RBI in 2016, Rs. 68,000 crores were collected from more than six crore depositors by such illegal deposit-taking entities using a large network of commission agents. Primarily, they are offering the priority of high returns to the commission agents. Not only one State or the other State, but, the entire country is facing the problem of this network. Number of times, chit fund companies and other companies are taking the deposits, not only monthly chits and other chits, they are also taking some deposits with high returns. By investing that money in real estate and other areas, they are growing like anything. If you study all the chit fund businesses of the country, you will find what in reality is going on. Actually, there is no authentic study in the country how much amount the poor people are investing in such companies. Number of times we see in the newspapers, whether we are at Hyderabad or Delhi, everywhere we find that if they pay some money, they get returns from the real estate or development also, land development or building development. If you pay money, you get the return of ₹ 10,000 per month, Rs. 20,000 per month, something like that. Similarly, so many people are attracted by the gold purchases. If you pay for ten months' scheme, you will get eleven month free; if you pay for eleven months' scheme, you will get twelve month free. Like that, there is a scheme which is in operation in the entire country. Actually, this Bill is brought to safeguard the interests of the small and marginal people who are under the unorganized sector, and who are not covered by any law. So far, there is no such law to protect the people.

Another problem is also there. We are imposing so many penalties and other things. The personnel who are implementing this law, there is a problem of their making a mistake in the implementation of that scheme.

[Dr. Banda Prakash]

Finally, I once again thank the hon. Minister. There should be a regulatory mechanism for the Centre and State Governments to regularly monitor such schemes of the entire country. We should collect data from the entire country. A study should be conducted to find out what is the amount of money that is being invested by the small and poor people in the so called chit fund schemes, investments, and other schemes. We should have a full data with the Finance Ministry. With the help of this data, they can formulate a very good scheme for the poor people. I would also like to bring to the notice of the hon. Minister the issue of big companies which are monitored by different agencies. Very often, the news appears in the press about the ILFS and other schemes. There, the provident fund organizations are also investing. There are 1,400 other organizations which are given permission to formulate their own trusts. They are also investing by different methods and styles which is harmful for the interests of the country. I once again request the Minister to check all these things and make a suitable law in the interest of public which can take care of the people. Thank you.

SHRI K. SOMAPRASAD (Kerala): Mr. Deputy Chairman, Sir, I thank you for giving me this opportunity to speak on this Bill. Sir, the Banning of Unregulated Deposit Schemes Bill, 2019 is a comprehensive legislation. It is high time to enact such a law in this country. I think, this will help to tackle the menace of illicit deposit taking activities in the country. It would legally ban the unregulated deposit taking activities. There are lot of cheating cases related to the unregulated deposit schemes by fraud deposit-takers. Most of the time, poor people are the victims of such frauds and cheating. Sir, the non-banking entities are allowed to raise deposits from public under the provisions of various statutes enacted by the Centre and the State Governments. However, the regulatory framework for deposit taking activity in the country is not seamless. The ponzi schemes, that is, fraudulent investing scam promising higher rates of return to the investors are still operating in the society. I think, this Bill will put an end to this illegal practice.

Sir, as we know, the law creates three types of offences, that is, running of unregulated deposits scheme, fraudulent defaulting regulated deposit scheme and wrongful inducement in relation to unregulated deposit scheme. The Bill provides deterrent punishment for promoting or operating unregulated deposit taking schemes and also provides punishment for fraudulent defaulting repayment to deposits. All are good and appreciable.

Sir, I agree with most of the proposals in the Bill. But, at the same time, there is an apprehension that the law is extremely harsh and will lead to hardship for many individuals, especially small business community in the villages. There are certain uncertainties in the law. The law defines deposit takers and unregulated deposit schemes, but it does not define the unregulated deposit. It is left for the interpretation. It would allow open-ended and subjective decisions of the authorities while adjudicating the offences related to depositors. Hence, the unregulated deposit be more coherently defined and listed in the Schedule of the Bill. The Government says that there is no ban in borrowing money or for taking loan for personal usage. But, there is an ambiguity in the law. In case of loans taken by individuals, Clause 2(4)(f) extends exemption only to loan from relatives or amounts received by a firm from relatives of the partners. That exemption applies only to the loans from the relatives. There is no explicit exemption for loans from non-relatives. Sir, if a person accepts loan from his friend due to some family emergency or medical need or for personal reasons, such acceptance of loan or deposit is not exempted by the present Bill. There must be clarity and a clear-cut policy for extension of such loans.

As far as the real estate area is concerned, the exemption does not include any advance with the refund provision. There is a home buyer. After giving an advance to a builder, he may not be able to claim refund if the builder fails to deliver the house. Here also, specific provisions should be incorporated. My suggestion is that the Government should organise maximum publicity about this Bill, especially in the rural areas. Thank you, Sir.

**प्रो. मनोज कुमार झा (बिहार) :** समय देने के लिए धन्यवाद। आज short circuit हो रहा है।...**(व्यवधान)**... कब हो जाए short circuit, यह नहीं पता। Mr. Deputy Chairman, Sir, I rise to extend my support to this Bill. It is a good move indeed, but with a word of caution to Madam, through you, Sir. कमाल की बात है। मैं यहां अपना ही एक छोटा उदाहरण देता हूं। मैंने नौकरी की शुरुआत 1994 ई. में की थी। उस समय मैंने एक छोटा फ्रिज लोन लेकर खरीदा था। लोन के लिए मैंने 20 दिन धक्के खाए थे और न जाने कहां-कहां से मेरी पड़ताल हुई। बाद में पता चला कि 10 हजार या 20 हजार रुपए लोन लेने वालों को ऐसी ही दिक्कतें आती हैं, 10-20 हजार करोड़ रुपए लोन लेने वालों को कोई दिक्कत नहीं आती। बैंक उनके द्वार पर आ जाता है। मैं समझता हूं कि ऐसी कुछ anomalies हैं, जहां से मैं शुरुआत करना चाहूंगा।

दूसरे, on IBC, there are some issues like promoters' guarantee not being taken into cognizance and the committers going free from his liability. मैं समझता हूं कि इस बारे में



[प्रो. मनोज कुमार झा]

थोड़े मनन-चिन्तन की आवश्यकता है। There is a provision in case of liquidation where the related party can get benefit. मैंने पहले भी कहा कि बिल अच्छा है, नीयत साफ है, नीति भी साफ है लेकिन bureaucracy को इतनी शक्ति भी न दे दी जाए कि you create a State within the State. That might prove a very dangerous proposition in the long run. Today it might appear that we are going to go for a very good regulation, but if bureaucracy gets power and powers include such n-number of circumstance, I think it is going to be a kind of what I said earlier-creating a State within the State. Another issue, Sir, which worries me as a citizen of this country जब ये जो ponzi schemes वगैरह आती हैं, इनके माध्यम से लोगों सब्जबाग दिखाए जाते हैं कि आपके सौ रुपए कल 5 हजार हो जाएंगे और आपकी दुनिया बदल जाएगी। सर, हम सब अपनी-अपनी दुनिया बदलने को बेहद उत्सुक रहते हैं, खास करके जो गरीब, निम्न मध्यम आय वर्ग से आते हैं, जिनको गांधी जी, जो currency पर होते हैं, वे ज्यादा दिखें, उनकी जिन्दगी में यह चाहत होती है। सर, इनकी शुरुआत में ही इन पर लगाम लगाने की कोशिश क्यों नहीं होती है? जब ये ध्वस्त कर जाते हैं, जब ये कई परिवारों को नष्ट कर जाते हैं, तब...हमारे पास एक कंपनी का इतिहास है, मैं कंपनी का नाम नहीं लूंगा, वह late 90s, early 2000 में बिहार में बनाई गई थी। सर, कम से कम लाखों परिवार चौपट हुए थे। आज तक उसका कुछ अता-पता नहीं चला है। मेरा यह मानना है कि गवर्नमेंट के पास इतनी immense power है, तो जब इस तरह की स्कीम्स की शुरुआत होती है, उसी वक्त...एक और बात है और वह यह है कि insolvency law के तहत, Mr. Finance Minister, I would request you that there should be a distinction between financially distressed and economically distressed. A distinction has to be made between financially distressed and economically distressed. That is all I have to say, Sir. Thank you. Jai Hind!

MR. DEPUTY CHAIRMAN: Shri P. Wilson. I think this is your maiden speech. So, kindly keep in mind the limit of 15 minutes.

SHRI P. WILSON (Tamil Nadu): Hon. Deputy Chairman, Sir, firstly I want to thank you for allowing me to speak on this Bill and this is my maiden speech. I want to express my heartfelt and sincere gratitude to our party President, my beloved leader *Thalaivar* M.K. Stalin *avargal* for choosing me to represent the DMK party and the people of Tamil Nadu in this august House of intellectuals. Sir, I come from a modest background, with no roots in politics and it is a testament to the greatness of our Leader that he has chosen me for this great honour.

Sir, I come from the land of the Dravidian movement, spear-headed by Thanthai Periyar, Arignar Anna, Muthamizh Arignar Kalaignar and now being led by the fourth Dravidian icon - Thalapathy M.K. Stalin.

Sir, I want to pay my tributes to our beloved departed leader, the great Tamil icon, Dr. Kalaignar, the five time Chief Minister of Tamil Nadu, whose fame knows no bounds. Sir, he has led the Tamil people over 50 years of his public life by example. He departed this mortal world with only one property to his name, which too he has dedicated to be used for the public cause. During his entire lifetime, he fought the forces of division, discrimination and oppression and this unparalleled fighter had to fight even after his demise for a mere six feet of land for a decent burial. I hope that the Government of India would soon confer the Bharat Ratna on our beloved leader, Dr. Kalaignar.

Sir, the Dravidian movement and its ideologies are hinged on the four pillars of rationalism, equality, self-respect and social justice. Each of these terms carries deep meaning. Almost all fundamental rights under Part III of our Constitution can trace its roots to one of these ideals. It is due to these stalwarts that many social reforms including reservations came to the forefront of mainstream politics. Many social movements which are coming up now, led by young Indians to fight for gender equality, feminism, equality of all people irrespective of caste, colour, language or creed, find support in the Dravidian ideology. It is this ideology and values that has seen Tamil Nadu rise to one of the top States of this great nation. I have no doubt that adherence to these principles will lead to the progress of not only our State, but this great nation as a whole. Sir, the country faces many challenges today. We have been facing some challenges like poverty, illiteracy, denial of access to education, discrimination, food security, etc., since time immemorial. And, some newer challenges, like privacy, cybercrime, environmental degradation, etc., have been brought about by the development in science, technology and socio-economic progress. The people of this country are looking to this House of Parliament to lead them through these testing times.

Sir, in our country, the people are the ultimate sovereign. It is in exercise of this sovereignty, we have enacted the Constitution for ourselves, which is now the supreme sovereign document. Under this hallowed document, this House of Parliament, being the temple of democracy, represents the will of the people. However, we have seen, over the past few decades, the Legislature's sphere of influence has been shrinking and the executive and the judiciary are stepping into some of this space. Sir, we must reclaim our space and it can be done only by adhering to constitutional values.

Therefore Sir, I wish to join the other hon. Members of this august House in our collective endeavour and solemn duty to hold the executive accountable to this House, as envisaged by the Constitution.

[Shri P. Wilson]

Now, coming to the Bill, Sir, way back in 1997, Dr. Kalaignar, when he was Chief Minister, heading the DMK Government, brought an Act called the Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act, 1997. I, first, congratulate the hon. Finance Minister who is the first woman Finance Minister of Independent India. Of course, there are a few areas which require consideration of the hon. Finance Minister.

Sir, you look at Clause 2(4) which talks about the amount received during the course of business. But, if you look at the first proviso to Clause 2(4), it clearly fixes a cap of fifteen days. If the amount is not refunded within fifteen days, then, it becomes a deposit. It means, it affects the day-to-day business. There will be a clear case of chaos and confusion in business. Therefore, the hon. Finance Minister has to clarify on this first proviso to Clause 2(4).

The second aspect is: There are powers for attachment by the competent authority under Clause 7. But, Sir, under Clause 7(3), there is no time-limit specified of attachment. If an order of attachment is passed by the competent authority, until the designated court decides the issue, as found in Clause 15(6), the order of attachment subsists. It means, it will be for an indefinite period. If the designated court takes time of 2 or 3 years, what will happen to deposit-taker? His property will be attached. But, it is also right that he will enjoy his property during the intervening period. Therefore, some time limit should be fixed for the order of attachment to be in force. We can find under the Prevention of Money Laundering Act, the time limit of 180 days. But, I find one time limit under Clause 15(6) which says that 180 days would be given. But, this time limit is directory and not mandatory. Therefore, the designated court need not pass orders and the designated court need not complete its proceedings within 180 days. So, the net result would be the deposit-taker's property will be attached for an indefinite time. So, I request the hon. Finance Minister to kindly consider this.

I, now, come to the issue relating to consent given by the State Government under Clause 30(2). It talks about 'deemed consent' when there are offences relating to property which involves a greater magnitude or where properties are located in more than one State. There is no doubt, if it is located in more than one State...

MR. DEPUTY CHAIRMAN: It is already one O'clock. Mr. Wilson.  
...(Interruptions)...

SHRI P. WILSON: Only one more minute, Sir. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: You have seven more minutes. So, you can continue after lunch. ...*(Interruptions)*...

SHRI P. WILSON: I will finish it, Sir. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: The House is adjourned till 2.00 p.m.

*The House then adjourned for lunch at one of the clock.*

*The House reassembled after lunch at two of the clock,*

MR. DEPUTY CHAIRMAN *in the Chair.*

**GOVERNMENT BILLS –Contd.**

MR. DEPUTY CHAIRMAN: Shri P. Wilson to continue.

SHRI P. WILSON: Sir, I would like to make one more point on this Bill relating to Clauses 30, 30(1), 30(2) and 30(3). If you see Clause 30(2), you will find that it does not require consent of the State Government in the event of ordering for the CBI. This is in direct conflict with the Delhi Special Police Establishment Act. Section 6 of the Delhi Special Police Establishment Act, says that you require a consent from the State Government. The creation of the CBI is under this Act. Therefore, Clause 30(2) is in direct conflict with the Delhi Special Police Establishment Act. The Hon. Finance Minister may kindly consider that deemed consent is legally untenable. Therefore, a time limit can be given to the State Government to react on the request. If time limit is not taken into consideration by the State Government, then, they can think about the deeming clause, Whatever it may be, as such, Clause 30(2) is in direct conflict with the special enactment, namely, the Delhi Special Police Establishment Act. As regards Clause 41, it says that provisions of this Act shall not apply to the deposits taken in the ordinary course of business. What is ordinary course of business is not defined. Once they exempt that, it will not apply to the ordinary course of business and if you see the definition under clause 2(4), the first proviso, the ordinary course of business is given a go by. If the amount is not refunded within 15 days, then, it becomes a deposit. Therefore, Clause 41 and definition in clause 2(4), first proviso, are in direct conflict. The hon. Finance Minister should go into this discrepancy. So, far as the Bill is concerned, no doubt, this Bill is an answer to the malady of thousands and thousands of depositors who ramped

[Shri P. Wilson]

into a public disorder on account of the resentment caused by the financial establishments, which had accepted the deposits on the promise to repay the same with fabulous but commercially not viable rate of interest. However, they could not keep up the promise. Therefore, I welcome this Bill. These are all my suggestions. The hon. Finance Minister may kindly consider the suggestions given by us. Thank you.

DR. NARENDRA JADHAV (Nominated): Mr. Deputy Chairman, Sir, I rise to wholeheartedly support the Banning of Unregulated Deposits Scheme Bill, 2019. I heartily congratulate the hon. Finance Minister for bringing in such a comprehensive Bill. After the Jan Dhan Yojana, which happens to be a landmark scheme for financial inclusion, there comes in this Bill a much needed Bill. Having promoted savings mobilization through the Jan Dhan Yojana, the much needed next step is to provide an appropriate regulatory framework for regulation of deposits, and that is precisely what this Bill intends to do. This Bill is the need of the hour. Over years, one ponzi scheme after another, lakhs of poor gullible investors and depositors have been deprived of their hard-earned savings.

At times, they have been deprived of their life-times' earnings on account of unregulated deposit schemes. Sir, currently there are nine regulators including RBI, SEBI and so on, but the unregulated deposit-taking schemes slip through this and therefore unscrupulous elements can take advantage of this loophole. Therefore, there is an imperative need for such an Act. There are several provisions in this Bill which are extremely commendable. First of all, it bans unregulated deposit schemes and the punishment prescribed is for a term of one to five years and a fine from two lakhs to ten lakhs. The second very desirable...

**श्री उपसभापति :** कृपया सदन में शांति बनाए रखिए, क्योंकि माननीय सदस्य बोल रहे हैं।

DR. NARENDRA JADHAV: The second commendable provision, Sir, is fraudulent default in the repayment or return of deposit has been made an offence punishable with imprisonment for a term up to seven years and the fine ranging from ₹ 5 lakhs to ₹ 25 crore or three times the amount of profits made out of the fraudulent default.

The third commendable provision here is, wrongfully inducing another person to invest in or become a member or participant in any unregulated deposit scheme.

...(Time-Bell rings)... And for that the imprisonment is ranging between one year and five years and a fine up to ten lakh rupees. It is very interesting and commendable, Sir, that this Bill provides for creation, maintenance and operation of a Central on-line data base for information on deposit-takers operating in India.

MR. DEPUTY CHAIRMAN: Please conclude now.

DR. NARENDRA JADHAV: Yes, Sir. I will just take thirty seconds.

This will ensure that there is a centralized and more streamlined system for investors to quickly access information about deposit-takers.

There is only one thing which is not clear in this Bill. Under Clause 7 there is a provision for the constitution of the competent authority which does not include any judicial member.

MR. DEPUTY CHAIRMAN: Please conclude.

DR. NARENDRA JADHAV: It is not clear why no judicial member is included in the constitution of the competent authority. The hon. Finance Minister might like to clarify it.

With this, I commend the Bill for passage. Thank you very much.

**श्री उपसभापति** : माननीय सदस्यगण, कृपया सदन में शांति बनाए रखें। श्री वि. विजयसाई रेड्डी।

SHRI V. VIJAYASAI REDDY (Andhra Pradesh): How many minutes will you be giving to me, Sir?

MR. DEPUTY CHAIRMAN: Three-and-a-half.

SHRI V. VIJAYASAI REDDY: Give me five minutes, Sir. Please.

MR. DEPUTY CHAIRMAN: No, not five, because time is limited. Including Minister's reply, it has to be over by three.

SHRI V. VIJAYASAI REDDY : Right, Sir.

It is a very good Bill and I rise to support this Bill. This Bill provides for a mechanism to ban unregulated deposit schemes and protect the interest of the depositors. Sir, this Bill has got various good features. I will just broadly highlight the main things. The Bill defines depositor and the deposit-taker, and it also defines what is unregulated

[Shri V. Vijayasai Reddy]

deposit scheme. It also provides for competent authority which is empowered with certain powers. It also specifies that there are designated courts for giving the judgements. There is a Central data base which is a very good feature of this Bill, and with this data base, the information can be shared with the other Central Government or State Government Departments, other agencies, which will prevent the repeated offenders to do the crime once again. Then there are certain crimes which are declared in the Bill and penalties are also provided for.

Sir, a very important aspect, everybody here would have known by this time, is this Agrigold scam in Andhra Pradesh. This Agrigold scam in Andhra Pradesh impacted even the neighboring States Karnataka and also Tamil Nadu, and more than 32 lakh poor and middle class people were duped in this, involving about Rs.7,000 crore. The problem with the Agrigold is that it conducted operations without the permission of the regulators. To the best of my knowledge, there are nine regulators already – SEBI, RBI, State Government, Central Government and also Ministry of Corporate Affairs, etc., etc. Sir, most of the victims of unregulated deposits are the poor and those who can barely make ends meet. There are some very good positives in this Bill. Firstly, time-limits have been mentioned in the Bill. For instance, the time-limit for a competent authority to approach the court is 30-60 days while the time-limit for the court to dispose of the matter is 180 days. This is a very good feature. Unregulated deposits are illegal and would be punishable with imprisonment ranging from two to seven years and also a penalty of three to ten lakh rupees. The Bill provides for a mechanism to ban unregulated deposits and protect the depositors. The penal provisions are very stringent. If you look at Clause 22 of the Bill, it imposes a maximum penalty of ₹ 25 crores, or three times of the amount of profit that has been made out of such fraudulent business, as mentioned in Clause 4.

Sir, I have three suggestions to make to the hon. Finance Minister. In Clause 7 of the Bill, instead of 'Secretary who heads the competent authority', I would request the hon. Minister to appoint a specialist in financial matters, who could be an economist or a banker, who has got an understanding as to what the deposits are and what the schemes are, including Ponzi schemes, and persons who can deal with and recognize money trails. This is one suggestion. The second suggestion is, clearer provisions are needed in the Bill to ensure that all properties which are bought directly with crime proceeds, or routed through crime proceeds to other accounts and where the properties

are acquired in the name of the *benamis* and others, should be attached in order to protect the interest of the depositors.

Sir, my third suggestion is about Designated Courts. Under Clause 8 of the Bill, Designated Courts are to be set up with the concurrence of the Chief Justice of the concerned High Court. My contention is that there are certain schemes, like Ponzi schemes, which do not recognize State boundaries and, in fact, extend to other States also. In that case, there would be a difficulty in constituting Designated Courts with the concurrence of the Chief Justice of the respective High Court. So, my point is that the Bill needs a provision for a Special Public Prosecutor. A Special Public Prosecutor must be appointed in cases where the schemes extend beyond State boundaries.

**श्री रामकुमार वर्मा** (राजस्थान) : उपसभापति जी, आपका बहुत-बहुत धन्यवाद। साथ ही, मैं माननीय मंत्री महोदय का शुक्रगुज़ार हूँ कि उन्होंने **The Banning of Unregulated Deposit Schemes Bill, 2019** बिल पेश किया और हमारा जो ऑर्डिनेंस है, यह उसकी जगह लेगा। यह एक बहुत बड़ा कॉम्प्रिहेंसिव बिल है। जिस तरह का वातावरण है या मैं यह कहूँ कि जब माननीय नरेन्द्र मोदी जी देश के प्रधान मंत्री बने, उनके नेतृत्व में सरकार बनी, पिछले पांच वर्षों में भी, उनका उद्देश्य रहा कि देश का फाइनेंशियल सिस्टम साफ-सुथरा हो, अच्छा हो और इस देश के लोगों को फाइनेंस सिस्टम के द्वारा राहत मिले और जो गरीब लोग हैं, जो छोटी बचत करने वाले हैं, उनको भी इसका लाभ मिले। इसके लिए उन्होंने बहुत सारे प्रयास किए, चाहे वह बेनामी सम्पत्ति के संबंध में एक्ट लाए हों, चाहे भगौड़ा कानून के तहत जो लोग बाहर चले गए हैं, बैंकों के हजारों करोड़ रुपये लेकर चले गए हैं, उनकी वापसी के लिए सम्पत्ति जब्त करने का मामला हो, चाहे काले धन को रोकने के लिए *money laundering* एक्ट को मजबूत करने का मामला हो। देश के अंदर बहुत समय से, न केवल आज से, बल्कि पचासों वर्ष से एक अनरेगुलेटेड डिपॉज़िट्स को लोग लेते थे। अनरेगुलेटेड डिपॉज़िट्स वह है, जो रेगुलेटेड डिपॉज़िट्स के अलावा होता है, जिनके लिए हमारी रेगुलेटरीज़ बॉडीज़ हैं। महोदय, जैसा कि आदरणीय और सम्मानित डा. नरेन्द्र जाधव जी ने कहा कि हमारी करीब-करीब नौ रेगुलेटर्स बॉडीज़- **RBI, SEBI** और **IRDA** इत्यादि हैं। इनके अलावा जो लोग अपने व्यक्तिगत स्वार्थ के लिए, देश की भोली-भाली जनता को ठगने का काम करते हैं, इससे उन पर रोक लगेगी। हमारे देश के अंदर बहुत सारे मध्यम वर्ग, गरीब और मजदूर आदि उनके बहकावे में आकर बह जाते हैं और उन्हें जो प्रेरित करने वाला होता है, वह कहता है कि हम आपको इसके बदले में बहुत बड़ा अमाउंट देंगे, उसके बहकावे में आ जाते हैं और इस प्रकार से देश के लाखों लोगों को ठगा गया है और अभी भी ठगा जा रहा है।

महोदय, मैं कहना चाहता हूँ कि कोई भी ऐसा स्टेट नहीं है, जहां इस प्रकार का काम न हुआ हो। चाहे हम झारखंड की बात करें, चाहे वैस्ट बंगाल की बात करें, चाहे महाराष्ट्र की



[श्री रामकुमार वर्मा]

बात करें, चाहे गुजरात की बात करें, ओडिशा की करें या बिहार की बात करें। कहीं न कहीं और किसी न किसी रूप में इस प्रकार की घटनाएं देश के विभिन्न भागों में होती रही हैं। इस प्रकार के कार्य देश के लिए बहुत ही घातक हैं। इस प्रकार का काम करने वाले लोग गरीबों के शोषक हैं। ऐसे लोगों से प्रभावित होकर देश के गरीब लोग इन फंड्स में अपनी जीवन भर की कमाई लगा देते हैं।

महोदय, हम सभी जानते हैं कि शारदा चिट फंड घोटाला, जिस प्रकार से देश में हुआ, उसके कारण लोगों ने देखा जिनका उसमें पैसा लगा था, उन्होंने आत्महत्याएं कर लीं। लाखों लोगों ने अपनी-अपनी छोटी-छोटी बचतों को उसमें लगाया था। किसी ने रिटायर होने के बाद सोचा था कि बेटी का विवाह करूंगा और अपने पैसे को उसमें लगाया। इसी प्रकार से बहुत से मजदूरों ने अपनी छोटी-छोटी बचतों को इकट्ठा करके उसमें लगाया, लेकिन कहीं न कहीं वे भी लालच में आए कि हमारी पूंजी का कुछ अधिक लाभ मिलेगा और उसका नजीजा यह हुआ कि देश का मध्यम वर्ग, गरीब और मजदूर वर्ग तबाह हो गया।

उपसभापति जी, आप मुझे बोलने के लिए कितना समय देंगे?

**श्री उपसभापति :** आपको पांच मिनट दिए गए हैं।

**श्री रामकुमार वर्मा :** मैं इसकी बहुत सारी हिस्ट्री में नहीं जाकर सिर्फ इतना कहना चाहता हूँ कि हमारी सरकार इसे 16वीं लोक सभा के अंदर विधेयक के माध्यम से लायी, स्टैंडिंग कमेटी में भेजा, फाइनेंस कमेटी को भेजा, लेकिन राज्य सभा के अंदर पारित नहीं होने के कारण, इसे अध्यादेश के माध्यम से वर्ष 2019 में पुनः लागू किया गया। इसके बाद आज यह बिल यहां लाया गया है। इसके पारित होने बाद, उन गरीबों को राहत मिलेगी। यह बिल बहुत कॉम्प्लेक्सिव रूप में लाया गया है। इसके अंदर आठ चैप्टर और 44 धाराएं हैं। मैं कहना चाहता हूँ कि इसके पारित होने के बाद अब प्रमुख रूप से, कोई भी ऐसी संस्था विज्ञापन के माध्यम से, अनरेगुलेटेड डिपॉजिट्स को कॉल नहीं करेगी।

महोदय, इस बिल में व्यवस्था की गई है कि यदि मियाद खत्म होने के बाद डिपॉजिटर का पैसा नहीं लौटाया गया और यदि उसे धोखा दिया गया, तो संस्था पर 5 लाख से 25 लाख का जुर्माना और बार-बार जुर्म करने पर 10 साल की सजा 50 करोड़ रुपए का जुर्माना भी होगा। यदि किसी कंपनी में धोखा होता है और अगर कोई इस तरह की फर्म बनाई गई है, तो संबंधित अधिकारी पर भी जवाबदेही होगी। उस फर्म के डायरेक्टर से लेकर मैनेजर तक पर भी कार्रवाई होगी। इसके साथ ही जमाकर्ता की बहुत सुरक्षा करते हुए और उसे महत्व देते हुए एक सक्षम प्राधिकारी अथवा एक कॉम्प्लेंट अथॉरिटी होगी, जो उसकी जांच करेगी और जांच करने के बाद वह उसकी संपत्ति को कुर्क भी करेगा। उस अथॉरिटी के द्वारा इस प्रकार से मुनाफा बटोरने

वालों के खिलाफ कार्रवाई की जाएगी और उस अथॉरिटी से एक निश्चित समय-सीमा के अन्तर्गत जमाकर्ताओं को न्याय मिलेगा।

महोदय, इसके साथ ही, सक्षम अधिकारी एक ऑनलाइन डेटाबेस भी तैयार करेगा। मैं कहता हूँ कि यह बिल देश हित के लिए बहुत अच्छा है और इसके यहां प्रस्तुत किए जाने के बाद इसका सभी ने समर्थन किया है। देश के जो लाखों और करोड़ों गरीब और मजदूर वर्ग के लोग लुटे हैं, उन्हें इस बिल के पारित होने के बाद लाभ मिलेगा। उसके लिए केन्द्र सरकार, माननीय प्रधान मंत्री जी और वित्त मंत्री तथा राज्य वित्त मंत्री बहुत शुक्रिया के हकदार हैं, धन्यवाद।

**SHRI K.C. RAMAMURTHY (Karnataka):** Mr. Deputy Chairman, Sir, thank you for permitting me to speak on this very important Bill. This Bill was long overdue and I am happy that it has seen the light of the day today. Sir, there are a number of positive aspects which we need to appreciate. One of them is the definition and application of the words 'deposit' and 'deposit taker', which have been widened to include all those transactions which cannot be brought under the purview of the general laws that have been in force including the Indian Penal Code, the Reserve Bank of India Rules, etc., in bringing the offenders under the purview of law to prosecute and recover the money such people collected from the general public. This is a good provision. Sir, Secondly, the time limit for completing the process of securing money/deposited amounts from the deposit takers has been limited to 180 days. That is also a very good move because any loss of time will result in delay in rendering justice. Sir, the clause relating to appointment of officer, not below the rank of Secretary as the Competent Authority to discharge and supervise the execution and implementation of the intention and purpose of the Ordinance is a well thought out step. But, if there is any lapse on the part of the Competent Authority who is appointed fails to implement the intention of the Ordinance properly, he and those officers who are entrusted with the responsibilities should be held responsible for those lapses. Sir, there are a few points which I would like to highlight for the Government's knowledge. Sir, Clause 2(4), as my friend was already discussing, says that small businesses, proprietorship, partnerships and Limited Liability Partnerships and MSMEs are almost exempted from the purview of this Bill. Sir, the point to be noted is that we might be exempting them, thinking that the fraud never happens in those places. I am sorry, Sir, the thinking of fraudsters will begin where our thinking ends. I am saying this because IMA Group scam in Bangalore which came to light only recently, has exactly tried to cash on this loophole. The promoter of IMA, instead of collecting money in the form of deposits, made depositors shareholders of his Limited Liability

[Shri K.C. Ramamurthy]

Partnership firm. Now, you cannot prosecute such fraudsters since you are giving exemption to LLPs under Clause 2(4)(I). So, I request the hon. Minister not to be so magnanimous towards such people and companies and amend the Clause accordingly because they take unsecured loans and from unrelated parties. There is a need to widen the applicability of Clause 22 of the Bill. Secondly, if you look at the rate and number with which such scams are taking place during the last 4-5 years, it is mind boggling. I am giving you the statistics given by none other than our hon. Law Minister. According to him, CBI had lodged 166 cases in the last 4 years relating to chit fund and multi-deposit scams. These are only cases registered by the CBI. But, if one looks at the RBI data, it indicates that between July, 2014 and May, 2018, 978 cases of unauthorised schemes were discussed at the State-level coordination committee meetings. But, what the Government has done on these cases is not known. Sir, mere legislation will not do. We don't want paper tigers in the form of legislation. We want action and protection for people from such scamsters. Sir, Clause 3 of the Bill bans unregulated deposit schemes from 21st February, 2019. My concern is what about the people who have already invested thousands of crores of rupees, the poor and gullible people who have invested and lost their hard-earned money. What is the action proposed to be taken on that? Sir, my other point is relating to Clause 32(2) of the Ordinance which deals with application of CrPC. I wish to mention here that in our State, Karnataka, we have the Karnataka Protection of Depositors in Financial Establishment Act, 2004. Section 18(2) of this Act clearly barred application of Section 438 of CrPC which deals with anticipatory bail if the facts and circumstances discloses the commission of offence punishable under this Karnataka Act. This proved to be effective, both from the point of view of the investigator who gets custody of the depositors and also from the point of view of the financial institutions. I would like the hon. Minister to kindly take note of this Karnataka Act. Further, Sir, while recovering the assets from erring companies and deposit-takers by attaching the same, the onus of proof must be on the person who objects the attachment that the attached property is, in no way, connected to either the deposit-takers or their companies. I am saying this, because if the burden of proof shifts to the objector, it would be easier to the designated court or competent authority to complete the process of realization of money. Section 12(5) of Karnataka Act has a provisoin on this. Sir, there is no provision in the Bill for appointment of special public prosecutors. In our State Act, we have a provision for appointment of the public prosecutors from

the advocates who have put in 15 years or more of service and it is very effective in the State.

Lastly, I would like to mention that the RBI gives monetary intelligence to the States which will not be sufficient for the Government, or the competent authority, to attach properties or take preventive action, and even if they act, it might not stand the scrutiny of the law. Provision should be made for clear preventive steps. Otherwise, we are concentrating only on postmortem after the crimes are committed. The Government should give a serious thought on how we will be able to prevent such offences.

The Bill becomes effective if it acts as a deterrent for intending fraudsters. How such dangerous illegal activity, which drains thousands of poor families, could be prevented is a very important factor which needs to be given a serious consideration. With these observations, and hoping that the hon. Minister will certainly take note of certain points that I have made, I support the Bill. Thank you, Sir.

SHRI AHAMED HASSAN (West Bengal): Sir, thank you for giving me the opportunity to speak on this important Bill on the issue which has ailed a large spectrum of people across the society. Let me make some specific points on this legislation.

My first point is regarding central database. As per Clause 9, the Central Government will create a database for information on deposit takers. The Data Protection Bill has still not been tabled. The questions of privacy and surveillance are at stake.

My second point is regarding power to search and seize without warrant. Clause 31(1)(a) allows authorities to enter and search buildings, conveyance or place if they have reason to suspect malpractice regarding the tenets of the Bill. This is a good initiative. But again, regulatory oversight is required. What if false raids are carried out?

My third point relates to creating awareness. What initiatives has the Government taken to create awareness and promote financial literacy among small investors in relation to not investing in any unregulated deposit schemes? Would they even know what such schemes are?

Now, I come to my fourth point regarding recommendations of the Parliamentary Standing Committee. The 2018 Bill was referred to the Parliamentary Standing Committee. The Government has to specify as to which of the recommendations were accepted and which were ignored. Has the term ‘ unregulated scheme’ been defined with an indicative

[Shri Ahamed Hassan]

list of a schedule of such schemes? Has the recommendation of the Parliamentary Committee stating, “with regard to the provision on ‘ wrongful inducement with respect to unregulated deposit schemes’ , as provided under Clause 5 of the Bill, categories such as agents/sub-agents, intermediaries, brand ambassadors/advertisers/media, etc., should be specifically included as illustrative examples...’ ’ , been included? The Committee had recommended extending jurisdiction to other investigative agencies like the Serious Fraud Investigation Office. This has not been included. Why?

Now, I will talk about personal loans. Doubts have been expressed as to whether personal loans are covered by the ban under the Bill. If that is the case, then, a student will not be able to accept loan of scholarship from a charitable trust, or a household help will not be able to take an advance from the employer.

Sir, I would like to conclude by again reinforcing the fact that the Government has to introduce a comprehensive legislation for the unregulated sector and chit funds and ensure that the common man is not affected or swindled, and the people, who are already affected, are compensated effectively and in whole. Thank you, Sir.

SHRI A. NAVANEETHAKRISHNAN (Tamil Nadu): Thank you, hon. Deputy Chairman, Sir, for giving me this opportunity. I rise to support this Bill. I welcome this Bill. I congratulate our hon. Finance Minister for bringing this Bill because of this unregulated deposit scheme, the poor people are victimized. Sir, they want to raise funds. They do not have the bank accounts, they have no collaterals. They do not know the art of taking loans with an intention to cheat the banks. So, they become victims of the persons promoting the deposit schemes with high rate of interest because they think that they can get back the money with huge interest. The poor people are making their deposits with their hard earned money. But, the deposit takers, according to the language employed in the Bill, very clearly mentions that they are having the criminal tendency, they are having the criminal intent to cheat the depositors. Their design is well-known to their minds, to their conscience and also to their employees and the other co-promoters. So, without knowing the implications, they are going to cheat the investors by taking their deposits, and one fine morning, the entire fund will vanish in the thin air and the firm itself will not be available in that place. I am of the humble view that the Bill is serving the larger public interest. Sir, I would like to draw the kind attention of the House to the latest judgment of Delhi High Court. Sir, the Delhi High Court has

taken a very good view and it has held that cheating of large number of investors/depositors in pursuance to a criminal conspiracy, each deposit by an investor constitutes a separate and individual transaction. All such transactions cannot be amalgamated and clubbed into a single FIR by showing one investor as the complainant, and others as witnesses. Now, what is the modus operandi? Now, the police is saying that they are receiving complaints from all the investors those who have been cheated by the investment-taker and they are filing only one FIR and citing all the depositors as witnesses. But, actually that is not the proper course of action expected and as contemplated in the CrPC. Sir, the Delhi High Court has made an observation that "Mere citing a large number of complainants/victims only as witnesses would also deny them the right to file their protest petitions in the eventuality of a closure report being filed by the police in respect of the complaint on the basis of which FIR was registered, or the Magistrate not accepting the final report/charge-sheet and discharging the accused. It was also noted that their right to oppose, or to seek cancellation of bail that the accused may seek in relation to their particular transaction would also be denied also if the accused enters into a settlement/compromise with the complainant on whose complaint the FIR stands registered, the complaints of other victims may go unaddressed". The reason is very simple. Sir, each and every transaction constitutes a separate distinct offence. So, separate FIR has to be filed, separate charge-sheet has to be filed and separate trial has to be conducted. It cannot be clubbed together as a single case. That is wrong. Sir, one small grievance for me which is subject to correction. I would like to...

SHRI MADHUSUDAN MISTRY (Gujarat): Sir, I want to say something.  
...(Interruptions)...

SHRI A. NAVANEETHAKRISHNAN: Sir, this is not a court hall.

SHRI JAIRAM RAMESH (Karnataka): Sir, please listen to the hon. Member, he wants to say something. ...(Interruptions)...

SHRI MADHUSUDAN MISTRY: Sir, no Cabinet Minister is present. What is the meaning of this debate?... (Interruptions)...

MR. DEPUTY CHAIRMAN: The Minister has just gone.

THE MINISTER OF HEAVY INDUSTRIES AND PUBLIC ENTERPRISES  
(SHRI ARVIND GANPAT SAWANT): Sir, I am sitting here.

SHRI A. NAVANEETHAKRISHNAN: Sir, I would like to draw the kind attention to the Clause 27 which says “Notwithstanding anything contained in section 4, no Designated Court shall take cognizance of an offence punishable under that section except upon a complaint made by the Regulator:

Provided that the provisions of Section 4 and this section shall not apply in relation to a deposit taker which is a company” .

MR. DEPUTY CHAIRMAN: Please conclude.

SHRI A. NAVANEETHAKRISHNAN: I am concluding, Sir. So, I think, anybody can set in motion the criminal law. So, this provision has to be re-visited by the Central Government and needful has to be done. Thank you.

MR. DEPUTY CHAIRMAN: Thank you. Shrimati Kahkashan Perween; not present. Shri Narain Dass Gupta.

SHRI NARAIN DASS GUPTA (NCT of Delhi): Sir, I thank you for giving me the opportunity to speak. I rise to support the Banning of Unregulated Deposit Schemes Bill, 2019.

सर, बीजेपी ने एक नारा दिया- “सबका साथ, सबका विकास, सबका विश्वास।” साथ तो सबका मिला, लेकिन विकास अभी कहीं देखने को नहीं मिल रहा है, परन्तु विश्वास जीतने के लिए यह एक बहुत ही अच्छा प्रयास किया गया है, इसलिए मैं इसको सपोर्ट कर रहा हूँ। मान्यवर, बहुत ही छोटी इनकम के लोग जो अपनी सेविंग करते हैं, अपने बच्चों को पढ़ाने के लिए, उनकी शादी करने के लिए, किसी समय किसी बीमारी से ग्रस्त होने पर उसका उपचार कराने के लिए, वे थोड़ी-थोड़ी सेविंग करते हैं। लेकिन इस प्रकार की जो *unscrupulous companies* बनीं, वे जो *schemes* लायीं, उनको ‘*ponzi schemes*’ कहते हैं। सर, ‘*ponzi scheme*’ word डिक्शनरी में नहीं है, *ponzi* एक इटैलियन शब्द का नाम था, यह उसका ‘*surname*’ था, जिसने सौ साल पहले अमेरिका के लोगों को लूटा और कम से कम 8 मिलियन डॉलर्स उसने लूटे। उसी से ‘*ponzi scheme*’ popular हुआ। ऐसी *ponzi Schemes* लाकर, कई लोगों ने पेड़ या दरख्त लगा कर इस तरह की स्कीम्स दीं कि इन पेड़ों पर आप इतने रुपये जमा कराइए, एक पेड़ आपके नाम का उगाते हैं, इससे 10 साल में 10 गुना पैसे हो जायेंगे। इस प्रकार से लोगों को लूटा गया।

Already there are two schemes under the RBI Act under Chapter 3B and 3C. Chapter 3B regulates the Non-Banking Financial Companies and Chapter 3C regulates other deposits. But both these schemes fail to regulate this type of unscrupulous people. अब गवर्नमेंट ने एक effort किया, देर आये, दुरुस्त आये, यह बिल लेकर आये, इसलिए मैं सपोर्ट कर रहा हूँ। इसमें मैं आपको कुछ बातें बताना चाहूंगा।

Sir, the unregulated deposit schemes usually involves a fraudulent company or person which promises big returns to early investors. Those returns are usually furnished by the money from later investors, instead of from a legitimate enterprise. It is a known fact that such schemes are able to lure the poor, financially illiterate and desperate people like refugees with the promise of hefty returns. But the genius of these scams are so sharp that even the best of us sometimes get deceived. Here, I would like to give the example of former Indian cricket captain, Rahul Dravid, among other notable sports persons, who had filed a complaint last year that he was cheated of around ₹ 4 crore by a Ponzi firm. Ponzis like the Saradha Chit Fund scam, Q Net, SpeakAsia, etc., have looted gullible investors of thousands of crores. This had become a menace in India and certainly there was a need to address the issue with a dedicated Bill.

Sir, as has been mentioned in the objects of the Bill, the regulators operate in well-defined areas within the financial sector by regulating particular kinds of entities or activities. For instance, Non-Banking Financial Companies are under the regulatory and supervisory jurisdiction of the Reserve Bank of India. Similarly, chit funds, money circulation including multi-level marketing schemes and schemes offered by co-operative societies are under the domain of the respective State Governments. There are also schemes which are regulated by RBI, as I already mentioned, under Chapter 3 B which regulates the deposits received by Non-Banking Financial Institutions. Chapter 3C of the RBI Act deals with deposits received under unincorporated bodies. However, they were not able to safeguard the interests of depositors and with this Bill, we will have three schemes running parallel; two schemes are already there and this is the third.

MR. DEPUTY CHAIRMAN: Please conclude.

SHRI NARAIN DASS GUPTA: Despite the regulation, these scams were prevalent in all parts of the country and people continued to invest their hard earned savings in the hopes of overnight fortune. Financial illiteracy, lack of access to formal banking, lack of lucrative savings options with bank accounts, marketing and connection often resulted in people opting for such schemes.

I appreciate the object, but I share the view of the Select Committee which says, "This Bill may end up leaving unfettered discretion upon enforcement authorities at the ground level where large number of gullible people depend..." (*Time-bell rings*)... I will conclude. It is my last point.



[Shri Narain Dass Gupta]

Clause 31 gives the power of search and entering the premises to the SHO of a particular police station with the permission of the Superintendent of Police. I would request that he is too junior an officer to give this type of search warrant and that should be given to Joint Commissioner of Police.

MR. DEPUTY CHAIRMAN: Please conclude. I am inviting another speaker.

SHRI NARAIN DASS GUPTA: Sir, with this, I support this Bill. Thank you very much, Sir.

**श्री अजय प्रताप सिंह** (मध्य प्रदेश) : उपसभापति महोदय, सदन में जो बिल प्रस्तुत हुआ है, मैं उसके पक्ष में बोलने के लिए खड़ा हुआ हूँ। बिल के पक्ष में बोलने के लिए मेरे पास पर्याप्त कारण हैं। सबसे बड़ा कारण यह है कि मैं स्वयं मध्यम-वर्गीय पृष्ठभूमि से आता हूँ और मैं ऐसे अनेक मध्यम-वर्गीय परिवारों को जानता हूँ, लोगों को जानता हूँ, जिनके सपने चिट फंड कम्पनियों द्वारा लूटे जाने के कारण बिखर गए। लोगों ने पूरी जिन्दगी मेहनत करके एक-एक पाई को जोड़ा, एक-एक तिनके को जोड़ा लेकिन चिट फंड कम्पनियों ने उन्हें लालच देकर, अपने मोहपाश में जकड़कर, उसकी जिन्दगीभर की कमाई लूट ली। उन्हें अधिक ब्याज देने का लालच दिया गया। उन्हें लालच दिया गया कि बहुत जल्दी उनका पैसा दो गुना, तीन गुना हो जाएगा। उनके जाल में अधिकांशतः कमजोर वर्ग के लोग, निम्न-मध्यम वर्ग के लोग और मध्यम वर्ग के लोग की फंसते आए हैं। उसके पीछे कारण यह रहता है कि उनके सामने जीवन की जो चुनौतियाँ रहती हैं, जैसे लड़की की शादी करनी है, मकान बनाना है या जीवन जीने के लिए अन्य आवश्यकताओं की पूर्ति करनी है, उन्हें लगता है कि चिट फंड के माध्यम से उनका सपना शीघ्र पूरा हो जाएगा, इसलिए वे उनके जाल में आसानी से फंस जाते हैं।

उपसभापति महोदय, मैं मध्य प्रदेश से आता हूँ। मध्य प्रदेश में डाकूओं का बड़ा नाम है, लेकिन डाकू जो भी कार्यवाही करते हैं, सबके सामने करते हैं, खुले में करते हैं जो स्पष्ट दिखता है, लेकिन चिट फंड कम्पनियों के माध्यम से आधुनिक युग के ऐसे डाकू तैयार हुए हैं, जो सरेआम लोगों को लूट लेते हैं, एक-दो को नहीं, हजारों लोगों को लूटकर उन्हें पूरी तरह तबाह कर देते हैं। विगत 2014 से 2018 के बीच चिट फंड कम्पनियों के विरुद्ध जितने प्रकरण दर्ज किए गए हैं, मेरी मान्यता है कि वे प्रकरण बहुत कम हैं- कुल 978 प्रकरण दर्ज किए गए, जिनमें से 326 प्रकरण अकेले बंगाल प्रान्त से संबंधित हैं। मेरी मान्यता है कि पूरे देश में इससे कहीं अधिक लोग इससे प्रभावित हैं, जिनमें सु कुछ संकोच के कारण, कुछ जानकारी के अभाव में और कुछ लोगों को कानून का संरक्षण न मिलने के कारण अपना मन मसोसकर रह जाते हैं। इस बिल को लाने के लिए मैं अपनी वित्त मंत्री महोदया को बधाई देना चाहता हूँ, क्योंकि इस

बिल के माध्यम से उन्होंने न केवल आम आदमी की आशाओं को बलवती किया है, उनकी आकांक्षाओं को बल दिया है, बल्कि अब उनमें एक उम्मीद जागी है कि भविष्य में उन्हें न्याय मिलेगा। इस बिल के आने से पहले, ऐसे प्रकरणों को मोटे तौर पर तीन अलग-अलग तरह की संस्थाएं डील किया करती थीं, लेकिन अब सारे प्रकरण एक अम्ब्रेला के नीचे आ जाएंगे और एक कानून के तहत उनके साथ व्यवहार होगा। पहले Non-Banking Financial Institutions के जितने प्रकरण होते थे, उन्हें RBI deal करता था और चिट फंड मनी सर्कुलेशन Institutions के प्रकरण को SEBI deal किया करता था। राज्य के स्तर पर जो को-ऑपरेटिव सोसाइटी थी, क्रेडिट सोसाइटी थी, उन को-ऑपरेटिव, क्रेडिट सोसाइटीज़ से संबंधित जो प्रकरण होते थे, उनको स्टेट गवर्नमेंट्स डील किया करती थी और इन तीनों की कानूनों में इतने छिद्र थे कि अपराधी आसानी से ही निकल जाया करते थे। गरीबों को पैसा वापस नहीं मिल पाया करता था और अपराधी मौज किया करते थे। इस कानून के आने के बाद से इन तीनों में ही एकरूपता आएगी और यथासंभव अपराधी को घेरा जाएगा। इस बिल में यह भी प्रावधान किया गया है कि अपराधी को केवल सजा ही नहीं मिलेगी, बल्कि गरीबों का जो पैसा लिया गया है, उसकी संपत्ति जब्त करके उनका पैसा वापस दिलाने की व्यवस्था की जाएगी। इसमें सबसे अच्छी बात यह है कि सूचना तकनीकी का प्रयोग करके यह तय किया गया है कि हम देश स्तर पर डेटाबेस बनाएंगे कि कौन-सी कंपनी नियम के अनुसार चिटफंड का काम करने के लिए अधिकृत है और नियम के अनुसार काम कर रही है। इससे यह होगा कि भविष्य में अगर कोई इन्वेस्ट भी करना चाहता है, उसके माध्यम से अपने सपनों को आकार भी देना चाहता है, तो वह धोखा न खाए, क्योंकि चिटफंड की जो यह प्रणाली है, यह बहुत पुरानी प्रणाली है और विशुद्ध भारतीय अर्थव्यवस्था पर आधारित प्रणाली है।...**(समय की घंटी)**...

**श्री उपसभापति :** कृपया अब आप अपनी बात समाप्त कीजिए।

**श्री अजय प्रताप सिंह :** सर, इस प्रणाली में दोष नहीं है। इस प्रणाली को उपयोग करने वाले, जो आधुनिक समय में बहुत सारे fraud किस्म के लोग तैयार हो गए हैं, उसके कारण यह प्रणाली बदनाम हुई है।...**(व्यवधान)**...

**श्री उपसभापति :** अजय जी, अब आप अपनी बात खत्म कीजिए।

**श्री अजय प्रताप सिंह :** सर, मैं आपके माध्यम से माननीय वित्त मंत्री महोदय को बधाई देता हूँ और इस बिल का समर्थन करते हुए अपनी बात समाप्त करता हूँ, बहुत-बहुत धन्यवाद।

DR. K.V.P. RAMACHANDRA RAO (Telangana): Mr. Deputy Chairman, Sir, I thank you very much for giving me this opportunity. I would like to particularly compliment Shrimati Nirmala Sitharaman, who started her parliamentary career from my State reaching greater heights in politics day after day, and also Mr. Anurag Singh Thakur, my Chairman in the Standing Committee, of which I was a Member for three years and associated with him. So, I compliment both of them and I also thank you for giving me an opportunity.

[Shri K.V.P. Ramachandra Rao]

Now, I come to the legislation to protect the depositors, which is being passed by Parliament. But, people are cheated day by day. The Deposit Protection Act, 1990 was not sufficient and it became ineffective in protecting the depositors. At least 100 million people were cheated by various scams, various deposit schemes and companies like AgriGold, Akshaya Gold, Abhaya Gold, etc. The impact of these financial frauds is very severe. Millions of families are getting ruined, particularly the people who save money for their retirement benefits, marriages of their children, education of their children, health and medical bills. They are getting cheated. We are looking at them in a helpless way. I only hope that this Bill will be an answer and it would reduce the misery of depositors and from now, at least, the interest of depositors will be taken care of fully. Here, we have to also recollect this thing. In my State, I was approached by AgriGold and Akshaya Gold depositors, where several family members have committed suicides because of their losses. In this regard, through you, Sir, I am making an appeal to the hon. Finance Minister to take some of these suggestions into consideration, particularly, regarding Clauses 9, 13, 30 of the Banning of Unregulated Deposit Schemes Bill, 2019. My suggestions include the following:-

In Chapter IV, Clause 9 (3), the existing State level coordination Committees headed by Chief Secretaries in consultation with Union Finance Ministry shall conduct regular monitoring and create mass awareness of financial frauds across the country. In Chapter V, Clause 13 (6), competent authority shall have corpus fund, namely, Depositors Protection Fund, which will be used for disbursement of money to the small depositors upto ₹ 10,000 irrespective of sale of properties; if the sale of properties got delayed. Clause 13 (7), there shall be coordination between the competent authorities of respective States in regard to sharing of information, proportionate disbursement of money to the depositors. Clause 13 (8), Central Government shall coordinate with the Chief Secretaries of the States wherever clarifications or directions are required. In Chapter VII, Clause 30 (a), making it compulsory where the number of depositors are more than 10,000. Then, Clause 30(b), total value of the amount is more than ₹ 50 crores or of such magnitude which significantly affect the public interest. Clause 30(4), this Act applies to existing frauds above ₹ 50 crores or having impact on 10,000 depositors which are under investigation by State police.

Sir, these are some of the suggestions, which I can make for the present Bill. We have to take certain more precautions like educating the public.

MR. DEPUTY CHAIRMAN: Dr. Rao *Garu*, please conclude. You have one more speaker from your Party.

DR. K.V.P. RAMACHANDRA RAO: Yes, Sir, I am finishing it.

The Government needs to educate people about saving their money. The society needs to save the money for their future generations and for their own future. Also, at the same time, this Government has bounden responsibility to take care that the hard-earned money saved by the public is being protected properly. Thank you very much, Sir.

**श्री उपसभापति :** श्री समीर उरांव। चार मिनट।

**श्री समीर उरांव (झारखंड) :** उपसभापति महोदय, सर्वप्रथम मैं आपका आभार व्यक्त करना चाहूंगा कि आपने मुझे “अविनियमित निक्षेप स्कीम पाबंदी विधेयक”, 2019 के विषय पर सदन में विचार व्यक्त करने का अवसर प्रदान किया। महोदय, यह विधेयक देश में अवैध रूप से जमा किए जा रहे धन के प्रकोप से निपटने के लिए बनाया गया है। माननीय प्रधान मंत्री जी भ्रष्टाचार मुक्त भारत की दिशा में आगे बढ़े हैं और यह एक सकारात्मक कदम है। इस विधेयक को माननीया वित्त मंत्री जी लाई हैं। इसके लिए मैं माननीया वित्त मंत्री जी और माननीय वित्त राज्य मंत्री जी को बधाई देता हूँ। इस विधेयक का उद्देश्य और गैर कानूनी तरीके से, बिना नियम-कायदे से चल रही जमा लेने वाली योजनाओं पर अंकुश लगाना है। पिछले कुछ वर्षों में देश भर में कई प्रकार के घिट फंड्स घोटाले हुए हैं, जिन्हें हम सभी ने देखा है। महोदय, सी.बी.आई. का अनुमान है कि गैर-कानूनी जमा योजनाओं के ज़रिए देश भर में लगभग 6 करोड़ लोगों से 68,000 करोड़ रुपये जुटाए गए। इस प्रकार के लोगों पर कार्यवाही के लिए बहुत से प्रावधान किए गए, परन्तु इन्होंने इन कानूनों से बचने के लिए कई उपाय ढूँढ लिए थे।

महोदय, सख्त प्रशासनिक उपायों के अभाव का फायदा उठाकर इस तरह की योजनाएं चलाने वाले लोग गरीब और विवश लोगों को चूना लगाते रहे।

महोदय, इस विधेयक के माध्यम से सरकार ऐसे लोगों पर अंकुश लगाने का कार्य करेगी, जो एक बहुत ही सकारात्मक निर्णय है। इसमें पॉन्जी स्कीमों से आम लोगों को बचाने के लिए एक रास्ता निकलेगा, डिपॉजिटर्स के हितों की रक्षा होगी और इसके साथ ही काले धन की समस्या से निपटने में भी सरकार को बहुत मदद मिलेगी।

महोदय, जन हित में लाए गए इस विधेयक के अंत में गरीब व विवश लोग, जो इन योजनाओं का शिकार हो जाते थे, उन्हीं का लाभ होने वाला है। इस विधेयक में बहुत सख्त प्रावधान किए गए हैं, मैं मानता हूँ कि इन प्रावधानों से गैर-कानूनी जमा स्कीम और काले धन पर बहुत हद तक अंकुश लगाया जा सकेगा।

**3.00 P.M.**

[श्री समीर उरांव]

महोदय, इस विधेयक में कहा गया है कि कोई भी प्रत्यक्ष या परोक्ष रूप से विज्ञापन के लिए या फिर लोगों को आग्रह कर अनियमित जमा योजना नहीं चलाएगा। इस प्रावधान के उल्लंघन करने पर कम से कम 3 साल और ज्यादा से ज्यादा 10 साल तक की सज़ा का प्रावधान किया गया है। साथ ही कुल जुटाई जमा राशि का दोगुना तक बतौर जुर्माना भी करना पड़ेगा। यदि कोई संस्था नियमित जमा योजना में मियाद पूरी होने पर धोखा कर पैसा वापसी नहीं करती है, तो उसके लिए 7 वर्षों की सज़ा के साथ ही 5 लाख रुपये से लेकर 25 करोड़ रुपये तक जुर्माने का प्रावधान किया गया है।

महोदय, बार-बार चोरी करने वालों को 10 साल की सज़ा व 50 करोड़ रुपये तक के जुर्माने का प्रावधान इस विधेयक में किया गया है। यदि किसी कम्पनी पर जुर्म साबित होता है तो जुर्म के वक्त जवाबदेह अधिकारी पर कार्यवाही होगी।

महोदय, संपत्ति ज़ब्त करने और प्रभावित लोगों को मदद पहुंचाने का काम तय समय-सीमा के भीतर होगा। एक ऑनलाइन डेटाबेस तैयार किया जाएगा, जिससे गैर-कानूनी अनियमित जमा योजनाओं की पूरी जानकारी उपलब्ध होगी।

महोदय, मेरा मानना है कि सरकार निरंतर देश के आम जन के हितों का ध्यान रखते हुए यह कार्य कर रही है। लगातार काले धन पर अंकुश लगाया जा रहा है...(व्यवधान)... महोदय, मुझे आपका थोड़ा संरक्षण चाहिए, मैं पहली बार बोल रहा हूँ।

महोदय, लगातार काले धन पर अंकुश लगाया जा रहा है, इसी दिशा में सरकार द्वारा यह विधेयक पास करना बहुत ज़रूरी है। सरकार के द्वारा लाए गए इस विधेयक हेतु मैं मंत्री जी को पुनः धन्यवाद देता हूँ। यह बहुत ही सराहनीय कदम है। इससे गरीब लोगों का पैसा लूटने वाले लोगों पर एवं उनकी योजनाओं पर सख्त रूप से प्रावधानों के माध्यम से अंकुश लगाया जाएगा।

मैं माननीय मंत्री जी, द्वारा लाए गए इस बिल का पुरजोर समर्थन करता हूँ।

SHRI RIPUN BORA (Assam): Sir, I rise here to support the Banning of Unregulated Deposit Schemes Bill, 2019. Cutting across political party lines, we have all supported this Bill. It is because it is a very good Bill and it is the need of the hour. Why is it the need of the hour? This Bill is to clampdown the illicit deposit-taking activities. That is number one. Number two is, it prevents operation of un-regulated deposit schemes. Number three is, it prevents fraudulent default in regulated deposit schemes.

Number four, to prevent wrongful inducement of unregulated deposit schemes. In fact, these unregulated deposit schemes, nowadays, have become a menace in our

country. During the past years, we have seen that these unregulated deposit organisations have grown up by leaps and bounds like mushrooms. Not to speak of the entire country, nearly six crore people have so far become victims of these unregulated deposit schemes. My State is a very small State. So far as my State Assam is concerned, you will be surprised to know that in villages, in semi-urban areas or even in talukas, some organisations have started motivating the poor people, the women, the daily wage earners, and tempting them to make their income, double, triple, and so on. They collect the deposits on daily-basis, weekly-basis, monthly-basis and after two years, three years, they fly away and their money also goes. Because of that, this is a historic Bill. Since the Bill is going to stop all this menace, I congratulate the hon. Finance Minister. Sir, I want to draw the attention of the hon. Finance Minister, through you, to some shortcomings of the Bill. I will very briefly mention that even though there are three categories of penalties, that is all right for two categories. But so far as one category is concerned, that is under Clause 3 of the Bill, "banning direct and indirect promotion, operation and advertisement soliciting participation in an unregulated deposit scheme", the person who contravenes it, he is liable to a punishment of minimum one year with a minimum fine of ₹ 2 lakhs. Whereas, the man who accepts such illegal deposits, he is given punishment of imprisonment for two years and with minimum fine of ₹ 3 lakhs. My suggestion to the Minister is, since it is a very serious offence, it should be nipped in the bud. This quantum of punishment is very less. If we give them strong and strict punishment at the initial stage, it will be a lesson for others and they will not repeat such offences in future. My second point is, this Bill basically, takes punishment to the deposit takers. But the individuals, those who induce people for this illegal deposit, those who motivate the poor and illiterate people for these deposits, they are not taken for punishment. So that should also be taken into consideration. My third point is this. The competent authority refers the matter to the Central Bureau of investigation and it is deemed such that a reference would be with the consent of the State Government. It is deemed, but I want to suggest that it should be made mandatory. The consent of the State Government while referring the matter to the Central Bureau of Investigation, should be made mandatory. That is what I want to say. There is a scope of misuse and exploitation by police. Here, in this Bill, the police has been given power for search and seizure without any warrant. The hon. Minister should take care of this thing because this, for some personal revenge or maybe, politically also, may be misused in later course of time. Therefore, my suggestion is that this should be taken care of. My another point

[Shri Ripun Bora]

is: The Central Government should authorise to create database of all deposit taking activity, the information of which may be shared by the CBI, with the Regulator, Income-tax authorities, and principal officers of the banking company, who suspect that any client is a deposit taker. Here, I want to say that the State Government should be involved. If it is done without involving the State Government, there is again the violation and encroachment of the concept of cooperative federalism.

My time is six minutes. I will take one minute more. Now, I come to the last point. This Bill was referred to the Standing Committee, and the Standing Committee has also made some recommendations, and I request the hon. Minister to incorporate all those recommendations so that all offences, not only offences relating to this, all should be made non-bailable and cognizable. Earlier, we have been referring the cases only to one investigating agency, that is, the CBI. But, CBI is overburdened. Therefore, my suggestion is, these cases should be referred to some other investigating agency, other than the CBI, which agency is like the CBI. That is my suggestion.

The other suggestion, which is most important, is regarding SEBI. Sir, so far as the role of SEBI is concerned...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Please conclude now.

SHRI RIPUN BORA: Sir, just one minute. Sir, the collective investment schemes are regulated by SEBI. Now, only one CIS is registered with SEBI. ...*(Interruptions)*... Therefore, SEBI should be asked to review their guidelines. Lastly...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: No, I will not allow.

SHRI RIPUN BORA: With this suggestion, I support the Bill.

**श्री अमर सिंह** (उत्तर प्रदेश) : माननीय उपसभापति जी, मैं मात्र एक मिनट में अपनी बात खत्म कर दूंगा। मैं माननीय वित्त मंत्री जी और माननीय वित्त राज्य मंत्री जी को आपके माध्यम से इस बिल को लाने के लिए बहुत-बहुत हार्दिक शुभकामनाएं एवं बधाई देता हूँ।

सर, मेरे सिर्फ दो बिंदु हैं। एक तो यह है कि कश्मीर से कन्याकुमारी तक धन उगाही करने वाली कई कम्पनियों की मशरूम ग्रोथ हुई है, जो हजारों करोड़ रुपया असुरक्षित तरीके से इकट्ठा करती रही हैं। उनमें से कई कंपनियों की योजना है कि वे इस बिल के आने की आशंका के कारण, कोऑपरेटिव सोसाइटी का रजिस्ट्रेशन करके, उसके माध्यम से स्वरूप बदल

कर धन उगाही करें। मैं यह जानना चाहता हूँ कि इस आशंका के बारे में सरकार को कोई संज्ञान है या नहीं?

दूसरा, जो स्पोर्ट्स और सिनेमा के बड़ी-बड़ी सेलिब्रिटीज़, जो गुणवत्ता के आधार पर नहीं, मोटी फीस के आधार पर कभी किसी प्रदेश में, कभी किसी प्रदेश में...मैं यह आरोप नहीं लगा रहा हूँ...पिछले दिनों में केरल में त्रिवेन्द्रम में था, बहुत अच्छी कंपनी होगी, उसका Muthoot Finance के नाम से आजकल बहुत प्रचार है। उसमें देश के बहुत बड़े महानायक की फोटो हाथी के साथ दिखाई दी, मैं किसी का नाम नहीं लूंगा।...**(समय की घंटी)**...उस महानायक की फोटो उत्तर प्रदेश की किसी बड़ी कंपनी में दिखाई देती थी, तो निश्चित रूप से गुणवत्ता आधार नहीं है, बल्कि endorsement की फीस आधार है।

**श्री उपसभापति** : माननीय अमर सिंह जी, अब आप कन्क्लूड करें।

**श्री अमर सिंह** : मैं यह जानना चाहता हूँ कि क्या सरकार इसको रोकने के लिए कुछ कर रही है?

MR. DEPUTY CHAIRMAN: Now, Shri Elamaram Kareem.

SHRI ELAMARAM KAREEM : Mr. Deputy Chairman, Sir, thank you for giving me an opportunity to speak on this Bill. I am not going for an elaboration. Earlier, I told about the sanctity of the Ordinance. In fact, our colleagues have already explained their point of view about this Bill. Once more, I raise the issue of bringing Ordinance without much discussion in this House. That is all. Thank you.

MR. DEPUTY CHAIRMAN: Now, Minister's reply. Shri Anurag Singh Thakur.

**श्री अनुराग सिंह ठाकुर** : धन्यवाद, उपसभापति जी। The Benning of Unregulated Deposit Schemes Bill, 2019 जिस पर आज सदन में विस्तार से चर्चा हुई, इस पर लगभग 23 माननीय सदस्यों ने अपनी बात रखी है। सभी सदस्यों ने इस बिल का समर्थन किया है, इसके लिए मैं सभी माननीय सदस्यों का आभार प्रकट करता हूँ। माननीय उपसभापति जी, क्यों न हो, आखिरकार यह बिल गरीब के लिए है, उन भोले-भाले लोगों के लिए है, जिनको गुमराह और भ्रमित करके, जिनकी गाढ़ी कमाई को खाने का साधन इन पॉजी स्कीम्स जैसी योजनाओं के माध्यम से बनाया जाता था। मुझे प्रसन्नता इस बात की है कि गरीब की गाढ़ी कमाई को बचाने के लिए लोक सभा में भी आम सहमति से इस बिल को पास किया गया, सभी अमेंडमेंट्स को विद्‌ड्रॉ किया गया और राज्य सभा में भी एक ध्वनि के साथ, जिस तरह से सभी ने बिल के पक्ष में बात कही है, मुझे लगता है कि गरीबों के हित में यह बहुत बड़ी बात है, एक शुरुआत है।

उपसभापति महोदय, शुरुआत में जो स्टेट्यूटरी रिज़ॉल्यूशन्स लाए गए, श्री इलामारम करीम जी ने, डा. टी. सुब्बारामी रेड्डी जी ने कुछ हद तक अपना विरोध प्रकट किया कि ऑर्डिनेंस के



[श्री अनुराग सिंह ठाकुर]

रूप में इसे क्यों लाए? लेकिन जब सुब्बारामी रेड्डी जी ने अपनी बात कही, तो इन्होंने बहुत विस्तार में बिल का समर्थन किया, एक-एक प्वाइंट को लेकर किया। मुझे लगता है कि हमें इसके इतिहास में जाने की आवश्यकता है। पहले तो यह कि इसकी शुरुआत कहां से हुई? जब स्टैंडिंग कमेटी ने 2015 में, 16वीं लोक सभा की शुरुआत में, सितम्बर, 2015 में अपनी रिपोर्ट दी, they have also examined the efficacy of collective investment schemes, chit funds etc. What were the recommendations of the Standing Committee? The Standing Committee recommended that the Government may bring effective, administrative and enforcement measures as well as appropriate legislative provisions through enactment of a Central legislation. So, subsequently, the Government has constituted an Inter-Ministerial Group for identifying gaps in the existing regulatory framework for deposit taking activities and to suggest administrative and legislative measures including formulation of a new law to cover all aspects of deposit taking. Now, the recommendations made by IMG included a new Central legislation in order to tackle the menace of illicit deposit taking schemes सर, जब उन्होंने सुझाव दिया, तब एक बैन लगाने के लिए एक कॉम्प्रिहेंसिव बिल लाया गया। उसको नाम दिया गया, Banning of Unregulated Deposit Schemes Bill, 2018; it was introduced in Lok Sabha on 18th July, 2018. The said Bill was sent to the Standing Committee on Finance on 10th August, 2018 for examination and report. The Bill, along with recommendations came back and it was further discussed, considered and passed in the Lok Sabha on 13th February, 2019. सर, इसी साल, 13 फरवरी, 2019 को बिल आया। 16वीं लोक सभा के बहुत कम दिन रह गए थे, उन्होंने बिल पास कर दिया। राज्य सभा में बिल टेक-अप नहीं हो पाया, क्योंकि यहां पर हाउस adjourn हो गया, sine die हो गया और यहां पर यह बिल आ नहीं पाया, तो हम क्या करते? जो गरीब, भोले-भाले लोग हैं, जिनका हजारों करोड़ रुपया पहले लुट चुका है, उनको और लुटने के लिए, फिर उन लोगों के हाथों में छोड़ देते या ऑर्डिनेंस लाकर उनको बचाने का काम किया जाता? I think, that is what led to the promulgation of the Ordinance by the hon. President to safeguard the interests of gullible people, the poor and the needy people. सरकार ने अपना धर्म उस समय भी निभाया और आज हम सब इकट्ठे मिलकर निभा रहे हैं कि इस बिल को आम सहमति से ऐसा लगता है कि आप भी पास करेंगे। ऑर्डिनेंस लाने का और कोई कारण नहीं था। अगर 2015 से शुरू करके, रिपोर्ट देने के बाद 2019 में आज भी हम गरीब, पिछड़े, भोले-भाले लोगों के लिए कोई ऐसी कानूनी व्यवस्था नहीं कर पा रहे हैं, जिससे कि उसकी गाड़ी कमाई के पैसों को बचा सकें, तो मुझे लगता है कि यह सही दिशा में, उस समय ऑर्डिनेंस लाया गया। आज बिल भी इसीलिए लाया गया है, ताकि व्यवस्था की उन कमियों को पूरा किया जा सके। मेरा आपसे इतना ही निवेदन है, इसीलिए यह ऑर्डिनेंस लाया गया, otherwise कोई आवश्यकता उस समय शायद नहीं होती, अगर राज्य सभा उस समय पास कर देती।

Sir, now I will talk about some salient features of the Bill on which most of the hon. Members have already spoken. Sir, this Bill aims to prevent such unregulated deposit schemes or arrangements in their inception. सर, बहुत सारे माननीय सदस्यों ने कहा कि यह कैसे अलग होगा? सर, फर्स्ट शेड्यूल के कॉलम 3 में 9 बॉडीज़ की बात कही है, जो 9 रेग्युलेटर्स हैं, वे जिन-जिन स्कीम्स को लीगल मानते हैं, वे लीगल एंटीज़ हैं। उसके दायरे के बाहर जो भी है, वह अनरेग्युलेटेड है और अनरेग्युलेटेड डिपॉजिट्स स्कीम्स के ऊपर यह बिल है। जो उनके दायरे के बाहर है, वह अनरेगुलेटेड है और जिस दिन से यह बिल एनफोर्स हो जाएगा, यानी एक्ट बन जाएगा, उस दिन के बाद इस तरह के जितने भी सारे धंधे होते हैं, उन सभी पर पूर्ण विराम लग जाएगा।

उपसभापति महोदय, मुझे इस बारे में आगे बताते हुए प्रसन्नता हो रही है, जैसा कहा गया कि ऑर्डिनरी कोर्स ऑफ बिजनेस में आम आदमी को बहुत दिक्कत आएगी, कोई दिक्कत नहीं आएगी। यहां पर चिट फंड और पॉजी स्कीम्स की बात कही गई। मैं पहले इसी बारे में बताना चाहता हूँ कि चिट फंड और पॉजी स्कीम के अन्तर है। चिट फंड वर्ष 1982 के एक्ट के अनुसार रेग्युलेट करता है और इसे आपकी राज्य की सरकारें ही करती हैं, नियम भी उन्होंने ही बनाए हैं। पॉजी स्कीम्स, जो अनरेग्युलेटेड डिपॉजिट्स स्कीम्स हैं, उसके अन्तर्गत आएंगी और वे रेग्युलेटेड नहीं हैं। अब जब इसे आप एक्ट बना देंगे, तो इसके नियम बनाने का अधिकार भी राज्यों की सरकारों के पास होगा।

उपसभापति जी, यहां कहा गया कि 'to meet the personal and social commitments (or) medical and educational urgencies will dry up as no amount can be borrowed from persons other than relatives as defined under the Companies Act. The definition is restricted to only immediate family members.' Let me clarify here that 'the loans can be taken from banks and other financial institutions listed in Schedule I. The loans for such exigencies are exempted under Clause 2 (4) (a), (b), (c), (d) and other deposits which are listed in Schedule I of the banning of the unregulated deposit schemes. इसके अलावा यह कहा गया कि फ्रेंड्स और रिलेटिव्स से न लें। This is about banning of the unregulated deposit schemes. इसमें बड़ा क्लियरली कहा गया है- The deposits taken in the ordinary course of business are not banned under the Bill and this is to ensure that common people who are in need of loans from friends, relatives for emergent and immediate needs do not face any hardships. सर, यह ऑर्डिनरी कोर्स ऑफ बिजनेस क्या है, इसकी परिभाषा क्या है? जो इन्कम टैक्स के सैक्शन 222 के अन्तर्गत कही गई है और कम्पनीज़ एक्ट के सैक्शन 185 में कही गई है, वही परिभाषा इसमें भी लागू होगी। यह मामला माननीय सुरेश प्रभु और अन्य माननीय सांसदों ने उठाया था। इसके अलावा सैक्शन 210, इसके अलावा Clause 2(10), इसके बाद में कहा गया as clarification in (ix) "every artificial juridical person, not falling

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within any of the preceding sub-clauses;" The objective is to provide a comprehensive definition of a person. Therefore, rest of the legal entities which have not been converted in Clause 2(10) (i to viii) will also be included in the definition of a person.

सर, श्री सुरेश प्रभु एवं कुछ अन्य माननीय सदस्यों ने कहा कि priorities of depositors claim. हमने यह प्रावधान इसलिए किया है कि सबसे पहले प्राथमिकता उसको मिले, जिस गरीब का पैसा फंसा हुआ है और यह बहुत बिस्तार से बिल में लिखा गया है। Sir, the provision is aimed at protecting the interests of depositor and giving them top priority as otherwise provided in the SARFAESI Act or in the Insolvency and Bankruptcy Code. It indicates that the claim of depositors will have priority over others except in SARFAESI Act or the IBC.

सर, कुछ और बातें यहां पर माननीय सांसदों ने कहीं, जो क्लेरिफिकेशन की बात थी। अभी-अभी श्री अमर सिंह जी ने भी चिन्ता व्यक्त की कि बड़े-बड़े नाम इन योजनाओं के साथ जुड़ते हैं और गरीब आदमी को, भोले-भाले आदमी को उन नामों को देखकर लगता है कि जब इतना बड़ा आदमी इस स्कीम से जुड़ा है, तो योजना ठीक ही होगी। भले ही उन्होंने कुछ लोगों के नाम लिए, फिर चाहे वे फिल्मी स्टार्स, स्पोर्ट्स मैन, नेता, अभिनेता, किसी का भी नाम लिया हो। सर, दुर्भाग्य यह है कि इन योजनाओं के साथ कई नेताओं के, चाहे वे इस सदन के हों, चाहे उस सदन के हों या यहां से बाहर के सदस्य भी रहे हों, उनके नाम भी जुड़े रहे हैं, इसलिए हमारा दायित्व और बढ़ जाता है कि कम से कम उस गरीब की भलाई के लिए इसमें यह बहुत क्लियर होना चाहिए और इसीलिए हमने इसकी परिभाषा को भी बड़े डिटेल् में कहा है। अगर आप इसमें पढ़ेंगे, तो "No person by whatever name called shall knowingly make any statement, promise or forecast which is false, deceptive or misleading in material facts or deliberately conceal any material facts, to induce another person to invest in, or become a member or participant of any Unregulated Deposit Scheme." सर, इसकी बड़ी क्लियर परिभाषा है।

अमर सिंह जी ने और बाकी सांसदों ने जो कहा, सर, कोई भी हो, खिलाड़ी, नेता, अभिनेता हो, मैं इसके विषय में नहीं जा रहा हूं कि किसका, लेकिन हमने इसीलिए इसकी परिभाषा को थोड़ा बड़ा किया है कि कोई कहेगा कि आपको नेता कह दिया, वह कहेगा कि नहीं, मैं agriculturist हूं, नहीं, मैं businessman हूं, मैं दुकानदार हूं या कोई कुछ और कह देगा। सर, हम उस दिशा में नहीं गए कि अपने आपको बचाने के लिए किसी और परिभाषा में चले जाएं, इसलिए सभी को इसके दायरे में लाने के लिए इसको रखा गया है।

महोदय, पैसा समय पर मिले, इसके लिए भी प्रावधान किया गया है। इसके लिए 180 दिन का प्रावधान रखा गया है। इसमें property attachment का प्रावधान किया गया है। मैं इसके विस्तार

में इसलिए नहीं जा रहा हूँ, क्योंकि आपको अपना अगला बिल भी लेना है, लेकिन एक्ट में बड़े विस्तार से सारी बातों को कहा गया है। सर, Real Estate Sector की बात कहीं गई, that will be hit hard as deposit can only be accepted for designated transaction and can be adjusted against the future sale consideration. Sir, let me clarify that such transactions are exempted under Clause 2(4) (g) and (i).

महोदय, मनोज जी ने कहा कि unregulated deposit को शुरू में ही, यानी पहले से ही क्यों नहीं बैंन करें? पहले यह होता था कि जो राज्यों ने व्यवस्था बनाई है, यदि कोई उसमें डिफॉल्ट करता था, तो उसके बाद एक्शन होता था। इसका मतलब गुनाह होने का इंतजार करना पड़ता था। पहले अपराध करो, तब जाकर कुछ होता था। यहाँ पर फर्स्ट शेड्यूल में जो नौ दायरे दिए गए हैं, उससे बाहर जो कुछ होगा, वह unregulated होगा और उसके ऊपर पहले दिन से ही एक्शन हो सकता है, ताकि गरीब व्यक्ति उस झांसे में न फंसे। सर, इसमें इस चीज़ का प्रावधान भी किया गया है।

Shri P. Wilson talked about attachment under Clause 7(3) by the competent authority. Sir, under Clause 7 (3), the competent authority has the power to provisionally attach the deposit held by the deposit-taker, including the property acquired by the deposit-taker in his or her name or in the name of any other person. Sir, this is only provisional attachment. Under Clause 14(1), the competent authority shall move to the designated court, जो उसी राज्य में होगा for making provisional attachment as absolute.

Sir, under Clause 15(6), the Designated Court shall complete the proceedings within a period of one hundred and eighty days from the date of receipt of the application from the competent authority. Therefore, the attachment by the competent authority is not indefinite. Sir, he also raised another issue under Clause 2(4). I wish to submit that 15 days time is counted from the day on which they become due for refund.

महोदय, मान लीजिए, मैंने कोई घर बुक कराया, वह मेरा घर नहीं दे पाया, उससे पंद्रह दिन के बाद, जब वह मेरा रिफंड नहीं दे पाया, तब जाकर वह Unregulated Deposit Scheme के अंतर्गत आएगा। उसके बाद ही उसके ऊपर, इस प्रावधान के अंतर्गत आगे कार्यवाही शुरू होगी।

महोदय, उन्होंने सेक्शन 32 पर, competent authority पर पूछा है, The competent authority in the State Government will refer the case of investigation by the CBI only after completing the due process in the State Government. So, this will be taken care of at the State Government level.

देरेक जी के प्रश्न का तो मैंने पहले ही उत्तर दे दिया है, save as otherwise provided, उस पर आ गया है। सुब्बारामी रेड्डी जी ने कहा कि efforts made by the Government for

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NBFCs. Sir, for purchase of high-rated pool assets of financially sound NBFCs amounting to ₹ 1 lakh crores during the current financial year, the Government will provide one-time six months partial credit guarantee to public sector banks for first loss up to 10 per cent.

सर, विजयसाई रेड्डी जी ने भी competent authority की बात कही, जिसका उत्तर मैंने पहले दे दिया है। उन्होंने jurisdiction की बात कही, तो राज्य में हाई कोर्ट से बात करके जिस क्षेत्र में स्कीम चल रही है, वहां पर या जहां पर सरकार को उचित लगता है, वह वहां पर कोर्ट्स खोल सकती है। हमने इसे यहीं तक सीमित नहीं किया। मान लीजिए किसी ने पैसा यहां पर इकट्ठा किया और property विदेश में बना ली, तो उसमें भी हमें अलग-अलग कानून के अनुसार कार्रवाई करने का अधिकार है। जैसे IMA का केस हुआ, वहां पर भी हजारों करोड़ लूटने की बात कही गई, मैं पूरे सदन से कहना चाहता हूँ कि हमारी सरकार चुप नहीं बैठी। जब उसके एमडी वापस आए, तो Enforcement Directorate ने 19 तारीख को उसको गिरफ्तार भी किया। इस प्रकार भारत सरकार ने ही यह गिरफ्तारी करके दिखाया कि गरीबों के पैसे वापस दिलाने के लिए हमारी सरकार पूरी तरह से प्रतिबद्ध है।

सर, मैं इसमें नहीं जाऊंगा कि किस राज्य में कितनी योजनाएं चल रही हैं, कौन सा राज्य है, क्योंकि यह पूरे देश की समस्या है।...**(व्यवधान)**...देखिए, आप वेस्टबंगाल का नाम लें, कोई कहे कि वहां पर 30 परसेंट स्कीम्स चल रही हैं, सर, मैं उसमें नहीं जा रहा हूँ। जब हम आम सहमति के साथ इस मंशा के साथ इस बिल को लाए हैं कि किसी भी राज्य में हो, चाहे वह वेस्ट बंगाल में हो या किसी राज्य में हो, पैसा तो गरीब का जा रहा है। चाहे एक पार्टी के नेता का नाम आया हो या अभिनेता का नाम आया हो या खिलाड़ी का नाम आया हो, उस समय कानून में कमियां थीं, तब आया, लेकिन आज हमने उन loopholes को plug करने का काम किया है, ताकि भविष्य में ऐसा कुछ न हो, हमने यहां पर ऐसा प्रावधान कर दिया है। इसलिए मैं इसको राजनीतिक अखाड़ा नहीं बनाना चाहता कि इधर या उधर। यह गरीब के हित का बिल है, मुझे लगता है कि हमें उस दिशा में आगे बढ़ना चाहिए।

सर, कुछ और बातें भी हैं। यहां कहा गया कि इसको और कड़ा किया जाए। अब आप बताइए कि और कितने कड़े नियम करने हैं। इसमें बड़ा साफ प्रावधान किया गया है, "Any deposit taker who solicits deposits in contravention of clause 3 shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than two lakh rupees but which may extend to ten lakh rupees." "Any deposit taker who accepts deposits in contravention of clause 3 shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine which shall not be less

than three lakh rupees but which may extend to ten lakh rupees." अगर इसमें कुछ और बदलाव करना हो, आपको लगता है कि हम आगे इससे कोई पकड़ नहीं बना पाए, तो मुझे लगता है कि आगे फिर आपके पास अवसर आएगा, लेकिन मुझे लगता है कि इससे सभी राज्य सरकारों को वहां पर गरीब के पैसे को बरबाद होने से रोकने के लिए काफी ताकत मिलेगी।

सर, attachment of property पर भी अभी कुछ देर पहले मैंने 180 दिन की बात बता दी है। Central database की बात कही गई, कुछ लोगों ने data को privacy के साथ जोड़ कर देखा, लेकिन मैं यहां बताना चाहूंगा कि हम इसमें deposit takers का data लेकर नहीं आए हैं, deposit takers का data लेकर आए हैं। जो कंपनियां इस पर काम करेंगी, वे अपने बारे में जानकारी देंगी कि वे क्या काम करने वाली हैं और central database पर उनका सारा खाका आपके पास उपलब्ध होगा। आप उस पर जाकर देख सकते हैं कि कौन सी regulate company है और कौन सी unregulated company है। इसकी पूरी जानकारी आपको उस central database पर मिल पाएगी।

सर, इस विषय पर बोलने के लिए बहुत कुछ है, लेकिन मैं सभी से इतना ही निवेदन करूंगा कि आप सबने गरीब के हित में एक आम सहमति बनाई है और आप सभी जानते हैं कि सरकार की मंशा भी सही है। Standing Committee की जो recommendations थीं, उन सबको देख कर, देश के गरीब और भोले-भाले लोगों की गाड़ी कमाई को बचाने के लिए यह एक Comprehensive Bill लाया गया है। गरीबों का पैसा ponzi schemes में न खया जाए, इसलिए इसे रोकने के लिए लोक सभा ने आम सहमति से इस बिल को पास कर दिया है, साथ ही सारी amendments वापस ले ली गईं। मैं राज्य सभा में पहली बार बोल रहा हूं, यहां आप सभी बड़े हैं। मैं चार बार लोक सभा का सांसद रहा हूं। वहां सबने सहयोग करके, आम सहमति से इस बिल की recommendations को पास किया और जो amendments लाई गई थीं, वे भी वापस ले ली गई हैं। यहां भी मैं अपने सभी वरिष्ठजनों, सभी माननीय सांसदों से निवेदन करता हूं कि आप मुझे और इस बिल को अपना आशीर्वाद दें, ताकि गरीब के हित के लिए और उसकी गाड़ी कमाई को बचाने के लिए हम यह बिल पास कर सकें और उन लोगों के खिलाफ कार्रवाई कर सकें। कानून की कमियों के सम्बन्ध में, जैसा कि एक माननीय सांसद ने कहा कि वे हमसे चार कदम आगे सोचते हैं, लेकिन हमने भी चार साल लगा कर इस बिल पर विचार किया है। मैं आशा करता हूं कि हम भी उनसे चार कदम आगे होंगे और गरीब का पैसा नहीं जाने देंगे।

माननीय उपसभापति जी, अंत में मैं यही कहना चाहता हूं कि आपने मुझे बोलने का अवसर दिया, इसके लिए मैं आपको धन्यवाद देता हूं और मैं सभी माननीय सदस्यों से निवेदन करता हूं कि वे इस बिल को पास करें। आप सभी का बहुत-बहुत धन्यवाद।

MR. DEPUTY CHAIRMAN: I shall first put the Statutory Resolution moved by Shri Elamaram Kareem to vote. The question is:

"That this House disapproves the Banning of Unregulated Deposit Schemes Ordinance, 2019 (No.7 of 2019) promulgated by the President of India on 21st February, 2019."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: I shall now put the motion moved by Shri Anurag Singh Thakur to vote. The question is:

"That the Bill to provide for a comprehensive mechanism to ban the unregulated deposit schemes, other than deposits taken in the ordinary course of business, and to protect the interest of depositors and for matters connected therewith or incidental thereto, 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.

*Clauses 2 to 6 were added to the Bill.*

MR. DEPUTY CHAIRMAN: Now Clause 7. There is one Amendment (No.1) by Dr. T. Subbarami Reddy. Are you moving your Amedment?

DR. T. SUBBARAMI REDDY: Shri Anurag Thakur has given a very good reply. It was a comprehensive reply. I am very much satisfied. So, I am not moving it.

*Clause 7 was added to the Bill.*

*Clauses 8 to 13 were added to the Bill.*

MR. DEPUTY CHAIRMAN: Now Clause 14. There is one Amendment (No.2) by Dr. T. Subbarami Reddy. Are you moving your Amendment?

DR. T. SUBBARAMI REDDY: Sir, I am not moving it. I am satisfied with the reply given by Shri Anurag Singh Thakur.

*Clause 14 was added to the Bill.*

*Clauses 15 to 20 were added to the Bill.*

MR. DEPUTY CHAIRMAN: Now Clause 21. There are two Amendments ( Nos.3 & 4) by Dr. T. Subbarami Reddy. Are you moving your Amendments?

DR. T. SUBBARAMI REDDY: I am not moving the Amendments, Sir.

*Clause 21 was added to the Bill.*

*Clauses 22 to 30 were added to the Bill.*

MR. DEPUTY CHAIRMAN: Now Clause 31. There is one Amendment ( No.5 ) by Dr. T. Subbarami Reddy. Are you moving your Amendment?

DR. T. SUBBARAMI REDDY: Sir, I am not moving it.

*Clause 31 was added to the Bill.*

*Clauses 32 to 44, the First Schedule and the Second Schedule were added to the Bill.*

*Clause 1, the Enacting Formula and the Title were added to the Bill.*

MR. DEPUTY CHAIRMAN: Now, Shri Anurag Thakur to move that the Bill be passed.

SHRI ANURAG SINGH THAKUR: Sir, before I move, I would like to thank Dr. T. Subbarami Reddy for not opposing the Amendments and also all the Members for supporting the Bill.

Sir, I move:

That the Bill be passed. ...*(Interruptions)*..

MR. DEPUTY CHAIRMAN: You are not permitted, Mr. Rangarajan. You are a senior Member. You have no permission to speak. It will not go on record. Motion moved that the Bill be passed. The question is:

That the Bill be passed.

*The motion was adopted.*

### **The Insolvency and Bankruptcy Code (Amendment) Bill, 2019**

MR. DEPUTY CHAIRMAN: Shrimati Nirmala Sitharaman to move a motion for consideration of the Insolvency and Bankruptcy Code (Amendment) Bill, 2019.

THE MINISTER OF FINANCE AND THE MINISTER OF CORPORATE AFFAIRS (SHRIMATI NIRMALA SITHARAMAN): Sir, I move :

"That the Bill further to amend the Insolvency and Bankruptcy Code, 2016, be taken into consideration."



MR. DEPUTY CHAIRMAN: If you want, you can speak. You can speak a few lines if you want.

SHRIMATI NIRMALA SITHARAMAN: Should I do it now or after the debate?

MR. DEPUTY CHAIRMAN: Even now if you want to say something, you can say.

SHRIMATI NIRMALA SITHARAMAN: All right, Sir.

Sir, thank you for giving me this opportunity. I will just make some introductory remarks as to why we have to consider this Amendment to the Insolvency and Bankruptcy Code.

Sir, till before the Insolvency and Bankruptcy Code of 2016 was brought in, the Insolvency Framework itself, the Insolvency Resolution Framework, was all scattered and fragmented leading to sub-optimal realization or outcome of the intended legislative intent of the Bill itself. So, the average time taken for any resolution of insolvency was almost like 4.3 years, and that kind of a time also involved cost, nearly nine per cent resolution cost, and recovery rate was only about 26 per cent.

Just going back a little, we also saw earlier a regime where you had the Sick Industrial Companies (Special Provisions) Act of the 1985 vintage, and that also failed to produce the desired results. The SICA regime created lot of protective wall against recovery and the perpetual control of the management responsible for the mismanagement. Later, unlike the SICA regime, in this particular Insolvency Code which is passed, we have a greater opportunity for resolving in favour of the financial creditors. The debtors in the SICA regime had further control even after the Sick Industrial Companies Act had been invoked but the debtors continue to keep hold and possession of the properties. Now, further, if you were to look at the SARFAESI Act, you saw a regime where the focus was on recovery of debts, and, in contrast, the object of the Code is for rescue of the company so that even if it is in difficulty, the problems are minimized and the losses are fairly distributed and the financial burden is not on any one particular individual or particular category of creditors. So, the last resort, in a way, for the Code was liquidation, and given this kind of a progressive feature, the Insolvency and the Bankruptcy Code acquired a great importance and post the passing of this, there has been a lot of sense of relief among the companies which even probably had the chance of becoming a 'going concern' rather than leading to liquidation. So, the 'World Bank Ease of Doing Business for India' improved post the bringing in of the Insolvency and

Bankruptcy Code. The ranks improved for India, gave a lot of hope for industries that if they really do want to have the process of liquidation brought in, there is an amicable way of coming out of it and also without any black mark on them.

So, as this was going on, we also, within two-and-a-half years of this Code, realized that there are certain areas in which for want of clarity, the interpretation given by various courts or even by the NCLT led to a very vital question that if the legislative intent of the IBC was itself becoming weakened just for want of clarity. So, today, as we are coming here with an Amendment Bill, it is only to make sure that each of these amendments which are being brought in are brought in for greater clarity which is required so that no grey area prevails, no interpretations which are going against the original intent of the Act are still prevalent. So, you find that in this particular Amendment, set of amendments that we are bringing in, of the seven –you can say eight amendments that we are bringing in –four are explanatory in nature and any additional amendments that we are talking about are more to ensure that interpretation is given for time which is required and a particular time that has got to be laid before for the Resolution itself. We are not leaving it open-ended. We are not giving it longer, unending time, and, therefore, bringing clarity in terms of time-bound decisions that are essential to keep the legislative intent. So, in a way, the Code is also being monitored by a Central Government Expert Committee and amendments which are being made are made after due stakeholder consultations. A lot of discussion has been happening through the media and also industries have been approaching the Government stating the urgency with which the set of amendments need to be brought in, because courts are also waiting. I can, in fact, give a list of the number of cases which are pending even at the application stage. Very many big insolvency cases are waiting for resolution. The balance of interest of all the stakeholders was becoming an issue. Therefore, we have brought in this set of amendments for the consideration of the House.

I hope Members would have gone through the papers to see why it is so urgent, why, because of the various interpretations which are coming through the tribunals and courts, there is a fear that the original intent with which this Parliament passed the Insolvency and Bankruptcy Code is probably getting diluted. We should not allow the dilution just for want of clarity. Therefore, I appeal to hon. Members that this Bill may be looked at in that perspective. Of course, we are here to respond to any questions

[Shrimati Nirmala Sitharaman]

that the Members would ask, but the need is to have this passed so that there is clarity for all the businesses that are seeking the Insolvency and Bankruptcy Code to give them a solution.

Thank you, Sir.

*The question was proposed.*

MR. DEPUTY CHAIRMAN: Motion moved. There is one amendment by Shri Binoy Viswam for reference of the Insolvency and Bankruptcy Code (Amendment) Bill, 2019 to a Select Committee of the Rajya Sabha. Shri Binoy Viswam, you may move the amendment with a list of names for the proposed Committee.

SHRI BINOY VISWAM (Kerala): Sir, just one sentence –it is a matter of principle, and it has been raised in the House many times. I don't wish to repeat it. I shall speak on the Bill later.

MR. DEPUTY CHAIRMAN: Since you have not given any names of Members for the proposed Select Committee....

SHRI BINOY VISWAM: Sir, that is the reason.

MR. DEPUTY CHAIRMAN: So, you are not moving the amendment. The motion for consideration of the Insolvency and Bankruptcy Code (Amendment) Bill, 2019 is now open for discussion. Shri Kapil Sibal.

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

SHRI KAPIL SIBAL (Uttar Pradesh): Sir, I rise to participate in this discussion, but before I proceed with my observations, I would like to make a statement that I have been appearing in many of these cases. It is not that I have any deep or personal interest in any client, but I have certainly represented several stakeholders in litigations before the court as well as the NCLT. So, I wanted to disclose my interest.

Now, Sir, I think that this is a well-conceived legislation. The whole IBC Code was the crying need of the hour and we didn't have a resolution process or a bankruptcy process in this country. I commend the Government for having started that process way back in December, 2015 and for having brought this legislation sometime in May, 2016.

The process started somewhere in December, 2016, formally. But this is a very complicated law. As the Finance Minister was saying, we wanted to clarify several issues and I think this is an amendment Bill that seeks to clarify some of those issues. In fact, since its inception, there have been about 27 amendments in this Bill. This has been a work in progress because as and when issues crop up, the Government thinks of those issues and brings forward the amendments. But, Sir, I want to make a broad comment before I go into the amendments. That is that our economy is going through some very difficult times. Our manufacturing sector is in doldrums. In fact, just the other day there was a report saying that Maruti Suzuki has had a revenue dip of about 16 per cent; Tatas have a revenue dip. In fact, there are cars that are lined up without getting sold; two-wheelers and three-wheelers have not been sold because there is no demand in the market. The steel industry is in difficult times. The real estate sector is in very deep trouble. In fact, 20 per cent of all the insolvencies are in the real estate sector itself. You have the FMCG sector which is also in difficulty. That is why the IMF has said that our growth in 2019-20 is going to be about 7 per cent. These are not good signs for the economy, especially when you say that we are going to be a five trillion dollar economy by the time we reach 2024. But, be that as it may, the worry that I have is that while you solve this problem, you are going to create a lot of unemployment in this country. And I tell you why that worry is there. Which are the sectors that generate maximum employment in this country? Real estate is one of those sectors. Then you have, of course, the retail sector, the manufacturing sector, textile sector and leather sector. So, all of these sectors are in great difficulty today and most of the resolutions that are taking place or insolvencies that are taking place are, in fact, in these sectors. Remember, the backbone of the Indian economy is the MSME sector. That is the maximum employment sector for this country. Maximum people are employed in the MSME sector. Now, if you look at the insolvency proceedings, you will find that only 94 petitions have been resolved thus far and there are 383 that have become insolvent. I am talking of results as of today and I have got the figures with me here. These are official figures: 94 have ended in approval for resolution plans and 378 have ended in commencement of liquidation. That means, out of every five petitions that are filed, one succeeds and four fail. In other words, four companies are going into liquidation. If four out of five companies go into liquidation, you can realise what impact it has on the employment sector. When these small companies go into liquidation, all the people who are employed will be unemployed. So, you are, on the one hand, seeking to resolve these matters and, on the other hand, you are

[Shri Kapil Sibal]

creating huge unemployment issues. There are, in all, about 14,000 applications that have been filed. Out of those 14,000 applications, 1,858 applications have been admitted. So, if there are 14,000 applications and most of them belong to these sectors and if they are all going to insolvency, the impact of this on employment will be mind-boggling. That is why they say that unemployment rate today is the highest in the last 45 years and you are going to have more and more unemployment as we move forward. Forty-two per cent of the cases filed are from manufacturing sector covering industries like steel, fast moving consumer goods, chemical products, electrical machinery, basic metals and twenty per cent are in the real estate sector. The Finance Minister should tell us that there is no resolution plan in the real estate sector at all. Not a single person has come forward to say that I am a resolution applicant; I want to resolve this. The reason is very simple. The reason is that in the real estate sector when all these builders build these huge apartments, there is a conflict because they cannot deliver on time. Since they cannot deliver on time, the home buyers go to Court. The Supreme Court has said that the home buyers are financial creditors; they have a role to play in the proceedings in the CoC; they have a vote; they can exercise their right to vote. One of the amendments that has come forward is that if 50 per cent of the home buyers authorise a particular person to vote and that person's vote represents the entire sector, that is a welcome suggestion. But the fact is that this is not going to resolve the issue because in the real estate sector there are any number of group companies that build these towers. There is no resolution for group companies that we have so far. The Government has not provided any solution for that. I just want to point out one fact to you so that you just know what the figures are. As per the study published in a newspaper, as many as 220 projects launched in 2013 have 1.7 lakh homes that are stalled in seven cities in this country worth Rs.1.77 lakh crores. Out of this, the NCR itself has 1.18 lakh units worth ₹ 82,000 crores which are stalled. There is no resolution process available under the IBC to resolve this issue. There is not a single resolution applicant that has come forward. What will happen to this? And, these are all group companies. Now, under the IBC, you can move against one company but you cannot move against group companies because there is no process to move against group companies. So, the Finance Minister must tell us as to how you are going to resolve this particular issue of home buyers and how you are going to get the resolution applicants because nobody wants to invest in the real estate sector any more. Either the Supreme Court says, 'you prosecute them',

or the, Supreme Court says, 'you give back the money'. We are happy. We are for the home buyers. They must get their investment back. But, the fact of the matter is that there must be a process, which is why the distinguished Member said, 'Why are you bringing this Bill to be passed right now?' These are very serious issues that could have been discussed in the Select Committee. We could have all applied our minds and decided as to how to move forward. And, you know, this particular sector represents 1.20 per cent of the entire GDP of this country. For the last three years, the real estate sector projects have been struck and we are sitting here with closed eyes, not knowing what to do. There is no solution in sight. All these carry the risk of liquidation. If these are liquidated, what is going to happen to employment; what is going to happen to the investment made by the home buyers; what is going to happen to those who have invested? Remember, the maximum cost in real estate is the cost of land. Now, if you buy land at a heavy price and you don't get your approvals in time, and you can't build in time, the home buyer comes after you, and rightly so. So, the Finance Minister must tell us that by this amendment which is an amendment under Clause 25 (a) where you have added 3 (a), where you are saying that the representative of the home buyers will be entitled to vote on behalf of all the home buyers, how is it going to solve the problem? This Amendment does not deal with the problem at all. This problem would have been solved had you agreed to refer this matter to the Select Committee. We don't know how these loans are going to be serviced. Now, don't laugh because I know there is a study group that is looking at group resolution. There is already a study group looking at group resolution but that is not part of the solution here. Here you are only giving the right to the home buyers to represent themselves. See, all this national wealth is stuck. These are half-finished projects and we don't know how to finish them. So, the home buyer issue, I think is a very, very important issue. The other thing that you have mentioned in your opening remarks was that some very big ticket items are being resolved. Actually there are only 12 big ticket items and of the 12 big ticket items, only 6 seem to have been resolved. Let me just give you the figures because it will give an idea to this House as to what is the amount that the secured creditors are getting back. Take for example - Electrosteel. That has been resolved and the realisation of that resolution is only 40.38 per cent of the amounts that were due to the secured creditors. Sixty per cent haircut! In other words, the secured creditors give us 60 per cent haircut. And, who buys it? A big multi-national. Vedanta buys the same asset at 40 per cent of the price, and, will get the same loan from the same bank who will finance this project.

[Shri Kapil Sibal]

This is what is happening. I will give you another example. Bhushan Steel, there, the realisation is 63 per cent. Monnet Ispat, the realisation is 26 per cent. In other words, there is a haircut of the secured creditors of more than 70 per cent. And, who gets it? Consortium of JSW. So, these people buy these assets at 30 per cent of the value and get loans from the same bank to finance it. What kind of resolution is this? Then, Essar Steel. Because that is not yet decided, that matter is pending in Supreme Court. Then, Alok Industries, 17 per cent, 83 per cent haircut! In other words, the Reliance Industries will get these assets at 17 per cent of its outstanding value. Can you imagine what you are doing? You are creating an oligopoly in this country. You are having a few players in this country because nobody else has the capital to buy off these assets. The only entities that have the capital are the big players, and we know who the big players are. So, those four or five big players are buying the precious silver of this country at throw away prices. That is your great resolution process. Of course, this is better than the liquidation value. It is twice as much as the liquidation value. So, if it had gone into liquidation, certainly, it would have got half the price. But, this is no real resolution. There is another company called Jyoti Securities, which has gone for 50 per cent. These are the six cases that have been resolved. There are six others that have not yet been resolved. And, I don't know how much time that is going to take. So, the point that I was making is that this resolution is in favour of the big players who are getting the silver of this country at throw away prices.

The second point that I wish to make is that, I think, through these Amendments, you are blaming the Court for dilatory tactics because you say that if the NCLT does not decide on the default within 14 days, then the NCLT has to pass an order to say as to why it did not decide within 14 days. The Minister knows that till now, many of these NCLTs were not even manned. There are only two people who are appointed there. They meet twice a week. So, don't blame the judiciary, don't blame the NCLT for the fact that you have yourself not appointed the appropriate number of people to deal with this issue. Now, on 25th of July, you have created more NCLTs and you want to man them, but you can't blame the judiciary that they must give a reason as to why they did not decide within 14 days. Then, the other Amendment, that you have moved, is that the total resolution process cannot go beyond 330 days. Now, this is very strange to my mind because when you say that it can't go beyond 330 days, you are saying

**4.00 P.M.**

that the Court has no right to stay the matter. You are saying that the Court has no right to pass an order. In fact, you say in your Statement of Objects and Reasons, that if it is not done within 330 days, the company will go into liquidation. The Finance Minister and distinguished Members of this House know very well that Article 226 is part of the basic structure of this Constitution. If you, through legislation, tell the Court that they have no power under Article 226, and that if 330 days are over, the matter will go into liquidation, even though the matter is pending before them, that is not something that will stand in a court of law. I can tell you that it will be struck down. That is why, when these kinds of Amendments are moved without thinking about them, without sending them to the Standing Committee or a Select Committee, this is going to be the result of that. So, you can't bind the Court and say in respect of all those matters that are pending, which are beyond 270 days, you are now saying that if those matters are not concluded, which are pending matters, in 90 more days, the company will go into liquidation. How can you say that about the matters which are pending hearing in the Supreme Court?

The last point I wish to make is a very disturbing point. You have, through Clause 30, attempted to resolve a dispute which is pending in the judiciary through legislation. There is an appeal that is pending in the Supreme Court. I won't go into the merits of the matter. That appeal is to be heard on the 7th of next month. You have brought a legislation deciding the rights of parties while the matter is pending in the Supreme Court. How can the legislation attempt to resolve a judicial dispute? That dispute will be decided by the Court. And, you have given this legislation a retrospective effect. I am really surprised. You say that this is deemed to be the law since when the Code was passed by the Parliament. How can you say that that this is always supposed to be the law? And, how can you resolve disputes in which the Government is directly interested? The nationalised banks are known to you. The nationalised banks are owned by you. The nationalised banks are to be benefited by this legislation. You decide for the nationalised banks and you decide what they are going to get when the matter is pending in the Supreme Court. I have never heard a Government, through legislation, determining a judicial dispute which is pending in Court in its own favour.

In other words, in favour of the nationalized banks that it owns. ...(*Time-bell rings*)... This will not stand in a court of law. While, some of these amendments, of



[Shri Kapil Sibal]

course, are salutary and the direction is right, but, I do not think that these kinds of legislations should be decided and bulldozed through Parliament without referring the matter to the Select Committee. Thank you very much.

**श्री भूपेन्द्र यादव** (राजस्थान) : सम्माननीय उपसभाध्यक्ष महोदय, कभी-कभी देश में जो नए कानून बनते हैं और जब हम उन कानूनों के तर्कों को सुनते हैं, तो इस सदन को और इस देश के जनमानस को एक विषय तय करना चाहिए कि हम देश में जो कानून बना रहे हैं, उन कानूनों की दिशा litigation-free society की होनी चाहिए या litigant society की होनी चाहिए। हम तय क्या करना चाहते हैं? हम तय करना चाहते हैं कि ऐसे कानून आएँ, जो हमें litigation-free society की ओर लेकर आएँ। इससे पहले देश में क्या होता था? पहले किसी कंपनी में स्थिति खराब होती थी, तो AAIFR में चले जाते थे, BIFR में चले जाते थे, Company Act में अलग केस जाते थे, कंपनी की जो लेबर बी, वह Labour Court में जाया करती थी, कंपनी के जो छोटे, कर्जदार जिनको कंपनी की रिकवरी करनी होती थी, वे Recovery suit में जाते थे। हमने वर्ष 1993 में DRT Court स्थापित की थीं, बाद में SARFAESI ले आए, तो बैंक अपना ताला लगा देते थे और जो सरकार की एजेंसियां थी, चाहे Sales Tax हो, Income Tax हो, वे अपना ताला लगा देती थीं। किसी को कुछ नहीं मिलता था। यह Insolvency कानून लाने के बाद पहली बार यह सरकार कह चुकी है कि हम दो साल के अंदर तीन लाख करोड़ रुपये वापस लाए हैं। यह इस कानून की उपलब्धि है। इसके लिए will-power चाहिए। Will-power इसलिए होनी चाहिए, क्योंकि देश के लॉ कमीशन ने वर्ष 1960 में रिपोर्ट दी थी कि आप Insolventy and Bankruptcy का कानून लेकर आएँ। यह देश इंतजार करता रहा। इस बात का जवाब तो देना ही पड़ेगा कि वर्ष 2009 में देश में कॉरपोरेट पर 12, 13 या 18 लाख करोड़ रुपये का जो बकाया था, वह पांच साल के अंदर 58 लाख करोड़ रुपये कैसे हो गया? यह बुक से बुक की जो adjustment होती रही और देश के जो बड़े कॉरपोरेटिव, जिनका अभी सिब्ल साहब नाम ले रहे थे, बहुत सही नाम ले रहे थे, चाहे Bhushan Steel का मामला हो, चाहे बाकी के जितने भी उन्होंने नाम लिए हैं, उनकी बात हो, क्यों उनका book adjustment होता रहा, क्यों बैंकों का एनपीए बढ़ता रहा? सर, पूरे देश में एक ऐसी व्यवस्था का अभाव था, जिसमें हम सब चीज़ों को एक छत के नीचे लाकर और समस्या का एक सही तरीके से समाधान कर सकें। मैं मानता हूँ कि देश में हमने आर्टिकल 226 में रिट की पावर दी है। मैं आपसे पूरी तरह सहमत हूँ। मैं यहाँ विनम्रता के साथ कहना चाहता हूँ कि मैंने Insolvency and Bankruptcy Code में समिति के चेयरमैन के नाते काम किया, बाद में हम इसके समान दो कानूनों में जो सुधार लेकर आए, DRT Court के बैंक के रिकवरी सूट में समाधान लेकर आए, SARFAESI में समाधान लेकर आए। सारे बैंक्स कहते थे कि रिकवरी में बहुत बड़ी समस्या है। रिकवरी की सबसे बड़ी समस्या है कि आर्टिकल 226 में रिट पड़ती है, stay होता है और बाद में सारी प्रोसिडिंग्स रुक जाती हैं और आगे कुछ नहीं बढ़ता है। हमने insolvency code को लाने के बाद यह तय किया है

कि अगर एक बार **Insolvency** का प्रोसेस शुरू होता है, तो बाकी जितने भी न्यायिक केसेज़ हैं या उसके संबंध में, वे सब एक बार रुक जाएं और रुकने के बाद यह कहा जा सकता है कि कैसे... आप एक तरीके से तो देश की अर्थव्यवस्था को सुधारना चाहते हैं। आप यह चाहते हैं कि **Ease of Doing Business** के मामले में आपका देश आगे बढ़े। आप यह चाहते हैं, हम सब यह चाहते हैं कि हमारे देश में जो पूंजी लगाए, उसकी पूंजी की सुरक्षा हो। हम यह सब चाहते हैं कि जो व्यापार करना चाहते हैं, उस व्यापार का एक स्थायी तरीके से, एक निश्चित समय में समाधान हो। इसका समाधान करने के लिए ही, इस देश की संसद में एक निश्चित समय में कमेटी के अंतर्गत विचार करके हम **Insolvency and Bankruptcy Code** को लेकर आए हैं। इस कोड को लाते समय सरकार ने... किसी भी औद्योगिक संस्थान, औद्योगिक इकाई जब **Insolvency Code** में आता है, तो उसका **waterfall mechanism** कैसे होना चाहिए? उसमें हमने सबसे पहले श्रमिकों और कर्मचारियों के हितों को प्राथमिकता दी और सबसे बाद में सरकार की अपनी रिकवरी आई है। इसलिए मैं यह कहना चाहूंगा कि यह सच है कि यह नया कानून है, इस कानून को लाने के बाद देश में और दुनिया में हम **ease of doing business** में आगे गए हैं। अभी इसका जो **amendment** लाया गया है, यह **amendment** मुख्यतया तीन बातों को लेकर लाया गया है।

पहला विषय यह है कि एक समय-सीमा को बांधने का प्रयास किया गया है। कपिल सिब्बल जी ने सही कहा है कि हमने 330 दिनों की समय-सीमा में न्यायिक निर्णय को भी बांधा है। यह सच है और यह एक ऐसा न्याय परिवर्तन है कि अगर इस देश को आप औद्योगिक रूप से, आर्थिक रूप से सामर्थ्यवान बनाना चाहते हो, तो आपको यह तय करना होगा, अदालतों को भी समय-सीमा की मर्यादा में बंधकर निर्णय करना होगा, यह आवश्यक है। इसलिए इस **Insolvency Code** के जो संवैधानिक प्रावधान हैं, उन संवैधानिक प्रावधानों को जब सर्वोच्च न्यायालय में चुनौती दी गई थी और यह कहा गया था कि **insolvency and bankruptcy** के जो संवैधानिक प्रावधान हैं, वे प्रावधान भारत के संविधान के अनुसार *ultra vires* हैं या नहीं हैं, जब उनको चुनौती दी गई थी, तो मुझे बड़ी विनम्रता के साथ यह कहते हुए खुशी है कि सर्वोच्च न्यायालय ने जो अपना निर्णय दिया था और उस निर्णय को देते समय सर्वोच्च न्यायालय ने कहा था कि एक ऐसा कानून आया है, जिससे देश में डिफॉल्टर्स के दिन खत्म हो गए हैं। **This is an end of defaulters' paradise.** यह कोर्ट के जजमेंट की पंक्तियां हैं। इसलिए जब न्यायालय के द्वारा इस कानून के बारे में कहा गया है और जो लोग भी देश के पैसे के साथ या गरीब के पैसे के साथ खिलवाड़ करने का काम करते हैं, उनके खिलाफ अगर निर्णय देना होगा, तो यह इस संसद का दायित्व नहीं है, इस देश की संसद से लेकर न्यायालय तक सबका दायित्व है कि देश की आर्थिक सुरक्षा के लिए एक समय-सीमा में इसका निर्णय किया जाए। इसके लिए यह परिवर्तन लाया गया है। **Corporate Insolvency Resolution** की प्रक्रिया को निर्धारित समय यानी 330 दिनों में पूरा करने का जो संशोधन लाया गया है, मेरा यह मानना है कि यह एक उचित संशोधन है, लेकिन ऐसा होता है कि कभी-कभी कुछ आवश्यक स्थितियां इस प्रकार भी निर्मित हो जाती हैं कि उस समय-

[श्री भूपेन्द्र यादव]

सीमा के अंदर अगर वह प्रक्रिया पूरी नहीं होती है, तो इसी संशोधन में 90 अतिरिक्त दोनों का भी प्रावधान किया गया है।

दूसरा जो सबसे बड़ा विषय है, वह होम बायर्स का विषय है। हम भी जानते हैं कि सर्वोच्च न्यायालय में लंबे समय तक इस विषय को लेकर जितनी भी लिटिगेशन्स आई हैं, वे real estate companies की आई हैं। हमको यह भी समझना होगा कि पिछले पांच सालों में भारत को काले धन की अर्थव्यवस्था से निकालने के लिए हमने एक समयबद्ध तरीके से विभिन्न कानूनी प्रक्रियाओं में व्यवस्थागत सुधार किए हैं, जो भारत में एक लंबे समय से अपेक्षित थे। हम Insolvency कानून को लेकर आए, आर्थिक भगोड़ा कानून को लेकर आए, बेनामी संपत्ति कानून को लेकर आए। इन सब कानूनों को लाने का उद्देश्य क्या था। Real estate sector में RERA का कानून भी कानून भी हमारी सरकार लाई थी। क्यों लेकर आई थी? क्योंकि पूरे देश में जिस प्रकार का real estate विषय था और real estate जो कारोबार होता था, उसमें जिस प्रकार से काले धन का निवेश था, उस व्यवसाय को एक सही तरीके से, पारदर्शी तरीके से चलाया जाए और जो उपभोक्ता, जो छोटा आदमी अपनी बचत के माध्यम से, अपनी नौकरी में से पैसे निकालकर, अपनी मेहनत के पैसे निकालकर, अगर वह आशियाना लेने की सोचता है, तो नियमों की पारदर्शिता वहां पर रखी जाए। Insolvency कानून के अंतर्गत भी, जब सर्वोच्च न्यायालय के समक्ष यह विषय आया, घर के खरीददारों का विषय आया, तो सरकार ही 2018 में एक संशोधन लेकर आई थी। वर्ष 2018 में जो संशोधन हम लोग लेकर आए थे, उसमें जो home buyers थे, उनको हमने आर्थिक रूप से पैसा लेने का अधिकारी बनाया, क्योंकि हम यह जानते थे कि home buyers इससे पहले वित्तीय लेनदारों की सूची के अंतर्गत नहीं थे। इसके अलावा एक व्यावहारिक समस्या है और वह व्यावहारिक समस्या यह है कि CIRP के अंतर्गत जब Insolvency की प्रक्रिया चलती है और operational creditors में भी home buyers की संख्या इतनी ज्यादा होती है, प्रारम्भ में तो 75 प्रतिशत के मतदान से आज Insolvency का जो resolution process था, उसमें प्रारम्भ में यह रखा, बाद में 66 परसेंट रखा था। अब इसको रिड्यूस करने का कारण यह है कि जब आपने home buyers को इस category के अंतर्गत ला दिया, तो insolvency resolution का जो process है, वह process सही तरीके से चले। कंपनियां सीधे दिवालिया होने के बजाय, उनके resolution process को मजबूती मिले, इसीलिए सरकार ने इस विषय को लेकर इसमें जो दूसरा संशोधन किया है, वह दूसरा संशोधन भी स्वागत योग्य है।

उपसभाध्यक्ष महोदय, एक तीसरा विषय है, जो operational creditors के जो छोटे-छोटे लोग हैं, उनके हितों के संबंध में हैं। इसीलिए जो छोटे operational creditors हैं, उनके हितों के संबंध में भी सरकार ने insolvency में और bankruptcy में यह अधिकार प्रदान किया है कि resolution plan में यह सुनिश्चित करना होगा कि operational creditors को एक निश्चित राशि प्राप्त हो, इसीलिए ये तीनों संशोधन आए हैं। यह सच है कि insolvency resolution plan

को और इस संशोधन को करते समय, देश में एक बड़ी आवश्यकता थी और इसीलिए हम insolvency law लेकर आए हैं। हमें NCLT की ज्यादा benches बनानी होंगी, NCLT में ज्यादा जजों की नियुक्ति करनी होगी, जिस प्रकार से इस क्षेत्र में ज्यादा विवाद बढ़ने वाले हैं। जो insolvency professionals हैं, हमें उनको ज्यादा प्रशिक्षित करके, ज्यादा professionals को लाना होगा। मैं इस कानून की प्रक्रिया को लगातार दो साल से देख रहा हूँ और अब मेरा यह अनुभव बनता जा रहा है कि हमारे देश में, हम लोगों को अगर भारत की आर्थिक ताकत को बढ़ाना है, तो इन नये कानूनों के साथ अपने आपको एडजस्ट करना होगा। जब शुरू में यह विषय आया था कि 180 दिन के अंदर जो insolvency का resolution plan है, इसको आप कैसे निर्धारित करेंगे? हम सब लोग आज digitally आगे बढ़े हैं। हिन्दुस्तान की अदालतों की जो सबसे बड़ी समस्या है, वह यह है कि अगर कोई भी केस डाला जाता है, तो जिसके खिलाफ केस डाला है, उसको summon रिसीव कराकर अदालत में लाया जाए कि आपके खिलाफ यह रिकवरी मांगता है, आपको अदालत कह रही है कि आप आइए और अदालत में अपना जवाब दीजिए। जब यह Code आया, तब भी यह तय किया गया कि इस प्रकार की प्रक्रिया में आप कानून को इस प्रकार से बनाइए, ताकि जितना भी काम है, उसे हम digitally पूरा कर सकें। उस digital प्रक्रिया में, जितने भी प्रकार के summons जाने हैं, नोटिस जाने हैं, प्रक्रिया होनी है, उन प्रक्रियाओं को एक निर्धारित समय-सीमा के अंतर्गत पूरा किया जाए। इसको पूरा करने में यह कानून काफी सक्षम सिद्ध हुआ है। यह एक ऐसा कानून है, जो वास्तव में, हमारे सिब्ल साहब बैठे हैं, बाकी बड़े वकील बैठे हैं, यह एक ऐसा कानून है, जिसमें हमको यह पहले से तय करना चाहिए और देश की अदालतों को भी काम करते समय, मुझे ध्यान है कि सर्वोच्च न्यायालय में एक न्यायाधीश सेवानिवृत्त हुए थे, उन्होंने वकीलों के बीच में कहा था कि 70 साल के, इस आज़ादी के दौर में हमने अदालतें तो बनाई हैं, परन्तु हमको यह तय करना पड़ेगा कि ये जो अदालतें हैं, ये for corporate person बनेंगी or for common man बनेंगी। कई बार common man को न्याय दिलाने में देरी होती है, लेकिन जो corporate insolvency है, इसके कारण जो common man की जिंदगी में तकलीफ आती है, जो समस्या आती है, बड़े-बड़े उद्योगों के कारण उसका resolution plan नहीं बन पाने के कारण, उसकी पूंजी का सही समय पर, सही तरीके से resolution plan नहीं बनने के कारण, जो समस्याएं आती हैं, उसका एक समय-सीमा के अंतर्गत हमें समाधान करना होगा। महोदय, इस देश में इन्सॉल्वेंसी और बैक्रप्सी कानून, इस मामले में बहुत बड़ा सुधारात्मक कानून बना है और ये जो तीनों संशोधन आए हैं, फिर चाहे वह समय-सीमा के संबंध में हो, चाहे ऑपरेशनल क्रेडिटर्स के संबंध में आया हो और चाहे उनके वोटिंग पैटर्न के संबंध में, 50 प्रतिशत की सीमा को निर्धारित करने के संबंध में आया हो। यह नया कानून है, जिसे लागू करने के बाद हम देश में व्यापार में ईज़ ऑफ़ डूइंग बिजनेस में आगे बढ़े हैं। मुझे लगता है कि समय पर लाए गए ये तीनों संशोधन भी आने वाले समय में ईज़ ऑफ़ डूइंग बिजनेस में आगे बढ़ेंगे और केवल हम ही नहीं, बल्कि हम और अदालतें, सब मिलकर के भारत में, कम से कम आर्थिक क्षेत्र में परिचालन की जो गतिविधियां हैं, वहां एक ट्रांसपेरेंट सिस्टम को खड़ा करने में, हम सब अपना योगदान देंगे, ताकि सही समय

[श्री भूपेन्द्र यादव]

पर इन विषयों का समाधान होकर देश की पूंजी की सुरक्षा हो सके, देश में रोजगार बढ़ सकें और भारत इस प्रकार से एक अच्छे पारदर्शी माध्यम से, जो लक्ष्य हम लोगों ने तय किया है- दुनिया की तीसरी सबसे बड़ी अर्थव्यवस्था और तीसरी सबसे बड़ी महाशक्ति, फाइव ट्रिलियन डॉलर की इकॉनोमी, उस लक्ष्य को प्राप्त कर सकें, धन्यवाद।

**कुमारी शैलजा** (हरियाणा) : माननीय उपसभाध्यक्ष महोदय, मैं श्री भूपेन्द्र यादव जी को बीच में टोकना नहीं चाहती थी, इसलिए मैं अब बता रही हूँ कि उन्होंने कहा कि RERA कानून उनकी सरकार लाई। मैं स्पष्ट करना चाहती हूँ कि उनकी सरकार नहीं, बल्कि हमारी सरकार लेकर आई, लेकिन पारित अभी हुआ।...(व्यवधान)...

**उपसभाध्यक्ष (डा. सत्यनारायण जटिया)** : जब आपकी तरफ से प्रवक्ता बोलेंगे, तब यह बात आ जाएगी।...(व्यवधान)...

**श्री भूपेन्द्र यादव** : महोदय, RERA कानून आया था। यहां सेलेक्ट कमेटी बनी थी। श्री अनिल माधव दवे जी उसके चेयरमैन बने थे। आपने शुरुआत की, लेकिन पूरा हमने किया।...(व्यवधान)...

**उपसभाध्यक्ष (डा. सत्यनारायण जटिया)** : इसमें रेरा, क्या मेरा और क्या तेरा।...(व्यवधान)....श्री मनीष गुप्ता जी।

**SHRI MANISH GUPTA (West Bengal)**: Sir, I rise to support this Bill. We all agree that a time comes in the economy of the country, in the lives of men and institutions, when we need to take steps to correct the legal system where it is required. Sir, unfortunately, although I rise to support this Bill, I am constrained to point out that the parliamentary procedures, which are required to give legislative legitimacy to any law or amendment, has not been followed in this case. This is most unfortunate because the Honourable speakers, who have spoken before me, have pointed out certain lacunae in the Bill and, therefore, it would have been advantageous to send this Bill to a Select Committee for a short and fixed time so that more minds could be applied to amend this Bill. The point is, when you create a law and when you keep on amending it from time to time, it becomes a boring process. Sir, wisdom is available and the legal records and case laws also are available. That needs to be incorporated into this Bill, which has not been forged in a scientific and structured manner.

Sir, the present situation in the country is that the economy is in the doldrums. Our obsession with fiscal policy, our obsession with banks and financial institutions, our obsession with stock markets, our obsession with farmers, etc. has not been

reflected in the Budget. Sir, the credibility of banks is at a low ebb. We have noticed that this Bill or this law, the Insolvency and Bankruptcy Code, has helped in resolving certain debts that the companies have acquired. Now, this law has been enacted to resolve NPAs. The total NPA today in this country is ₹ 10 lakh crore, as stated by the Government. But, the ground reality is that an amount of more than ₹ 3 lakh crore to ₹ 4.5 lakh crore has not been declared as NPAs by banks and it seems that the general business community is of the view that there are thousands of such cases which can become NPAs.

Sir, this Legislation has only taken care of a part of the problem likened to the tip of the iceberg. That is why a more comprehensive law would have been useful. I think, we need to look at the ground realities. On 12th February, last year, the RBI had issued a circular for solving the problem of stressed assets. Later, they modified it. The Supreme Court had ordered and they modified it. The RBI's directions and the RBI's responsibility has only resulted in a mixed bag. This has, in fact, slowed down the process of resolution. This needs to be rectified. Sir, we have always said, we all believe, that MSMEs are the future of our economy. Several States have made very good progress in this respect. West Bengal is one among them; Tamil Nadu and many other States are there. When the NABARD Act was amended in 2017, a Section was inserted there for special status for MSMEs so that banks could be refinanced by NABARD when they loan the MSMEs. Even at that time, it was an inadequate provision. I am surprised to see that in this Code also, a certain concession has been given to MSMEs but the entire problem which the MSMEs face and will face if this Code is used against corporate debtors, will affect them adversely. So, the MSME provision in this Act needs to be amended. ...*(Time-Bell rings)*...

SHRI DEREK O'BRIEN: There are four minutes to go. ...*(Interruptions)*...

THE VICE-CHAIRMAN (DR. SATYANARAYAN JATIYA): There is one more speaker. ...*(Interruptions)*...

SHRI DEREK O'BRIEN: No, Sir, there is only one speaker. ...*(Interruptions)*...

THE VICE-CHAIRMAN (DR. SATYANARAYAN JATIYA): If one speaker, then, it is all right. Go on. ...*(Interruptions)*...

श्री देरेक ओब्राईन : सर, संस्कृत में बोल दीजिए।

उपसभाध्यक्ष (डा. सत्यनारायण जटिया) : निरंतर कुरु।

SHRI MANISH GUPTA: Sir, in the IBC, in this Code, more clarity is required. The Hon'ble Minister has stated that engagement of stakeholders, creditors, bankers etc. is being done but banks have taken a very large haircut in some cases. The role of the banks is not very clear. Once they have taken the haircut, they disappear. They are not involved in the actual resolution process. It is a kind of escape hatch, which the banks are using. This needs to be plugged. Banks have to be involved till the end of the resolution so that they can contribute usefully to the economic situation. Sir, Section 240A, as I have said, looks into the MSME problem but it has not been fully addressed. There are several other issues but time does not permit. In the process which is followed by NCLT, we find that the courts are giving much more time. Bank chairpersons or PSUs have become new power centres. This is like crony capitalism. This Code has enabled this kind of a situation to develop. If it becomes more broad-based, the entire purpose of the Code will be defeated. So, there are specific cases which I am not going into in which the courts have ordered extra time. There is a sixty days limit, we have seen, which is an additional time frame. This is not required. We feel that this should be dispensed with. The sixty day additional time frame only delays the process. The main issue is infrastructure. Infrastructure constraints have not assisted the Code. The 330 day limit, apart from the inherent power of the court which you cannot wish away. There is Article 226. Apart from that, courts have an inherent power. So, this 330 day limit itself is not getting this resolution process anywhere. The Government needs to take a fresh look at this as to how to maintain the integrity of the court as well as to see that this process has some impact on the economy. This has not happened. There are still cases as others have pointed out.

Sir, one of the main issues is that, in this Code, we need not only to look at infrastructure, we need to look at the bandwidth of the legal system. Otherwise, for the resolution process, the quality of resolution professionals is very important and is not specified in the Code. Who decides as to who is a good professional? Who decides the quality of the professionals? So, there is a dearth of this. There is a lack of application on this. And, Sir, most importantly, as in advanced countries....

THE VICE-CHAIRMAN (DR. SATYANARAYAN JATIYA): Please conclude.

SHRI MANISH GUPTA: Sir, one minute. In advanced countries, they have a mechanism by which they attend to corporate debts before the resolution process so

that they don't have to go the IBC. We don't have any such mechanism in this country. I would beseech the Minister to kindly look into this issue. One of the worst situations is the alarming aspect of lose of livelihoods; livelihoods of workers, small businesses and suppliers, etc., who are dependent on this.

THE VICE-CHAIRMAN (DR. SATYANARAYAN JATIYA): Please conclude.

SHRI MANISH GUPTA: Sir, one minute. Out of every four cases, only one case is resolved and the rest die or they go into litigation; more litigation and then go into liquidation. The aspect is that to what extent the resolution process will help the total number of such cases that will be filed in the courts. Thank you, Sir.

श्री रवि प्रकाश वर्मा (उत्तर प्रदेश) : सर, आज हमारी अर्थव्यवस्था जिस दौर से गुजर रही है, उसे उससे बाहर लाने के लिए Insolvency कानून में amendment लाया गया है, लेकिन यह जो दवा है, यह मरीज को ठीक नहीं करती, हमें ऐसा लगता है। पूरे विश्व में अर्थव्यवस्था मंदी में है, हिन्दुस्तान भी उससे प्रभावित हुआ है। कल कोई कह रहा था कि अर्थव्यवस्था की मंदी के आसार अब दिखने लगे हैं। अभी हमारे पूर्ववर्ती वक्ता सिब्ल साहब चले गए, उन्होंने बड़ी गहराई से इस बात को कहा कि इस एक्ट के बनने के बाद, इस एक्ट के कामयाब होने के बाद भी जो समस्याएं आने वाली हैं, वे देश के लिए बड़ी चुनौती बनने वाली हैं। दरअसल होना क्या चाहिए, अभी जब मैं कल पढ़ रहा था, तो कोई बता रहा था कि पिछले 50 दिन में शेयर मार्केट में लोगों का लगभग 12 लाख करोड़ रुपए का नुकसान हो चुका है। अर्थव्यवस्था को इतना बड़ा झटका लग रहा है। ठीक है, हम लोग यह कानून बना रहे हैं, बैंकों का, financial institutions का भी लगभग 12-13 लाख करोड़ फंसा हुआ है, जिसको निकालना जरूरी है, लेकिन हुकूमत के तौर पर लाज़िम क्या है, कहां देखना चाहिए, क्या करना चाहिए, यह देखने की आवश्यकता है। मुझे लगता है कि लगभग आर्थिक आपातकाल जैसे हालात हैं, जिस पर संसद को, सत्ता पक्ष को और पूरे विपक्ष को मिल कर बहुत गहन चर्चा और अध्ययन करने की जरूरत है कि आखिर इस अंधेरे में से निकलें कैसे। यह 130 करोड़ लोगों का देश है, यहां पर employment बहुत बड़ा issue है। कुछ परिवार, 2-4-10-50-100 बड़े उद्योगपति या बड़े सक्षम लोग मिल कर इस पूरे देश को आगे नहीं बढ़ा सकते हैं। जिस तरीके से घटनाक्रम जा रहा है, अभी मुम्बई के एक बड़े उद्योगपति हैं, वे बता रहे थे कि अगर आपस में शको-शुबहा और ये दूरियां ऐसे ही बढ़ती रहीं, तो हमारे कोई भी आर्थिक लक्ष्य पूरे नहीं होंगे। अगर आप चाहेंगे, तो हम आपको बाद में नाम बता देंगे। अखबार में खबर छपी थी, मेरे पास उस चीज का रिकॉर्ड है। यह जो कानून बनाया गया है, उस वक्त मैं भी आदरणीय भूपेन्द्र यादव जी के साथ था। इस पर NPA के बारे में बहुत गहरी चर्चाएं हुई थीं। अभी उन्होंने जिक्र किया कि हमें problems के साथ में रहना है या समाधान के साथ में रहना है? यह सच है कि यह निर्णायक स्थिति है, लेकिन निर्णय किस दिशा में होने हैं, इस बात से बहुत फर्क पड़ता है।



[श्री रवि प्रकाश वर्मा]

सर, बहुत सी बातें कही जा चुकी हैं, जिन्हें मैं दोहराना नहीं चाहता, लेकिन जो समस्याएं सामने आ रही हैं, मैं केवल उनकी बाबत बताना चाहता हूं। जितनी बड़ी तादाद में मामले NCLT की कोर्ट में आ रहे हैं, उस अनुपात में न तो जजेज़ हैं, न trained insolvency professionals हैं और न ही विशेषज्ञता रखने वाली agencies हैं। सर, मेरे पास कुछ सूचनाएं हैं कि वहां पर बहुत बड़े पैमाने पर bungling है। एक वकील साहब मुझे बता रहे थे कि वहां एक professional वकील थे, जो उसमें negotiate करवा रहे थे। उन्होंने काम रोक दिया। जब जज ने उनसे पूछा कि आपने काम क्यों रोक दिया, तो वे बोले कि अभी तक मेरी payment नहीं की गई है। उन्होंने पूछा कि आपकी payment कितनी है, तो वे बोले 1 करोड़ रुपया है। जज उससे बोले कि तुम दवा हो या खुद ही एक बड़ा मर्ज़ हो। जब business को dissolve किया जा रहा है, तो उससे अगर 1 करोड़ रुपया आप ही ले लो, तो बाकी लोगों को क्या मिलेगा? सर, वहां पर ये चीज़ें चल रही हैं, आप इसकी समीक्षा करवाइए। जितना healthy atmosphere वहां होना चाहिए था, वह नहीं है, ताकि पूरे देश के businessmen, economists और बाकी सब लोग उन पर trust कर पाते कि यहां पर सब ठीक होगा। जो जल्दी वाला इश्यू है, जिसके साथ time constraint जुड़ा हुआ है, वह distress sale के लिए बहुत बढ़िया mechanism है। एक बार पहले भी मैं यह बात कह रहा था। जो स्थिति वहां बनी हुई है, उसके संबंध में मेरे पास कुछ चीज़ें लिखी हुई हैं। 'However a different kind of buyer is finding the circumstances attractive. These are experts in distressed assets, who know how to play the waiting game. Today, however, there are too many deals chasing too few buyers.' यह locked है। हमने सोचा क्या था और निकाला क्या? जब हम जल्दबाज़ी में, hassle में कानून बनाएंगे, तो कोई न कोई पहलू तो छूट ही जाता है।

सर, हो सकता है कि कुछ बड़ी-बड़ी कंपनियों को, resolution process के माध्यम से, उनके जो stressed assets थे, उनको unlock किया गया हो। लेकिन मुझे यह भी पता लगा था कि एक स्टील कंपनी एक लाख करोड़ रुपये की थी और उसमें 94% haircut हुआ। इसमें किसका पैसा गया? ये जो consortium बने हुए हैं, जो शिकारी हैं, वे यही दूढ़ रहे हैं कि हमें कहां पर इस टाइप की कंपनियां मिलें। इनका syndicate है, ऐसा नहीं है कि यहां syndicate नहीं हैं। जो बड़े-बड़े financial hubs हैं, उन्हीं के साथ में काम करने वाले ये लोग हैं, जो professionals हैं। ये हर चीज़ को manage कर देते हैं। अब यह सोचना पड़ रहा है कि मरने में फायदा है या इलाज कराने में फायदा है? आखिर इस प्रकार काम कैसे चलेगा?

सर, जैसा अभी जिक्र आया, infrastructure की बड़ी shortage है। बहुत सारे केसेज़ लगातार आ रहे हैं। आपने प्रावधान किया है कि इसका टाइम थोड़ा और बढ़ाएंगे, लेकिन आप देखिए कि 180 दिन में भी ये नहीं हो पाए थे, 270 दिन में भी नहीं हो पाए थे और 330 दिन में भी ये नहीं पाएंगे। यह इतना sluggish process है और commitment की कमी है, फिर

इसमें अलग-अलग से varied interests भी हैं। अगर समय रहते इनका disposal नहीं होगा, तो आपकी समस्याओं का समाधान नहीं होगा। जो distressed companies थीं, मार्केट में उनके जो business थे, बैंकों के माध्यम से 1,03,000 करोड़ रुपये का तो उनका realisation हुआ है, जो लगभग 40%-42% के आस-पास हुआ है। यह बहुत आश्चर्यजनक उदाहरण है, लेकिन अनुकरणीय नहीं है। अगर इसी तरीके से पूंजियां बरबाद होनी हैं, तो उसके बहुत सारे दूसरे रास्ते भी हैं, लेकिन यहां जिस चीज़ को हम समाधान बनाने जा रहे हैं, वह चीज़ तो मर्ज़ बनती चली जा रही है। आपको इस बात पर गहराई से गौर करना पड़ेगा। मुझे कोई doubt नहीं है। आपको बहुत ही जल्दी यह realize हो जायेगा कि आपने जो amended कानून बनाया है, यह भी inadequate है। चूंकि जो हालात सामने आ रहे हैं और जिस दिशा में हम जा रहे हैं, उस दिशा में challenges बहुत ज्यादा बढ़ रहे हैं।

चूंकि समय पूरा हो गया है, इसलिए मैं ज्यादा बातें flare नहीं करूंगा। मैं सिर्फ इतना निवेदन करना चाहता हूं कि इस कानून के ऊपर आप लोग पुनर्विचार कर लीजिए और बेहतर होगा कि इसे Select Committee में दोबारा भेज दीजिए, नहीं तो हम वहीं पर खड़े होंगे, जिस अंधेरे से निकल कर हम बाहर आये थे। बहुत-बहुत धन्यवाद।

THE VICE-CHAIRMAN (DR. SATYANARAYAN JATIYA): Now, Shri N. Gokulakrishnan.

SHRI N. GOKULAKRISHNAN (Puducherry): Mr. Vice-Chairman, Sir, thank you for giving me an opportunity to speak on the Insolvency and Bankruptcy Code (Amendment) Bill, 2019. The Government has introduced the Insolvency and Bankruptcy Code (Amendment) Bill, 2019, wherein eight amendments under various sections have been incorporated. The Bill deals with three issues mainly. First, it strengthens the provisions related to time-limits. Secondly, it specifies the minimum payouts to operational creditors, in any resolution plan. Thirdly, it specifies the manner in which the representative of a group of financial creditors, such as, home-buyers, should vote.

This Bill supports financial creditors and spells out concerns over extensive litigation, causing undue delays in settling insolvency proceedings. The delay caused by extensive litigations goes against the spirit of the Code. It may hamper value maximization. The Bill also includes suggestions by various stakeholders. If the creditors, who have different pre-insolvency entitlements, were treated equally, then it would adversely impact the cost and availability of credit.

Sir, now it is the need of the hour that all creditors are treated fairly, without unduly burdening the Adjudicating Authority whose role is to ensure that the resolution plan complies with the provisions of the Code.

[Shri N. Gokulakrishnan]

Sir, the Bill has proposed a time limit of 330 days for completion of the resolution process, including litigation. If it is not completed within the time frame, the Bill proposes to pass "an order, requiring the corporate debtor to be liquidated under Clause (a) of sub-section (1) of section 33". According to this amendment, the rule-making power enshrined in Section 30 of the Code, would be limited, as it is a matter of procedure and administration, and thus, indirectly falls out of the scope and ambit of the Code. Further, the amendment specifies that those cases which are pending beyond 330 days should be disposed of within 90 days. This will be a great relief to the appellants.

Sir, it is clarified that the resolution plan will be binding on all stakeholders, including Central and State Governments or local authority to whom a debt is owed. This is created to bring an effective mechanism for dealing with non-performing assets. The Information Utilities Regulation enacted in the IBC Code 2016 should be implemented effectively. By doing so, the information relating to the default of a registered user, will be processed quickly and the status communicated to the registered users expeditiously.

The amendment stresses that the operational creditors receive an amount which should not be lesser than the amount they would receive in case of liquidation. This is a welcome Clause as it protects the interests of the operational creditors, who now like home buyers, become financial creditors.

Sir, many experts view that the said amendments will bring confidence among the lenders. The amendment is in favour of banks since they are secured lenders and will have primacy in the resolution process. Sir, as for as the admission of insolvency cases initiated by the lenders, the National Company Law Tribunal must determine the existence of default within 14 days of receiving a resolution application. Based on its finding, NCLT may accept or reject the application. In case the NCLT does not find the existence of default and has not passed an order within 14 days, it must record its reasons in writing. Thereafter, a Committee of Creditors consisting of financial creditors will be constituted for taking decisions regarding insolvency resolution. The Committee of Creditors may either decide to restructure the debtor's debt by preparing a resolution plan, or liquidate the debtor's assets.

Sir, the Bill also states that this provision would also apply to insolvency processes in the following cases. The first is those that have not been approved or rejected by

the National Company Law Tribunal. The second is those that have been appealed to the National Company Appellate Tribunal or Supreme Court. The third is where legal proceedings have been initiated in any court against the decision of the NCLT. More flexibility is ensured for applicants seeking resolution. It allows them to include corporate restructuring programmes including mergers, demergers and amalgamation as part of their resolution plan. Such restructuring would not come under the scanner of tax authorities.

Sir, through these eight amendments, the Government aims to fill the critical gaps in the corporate insolvency resolution framework as spelt out in the Code. Simultaneously, this also maximises the value from the Corporate Insolvency Resolution Process. It also ensures maximization of value of a corporate debtor, adhering to strict time-lines. The overall objective of the Government is to achieve the outcomes envisioned in the Insolvency and Bankruptcy Code. It seeks to ensure speedier resolution of cases involving corporate debtors.

Sir, the Bill also enhances the powers of the Committee of Creditors to decide on how the claims will be distributed on the basis of commercial consideration. Under the Code, as of now, there is no clarity on distribution to creditors other than the financial and operational creditors. The Bill would also empower the Committee of Creditors to decide the distribution to such creditors on the basis of commercial consideration.

Sir, before I conclude, I would like to highlight two issues in this Bill. The first is, it is yet to formulate and notify rules for proprietorship and partnership firms. That means, over 97 per cent of MSMEs are excluded from this vital reform, which allows an orderly resolution of failed firms and an honourable exit for an entrepreneur.

Sir, the second issue is, as per the Corporate Insolvency Resolution Process, the MSME suppliers are categorised as 'operational creditors'. Because of this, they are excluded from participation in the entire process under IBC. There is no statutory protection of their payments under the resolution plan which is guaranteed to the MSME under MSME Development Act. The unfortunate fallout of this anomaly is that not only the corporate NPAs, along with them a plethora of MSME NPAs will also emerge. The Government may please examine this. With this, I support the Bill on behalf of my party. Thank you, Sir.

SHRI AMAR PATNAIK (Odisha): Sir, admittedly, this IBC is designed to bring about a paradigm change in the way business is done in India. There is no doubt that, as has been discussed, it would improve the credit culture; this would also, probably, unlock the capital; the capital which was getting locked in NPA, it is going to unlock it and spur the economic activity. So, like chicken and egg story, if you leave things like that, probably, some of the employees would continue to remain but they remain stretched all over because the company itself is in doldrums. But, you should revive the company. The main purpose or the intent of the Bill is continue having it as a going concern.

The activity that would probably happen afterwards would give rise to more investments coming into these companies or coming into new companies and more employment taking place. These are very laudable, positive points in IBC. As far as NPAs are concerned, we used to have about one lakh crore NPAs every year from 2000 to 2016 and it has decreased definitely because of the IBC. It has brought in accountability for promoters and for the home buyers; the Amendment has brought in a separate provision which is really praiseworthy. The most significant thing is that here the responsibility for keeping the company alive is shifted from the equity shareholders to the creditors. Now, this particular Act basically tries to bring the divide between the financial creditors and the operational creditors as everybody has discussed and by giving primacy to the financial creditors over the operational creditors it would further improve the credit culture. The banks would start lending, the off take of loans will take place, new businesses would probably come about and more jobs would be generated, employment would improve. As far as home buyers are concerned, the issue is very complex. It cannot be settled in this particular Bill itself. RERA would continue to remain and has to remain as the primary Act for solving the problems of home buyers. So, this is one area where the RERA and the Government have to probably look into it and try to bring about a situation in which the real problem of the home buyers is solved because as you know, Sir, there are a number of cases of the home buyers still pending in the Supreme Court. This particular Act and the amendments which have come in, as has been discussed, bring flexibility in the insolvency plan, it brings mergers, amalgamation, demergers. It clarifies that particular position and the most important thing is that it takes care of the delay aspect. I would come to the challenges while talking about the delay aspect. It, of course, helps to take care of even the fair and equitable distribution of the proceeds that comes out of a resolution process, but the challenges are very important.

The challenge is, following the due process of law. The due process of law is enshrined in our Constitution. The due process of law has to be followed in all cases. Natural justice has to be followed. So, how do you take care of this even if you prescribe a 330 days' or 270 days' limit? That's something that the Government has to grapple with. The tribunals have been set up in India basically to make the justice system faster. Even in the Central Administrative Tribunals the delay has been there before. Initially the period was shorter, but after that there have been delays. There is statistics to say that in the initial period there was a spurt in companies trying to go for the resolution process. Now it has decreased. In the last two years it has decreased. The amendments, whether they can address this particular issue, is something that one has to think about. There are also concerns relating to the small operational creditors having less than ten per cent of the total. What happens to them? But the most important question is, this law that we are talking about, Sir, is like the gardening work. It is cleaning up things, but we have to plant trees. For that you have to have capacities. The capacity of the resolution advisors have to improve. The capacity of the NCLT judges has to improve. The capacity of the NCLT judges has to improve. I know of cases, I will not name the Bench where the judge himself told the advocate, who was a friend of mine, that I don't know about all these. So, this capacity building work has not taken place and that may actually come in the way of resolving these cases within the time-frame that the Amendment has brought in. Thank you, Sir.

DR. BANDA PRAKASH : Sir, I welcome the Bill which envisages eight amendments to the IBC Code. The amendments aim to fill a few critical gaps in the corporate insolvency resolution framework under the Code, while maximizing value from the corporate insolvency resolution framework process. The intention is to ensure maximization of value of corporate debtor as a growing concern, while simultaneously adhering to strict timelines.

Sir, the amendments will provide clarity on allowing comprehensive corporate restructuring schemes such as mergers, demergers, amalgamations, etc., as part of the resolution plan. There will be a greater emphasis on the need for a time-bound disposal at application stage. It will also provide a deadline for completion of CIRP within an overall limit of 330 days, including litigation and other judicial process. We also appreciate for including the long-pending demand of home-buyers in the Bill. The Government also addressed their problem by including non-delivery of flats. After bringing this Code, the

[Dr. Banda Prakash]

workload has become enormous and day-to-day cases are increasing. Sir, between January, 2017 and March, 2019, 1,859 companies have been admitted to the corporate insolvency resolution process. Out of this, 715 have exited the process; 378 have been liquidated; and, 337 withdrew or accepted the resolution plan. Secondly, Sir, there are around 12,000 insolvency petitions – a majority of which is yet to be admitted by the NCLT. After that, the RBI has taken a decision last year and due to this decision many cases have been referred to the resolution process. Thirdly, they have identified bad loans to the tune of ₹ 1.3 lakh crores as of May, 2019. Out of these, ₹ 8,000 crores are from the SBI; ₹ 3,300 crores are from the Central Bank of India; ₹ 6,000 crores are from the Bank of Baroda; ₹ 15,000 crores are from Essar Steel. And, Sir, other banks like, Andhra Bank and Dena Bank have put up their cases for resolution of bad loans.

(MR. DEPUTY CHAIRMAN *in the Chair*)

Sir, earlier, we had only limited Benches. There were only eleven Benches of the NCLT. Apart from cases under the IBC, they also have to adjudicate other cases. It seems that the Government of India has recently sanctioned two more Benches and the tally comes to 24 or 26. But, these Benches are not sufficient to deal with cases that are piling up. This is the major hurdle being faced in resolving the cases under the IBC. Since there are not enough NCLT Benches to cater to a large number of cases, there are delays in deciding cases. Sir, so many cases are still pending before the NCLT. Sir, another reason for large backlog of cases under the Code is this. As per the Code, the NCLT should, within 14 days of receipt of an application for initiating a corporate insolvency resolution process, admit or reject the application. Due to the large number of cases pending before the NCLT, the timeline mentioned in the Code is rarely being adhered to.

MR. DEPUTY CHAIRMAN: Dr. Banda Prakash, please conclude.

DR. BANDA PRAKASH: Sir, there are so many limitations in the Code. We have to think about timelines. We also have to think about several other limitations. In spite of this, this is a good move. We have to learn so many things and adopt the timelines. Thank you.

SHRI K.K. RAGESH (Kerala): Mr. Deputy Chairman, Sir, I rise to raise certain serious concerns relating to amendments proposed in the Bill.

Sir, as per the claim made by the hon. Minister sitting here, the proposed amendments provide for a time-bound resolution process.

But, Sir, in the IBC itself it has already been stipulated that after receiving a resolution application, the NCLT must determine the existence of default within fourteen days. However, irrespective of such a provision, a large number of applications are pending for admissions. An average time, which the NCLT takes, ranges from three to six months. And, in many cases, it is more than a year. In my opinion, merely fixing a time-frame in the law will not resolve the real problem. We will have to identify the real reasons. There are many reasons behind this, like, lack of infrastructure, as pointed out by many other hon. Members; lack of adequate number of judges; lack of expertise to deal with new law; multiple litigations, and so on and so forth. So, Sir, unless and until these issues are addressed, the exercise that we are doing is going to be in vain.

The bankruptcy law has got two components: One, the insolvency of corporate establishments; and, second, the insolvency of corporate persons, including personal guarantors, promoters, etc., etc. Insolvency dealing with corporate establishments was notified in December 2016 itself, which means immediately after the enactment of the Code. But, I want to know from the hon. Minister whether the insolvency dealing with corporate individuals, which is mentioned under Section 60 of the principal Act, is also being notified. I would like to know from the hon. Minister why one part of the Code has been notified and why the other part, which is in fact the soul of the Code, has not been notified. It is really very strange. It creates serious obstructions in initiating insolvency proceedings against corporate individuals. At present, the bankers can initiate insolvency proceedings only against corporate establishments. They cannot initiate insolvency proceedings against corporate individuals. In fact, they are the real culprits who took huge loans from the banks and diverted the funds in their sister establishments and also utilized funds for their personal gains. ...*(Time-bell rings)*... So, why has it not been notified? Yes, Section 60 of the Code talks about insolvency resolution to proceed against individuals. But, at the same time, what is the liability of a corporate person, in the event of a successful resolution plan? ...*(Interruptions)*...

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

SHRI K.K. RAGESH: Sir, please give me just two more minutes. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: No; no. Just take one minute more because you have already taken one minute extra. ...*(Interruptions)*...



5.00 P.M.

SHRI K.K. RAGESH: It has already been discussed here that these resolution plans are accepted with huge haircuts and banks are compelled to accept these resolution plans. If you take the example of allied industries, the total debt was ₹ 40,000 crores. But, what was the approved plan? It was only ₹ 5,000 crores. That means, eighty-five per cent of the total loans was written off due to the resolution plan. So, what would be the responsibility of the corporate individual who had taken huge loans? Then, the banks are compelled to accept the resolution plan. They had incurred a loss of 85 per cent of the total loan amount. In such a situation, what is the liability of the corporate individuals? I think, the law is silent on this point. I would request the hon. Minister to take this issue very seriously because there is already a provision, under Section 60, to initiate insolvency proceedings against the individuals. ...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: Thank you, Mr. Ragesh. You have already taken two minutes extra. ...(*Interruptions*)...

SHRI K.K. RAGESH: In the event of successful resolution plan, what would be the liability of a corporate individual?

Thank you, Sir.

PROF. MANOJ KUMAR JHA (Bihar): Mr. Deputy Chairman, Sir, thanks to Indian Parliament! Before coming here, in the name of company, I only knew friends' company. Now, I have read very much in the last six or eight months about companies, the making of companies and the crashes of companies. Through you, Sir, to the hon. Minister, I would like to say that जब कंपनी बनाई जाती है, तो कई stakeholders और कई समेकित सोचों के साथ बनाई जाती है। आम तौर पर किसी भी कंपनी के निर्माण से पहले उसके अवसान की तिथि अपने ज़ेहन में नहीं रखते हैं, यह हम सब लोगों का संदर्भ होना चाहिए। यहां एन.पी.एज. के बारे में बहुत बात हुई है। बैंकिंग सेक्टर का अगर आरबीआई के आधार पर मैं देखूं, तो there is bad loan of ₹ 10,00,000 crores, which is much more than the paid-up capital of these banks. अभी SARFAESI के बावजूद हमारे senior colleague श्री कपिल सिब्बल जी 70 परसेंट, 63 परसेंट, 80 परसेंट 'हेयरकट' की बात कर रहे थे। सर, यह तो पूरा का पूरा मुंडन है, यह हेयरकट नहीं है। अगर 80 परसेंट बाल उड़ाए जा रहे हैं, तो बचा ही क्या? यह तो complete मुंडन है। इसमें सबसे बड़ा नुकसान इन बड़ी कंपनियों का नहीं होता, बड़े ओहदेदार लोगों का नहीं होता है। कंपनी के मध्य में जो छोटे-मोटे निवेशकर्ता होते हैं, उनके ऊपर इस मुंडन की सबसे बड़ी मार पड़ती है।

सर, मैं मंत्री जी से एक चीज़ और भी जानना चाहूंगा कि पावर सेक्टर में आई.बी.सी. की क्या हालत है? What is there in power sector? Is there not so a hidden hand operating in power sector? That I think should come from the hon. Minister. सर, सेक्शन 12 और सेक्शन 30 में लिटिगेशन की हालत, I think hon. Minister is familiar with it. How are we going to address these issues, particularly, shadow litigation की भी संभवना बनती है। मेरा अपना अध्ययन कहता है।

Finally, Sir, अभी वायरल चला हुआ है। जैसे सर्दी symptom है। सर्दी की दवा से वायरल ठीक नहीं होता है। What I have been pleading in this House, many times lonely, is that these are not the aberrations; this is a pattern kind of disease, but a predictable disease produced by capitalism. You will be surprised to know, Sir, that in 1848, Communist manifesto was produced. Ten steps were talked about if I am correct. One of them was centralisation of credit in the hands of the State. Today, we might not discuss it. Tomorrow, we will have to go back to some of these basics, which are very, very important. Sir, there was a theory of crisis. In 1970s, it was a very popular thing coming from the Marxist ideas. As a State, as people from the Treasury Benches, from the Opposition Benches. ...(*Time-bell rings*)... सर, आप मुझे एक मिनट का समय और दे दीजिए, मैं अपनी बात समाप्त करता हूँ। I think there is no harm in revisiting some of our macroeconomic policies and priorities. Why I say this is because world over, there is a discussion. Communist parties might have lost election; Marx has not lost election. In that context, I would like to quote Paul Krugman. He is a Noble Prize winner. He said it very clearly and I quote so that I don't misquote him. My quote is: "In the last 30 years, development in macroeconomic theory has at best been spectacularly useless or at worst directly harmful. What we are dealing with is the consequences of the kind of policies we have adopted or we were forced to adopt since the 1990s. Every time there is a possibility of cross correction. Why not today? Pre-legislative scrutiny probably would give us...(*Time-bell rings*)... Thank you, Sir. Jai Hind!

SHRI T.K.S. ELANGO VAN (Tamil Nadu): Mr. Deputy Chairman, Sir, at the outset, I want to say that the problem of insolvency or bankruptcy is created by the Governments in power. The change of policies has affected most of the industries here. I don't have to mention that the change in the economic policies of the Government within the last two, three years, has affected many sectors. I would like to quote one example. In Chennai alone, there are 4,50,000 flats which were constructed but could not be sold. Earlier it was growing like anything. There was a boom in the housing sector. But now

[Shri T.K.S. Elangovan]

4,50,000 houses could not be sold because of the change in the economic policy of the Government. So, the problem was created by the Government and the Government is trying to seek resolution of the problem. That is the reason for these amendments. I don't want to go much into it. I will quote one or two things from the Amendment and I will ask the Government to look into it.

The amendment to Section 31 of the IBC provides that the resolution plan that is approved under the IBC binds all Governments, including the State Governments. The 'resolution plan' is approved by the Committee of Creditors comprising financial institutions. Thus, power is being conferred on a private body, that is, the CoC of a company, to determine and undermine the interests of the State, including its revenue. This is wholly unconstitutional as the interests of the State, cannot, in any manner be relegated for favouring private interests, including those of financial institutions. The Government should understand this.

The second thing is, the amendment also seeks to completely wipe out small and medium scale vendors by allowing financial creditors. Operational creditors, by virtue of this amendment, can be given the nil amount while financial creditors get their principal, interest and even, at times, penal interest. Such an amendment is anti-poor, and small and medium scale vendors, who, owing to the ill-practices of large corporates, would be denied their due monies for simply having been associated with them in the due course of their business. The Government has to look into this.

The third point is the amendment to Section 25A. By virtue of the said amendment, the voting rights of those who form a 'class of creditors' who are entitled to be a part of the Committee of Creditors is being watered down. Presently, by virtue of the amendment to Section 5(8)(h) of the IBC, home-buyers have been classified as financial creditors and they are represented in the CoC by an Authorized Representative appointed under the Code. This Authorized Representative casts his vote on the basis of the percentage of votes he has gotten. ...(*Time-bell rings*)... Just a minute, Sir.

For example, if there are 100 persons whom he represented and if 60 say yes and 40 say no, he casts his vote in the said proportion only. If the present amendment is carried, then by virtue of 60 per cent being yes, the entire 100 per cent would be constituted as yes. Merely because a certain class of financial creditors are required to be represented by someone under the tenets of the IBC, the nature and ambit of their right to vote cannot be watered down. The Government should also note this.

The time period of 330 days does not exclude the time period of appeals and proceedings which intervene. This would prejudice all parties to the resolution process.

These are some of the lacunae in the Act. I don't know whether to support the Bill or oppose the Bill. I always think that whatever kind of Bills this Government introduces, I have my own doubt in my mind.

With these words, I conclude. Thank you, Sir.

DR. NARENDRA JADHAV : Mr. Deputy Chairman, Sir, at the very outset, I congratulate the hon. finance Minister for bringing in the Insolvency and Bankruptcy Code (Amendment) Bill, 2019. Sir, there is no doubt that these amendments will give greater amount of clarity in the existing framework.

Sir, I wish to make three comments. My first comment is that this Bill strengthens the provisions related to time-limits. It sets a '330-day' time-limit to complete the entire corporate insolvency resolution process. This time-limit would have the positive impact of making the entire corporate insolvency resolution process time-bound. This proposed amendment is welcome and indeed commendable since it ensures that the insolvency process is conducted swiftly and the interests of creditors and employees of the corporate body are protected.

Sir, the second point that I want to make is that this Amendment Bill of 2019 seeks to cure some of the shortcomings that existed in the 2018 Act. This Bill prescribes that all the financial creditors represented by the same authorized representative would be considered as a group. An authorized representative would have to cast one vote on behalf of all financial creditors that he or she represents. This proposed amendment would have the effect of ensuring that the resolution plan is more acceptable to the Committee of Creditors.

Sir, hon. Member, Shri Kapil Sibal, eloquently argued that this amendment does not go far enough, but he also confessed that the direction is right. In my view, this amendment is certainly a very important step forward and, as was explained to us by the Finance Minister, three lakh crore rupees have already been gotten back. And if need be, further amendments and further improvements can always be done and that should not be the reason not to approve this amendment.

Sir, I commend this Bill, and I commend the hon. Finance Minister for this much needed amendment and recommend this Bill for passage. Thank you.

MR. DEPUTY CHAIRMAN: Thank you, Dr. Narendra Jadhav. Shri V. Vijayasai Reddy; four minutes.

SHRI V. VIJAYASAI REDDY: Sir, I rise to support this Bill. It is a very important and a well-designed Bill. The Bill addresses three important issues –first, it strengthens the provisions relating to time-limits, second, offers minimum pay-outs to the operational creditors and, third, provides the manner in which the representative of the group of financial creditors should vote. On all three counts, it is commendable and it is an excellent job that has been undertaken by the hon. Finance Minister.

Sir, I have four suggestions to make in this regard to the hon. Finance Minister. I hope the hon. Finance Minister would take it in a positive sense. A well-designed insolvency law should differentiate between financially distressed firms and economically distressed firms. The two are different. I would like to say that a firm is called an economically distressed firm when the present value of the expected profits of a company in future is less than the total value of the assets of the company. Then, if the assets were to be broken up and sold separately, the company is called an economically distressed firm. On the contrary, if a company is not an economically distressed firm but is merely unable to service the debts or interest, it is merely a financially distressed firm. Hence, I would request the hon. Minister to differentiate between the two, and see to it that the financially distressed firms are not sent in for insolvency. The assets of the firms are more valuable if kept together as a functioning unit. Such firms should be sustained either by restructuring or by selling them off to new investors.

Secondly, we have 14 NCLTs; two are yet to start functioning. The Government has announced that it is going to set up 24 bankruptcy courts. There are 27 members of NCLT against an assurance of 60 judicial and technical members. There are 27 judges dealing with 2,500 insolvency cases. As per estimates, the country needs about 80 more benches in the coming five years. I would request Madam Finance Minister to kindly look into it. There is no doubt that there is a huge difference between before-IBC and after-IBC. According to the World Bank, before the IBC came in, the time taken to resolve stressed loans was 4.3 years and the recovery rate was 26 per cent. And now, as Madam Finance Minister has said in her introductory remarks, after two years into the implementation of the IBC, the recovery rate has gone up to 48 per cent and the time has been reduced to one to one-and-a-half years. It is good that it is much less when compared to international standards. This is what is to be taken note of.

Lastly, if you look at the definition clause, it deals with definitions like 'debt', 'claim' and 'default', and there is a mention about the interest on loan. The Indian Banks Association wants that any default in payment of even interest should become a case for insolvency resolution, which is deplorable and cannot be accepted. I want to know the reaction of the hon. Finance Minister in this regard.

SHRI ASHWINI VAISHNAW (Odisha): Sir, I rise to support the third trench of Amendments in the Insolvency and Bankruptcy Code. At the outset, I would like to congratulate the hon. Finance Minister for the speed at which she has come up with the Amendments. These Amendments are purely based on the experience of the recent years. Sir, the IBC is one of the biggest reforms in the recent years. In one of the recent surveys done by CII and PWC, 83 per cent of the respondents in that survey said that this is one of the biggest structural reforms in the recent times. What is this reform? We have discussed and debated this reform from many angles. I would like to touch two angles which generally have not been covered so far. The first and foremost is, what are the four pillars of this reform? We have seen in the past how the companies which were going sick were managed and what efforts we were making to bring them out of indebtedness in whatever the situation they were in. This is a very, very different picture and process where transparency is the biggest factor. In this process, all data, like the appointment of resolution professional, the whole infrastructure of NCLT, the process which has been created, is kept in a purely digital form. There is a data room in which everybody can access the same data. We can take our decision based on that data and purely the Committee of Creditors is taking the decisions. This kind of transparent system was never there and the focus on resolution keeping a company a going concern and making sure that the company survives is something which was not there earlier. Mr. Sibal said that had the companies gone into liquidation, maybe the money which would have got recovered would have been much less. Today the choice is between keeping a sick company as a zombie company or bringing it out of the sickness, reviving it and making it a live company. The human angle is very important here. If a company is sick, what is the condition of its employees? The biggest issue the employees or the workers would face is what their future is. Would this company survive? In this process, there is a very definitive direction of keeping the company alive. That is why we should all support this process; we should all strengthen this process. There were a lot of apprehensions when this Bill was first brought in 2016. People used to say, "Will this really work?" This was a totally different way of thinking. So, people didn't have that

[Shri Ashwini Vaishnaw]

much confidence. But the test of two-and-a-half years has really proven that this Bill has worked; this system has worked and today the Amendments which have been brought are really going to strengthen it. The biggest change which has come in is the behavioural change. There was a time when the promoters, the entrepreneurs would not even consider what debt they have on their books is. Today I know many entrepreneurs who are personally monitoring their debt levels on a day-to-day basis. Daily something should reduce from that level of debt; that is what people are thinking. That is a great behavioural change. Not only are the entrepreneurs, banks are also following up. Earlier the contracts would just be signed and nobody would bother. आज बैंक्स एक-एक covenants को प्रॉपरली देखते हैं। They are checking whether the security perfection is actually happening or not. That was not even considered as part of the industry and commerce earlier. That has come today. Regarding project appraisals, from my personal experience I am telling, when I left IAS to become an entrepreneur, there were a whole series of advisers who would say यार, अगर प्रोजेक्ट 10 का है, तो उसे 15 का बताओ, जिससे कि तुम्हारी ईक्विटी भी इसी में से निकल जाएगी। That was the scenario. Sir, unfortunately, that was the scenario. But, today, I am very glad to say that the project appraisal process has become so strict that both the bankers and the entrepreneurs are thinking that nobody should get into that whole insolvency process. That is a huge change. There are going to be long term implications of this Code, this system and this structural reform. This will definitely differentiate between good entrepreneurs and bad entrepreneurs. Let me put it like, genuine entrepreneurs and bad entrepreneurs. This is definitely one of the biggest impacts of this Bill. It is going to definitely bring in stability which is the key to investment, which is the key to employee welfare. This will also lead to keeping the bank's balance-sheet healthy.

Sir, in the current Bill, there are three major changes which are supposed to be brought. First and foremost is the single window clearance. What is this single window clearance? Any resolution process today is complex; there are a series of things, series of changes in commerce and industry whether it is amalgamation, merger or demerger. That kind of structure has to be created. This structure, if we create through the resolution process, it had to be taken then into various other approving bodies for different levels of approvals. In this Amendment, all those separate approvals will not

be needed and whatever resolution is approved by the NCLT, by the CoC, will get finally automatically confirmed by the different bodies. There is a 330 days guillotine which has been brought in. I think this was well needed. Various interested parties were taking a lot of diversionary measures to delay the process. The third is that the resolution process will be binding on Central Government, State Government and local bodies. This was really needed because once you take up a process at one place, when you go to all other places, it becomes meaningless. The other change which has been brought in this Bill is that there is a floor which is now been created. In case there is set of dissenting creditors, then, they would also get a minimum basic which is what has been brought into this law. Sir, these changes are definitely part of the ongoing process. This a very complex economy in which this kind of Bill will definitely keep on coming. I would like to address one point which Mr. Sibal said. In case of liquidation, what happens to the employees? Today there is a legal constraint which hon. Finance Minister may like to consider. If liquidation is done as a going concern, in that case, the company can survive even after liquidation and the employees can see a future beyond the liquidation process. The second issue is about the contingent liabilities. Supposing somebody acquires a company through this resolution process, and tomorrow, the Income Tax Department comes and says that there are some demands which are beyond the demands raised in this resolution process, then, what happens to the whole process? That is one check which has to be brought in. There has to be a clean slate beyond the resolution process. That is one major point which I would like to put before the hon. Finance Minister. To conclude, I would like to support this Bill and I would like to request everybody to strengthen this institution and this great structural reform which has come in. Everybody should support it. Thank you, Sir.

MR. DEPUTY CHAIRMAN: Now, Dr. T. Subbarami Reddy. You have seven minutes.

DR. T. SUBBARAMI REDDY: Sir, the Finance Minister is not here, who will take my points?

MR. DEPUTY CHAIRMAN: There are Cabinet Ministers here.

DR. T. SUBBARAMI REDDY: Sir, there are very important points which nobody has raised.

MR. DEPUTY CHAIRMAN: You always raise very important points.



DR. T. SUBBARAMI REDDY: Sir, firstly, let me thank you for giving me opportunity to take part in the discussion on Insolvency and Bankruptcy Code (Amendment) Bill piloted by the hon. Finance Minister, Shrimati Nirmala Sitharaman. Sir, in this Bill, there are so many challenges which have to be faced by everybody, creditors, promoters, industries...Even though a number of Amendments have been brought in this Bill, I don't want to spend more time again in discussing these Amendments. The Amendments are good. I want to point out one thing. Everything becomes perfect in human life after making efforts. The Ministry of Corporate Affairs has been making a lot of efforts. I know it because I have been in touch with the Ministry as the Chairman of some Committee. They have been making efforts to plug the loopholes and remove the difficulties in this Bill. So, they have brought new Amendments, on which I have no comments to make. I appreciate that. But, at the same time, along with these Amendments, there are some more important things which are missing and which must be done. For instance, there is some confusion between a borrower and a lender. If a borrower borrows some money from the lender and if he also gets some corporate guarantee by some person, in the case of default, the lender must first go to the borrower and ask for his money and make an effort to resolve the matter. If he is not able to get his money, then he must go to the guarantor. Now, there is some confusion in the Bill. Actually, there is some vagueness in the Bill. So, I would like to draw the attention of the hon. Minister. I do not know who is noting my points. No Minister is noting my points.

MR. DEPUTY CHAIRMAN: The other Minister is here. You can make your points.

DR. T. SUBBARAMI REDDY: Sir, somebody has to note it. I am making a very important point.

MR. DEPUTY CHAIRMAN: Yes, all points are important.

DR. T. SUBBARAMI REDDY: There has to be some clarity in this regard in the Bill. It may not be possible to do it in this Amendment, but a clarification should come from the hon. Minister. So, first, the creditors must go to the borrower. Then, if they are not able to get their money fully or partly, then they can go to the guarantor. So, this is my first point.

Now, I come to my second and very important point. Take the case of cement industry, steel industry, infrastructure, or, any other industry in the country. In the case of all these industries, there will be a number of banks who will be the creditors. Twenty-

five or 30 banks will be the creditors, and some institutions may also be the creditors. When the creditors are there, according to this proposed Bill, a single person who has given an amount of Rs.30 or 40 lakhs to a company, he has the power to go to NCLT, and say that this particular company owns him money. So, there are cases in NCLT where the Judges, after some time, appoint the resolution professionals. The resolution professionals means some Chartered Accountants. Unfortunately, the hon. Finance Minister is not here. ...*(Interruptions)*... She has come now.

MR. DEPUTY CHAIRMAN: Please continue your speech.

DR. T. SUBBARAMI REDDY: Sir, I want to draw the attention of the hon. Finance Minister to a very important point. A company may have a business of Rs.20,000 crores or even ₹ 50,000 crores, but even a small creditor, who has lent a small amount like ₹ 30 or 40 lakhs, has power to go to NCLT. In NCLT, there have been cases where Judges appoint the resolution professionals. These resolution professionals have enormous powers. They can even simply throw out the promoters or Directors. They have full powers. Then, he will manage it. How can he manage? What does he know about management? Then, if he is not able to do it and if he derails the management of the company, what will happen to the money given by all the banks? If the company collapses, all the banks' money will be lost. This point has never been thought of by anybody, nor has it been covered in this Bill. I would like the hon. Finance Minister to bear in mind this very important aspect. The law is very dangerous now. The Amendments are very good, but you have to add some more things. The first thing is that you have to clarify this problem that how a small lender can derail a big company. Then, I would like to say that some people are taking undue advantage also. For example, if a strong promoter is there, and he says that he does not have the money, he can make his creditors to go to the NCLT. In the NCLT, there will be haircut of 30, 40 or 50 per cent. So, he gets the advantage. I am not saying that everybody will do like that, but there is a loophole where there is a possibility for a promoter who can take undue advantage because of this Bill. Therefore, I draw the attention of the Government that this particular point has to be borne in mind on how best we can plug this loophole. Then, there is no doubt that this NCLT is a platform for the creditors to claim their money. ...*(Time bell ring)*... Is my time over?

MR. DEPUTY CHAIRMAN: You have more speakers from your party, so please conclude.

DR. T. SUBBARAMI REDDY: Sir, I have seen, time was five minutes there.

MR. DEPUTY CHAIRMAN: You have one more speaker from your party. Please conclude in one minute.

DR. T. SUBBARAMI REDDY: Sir, I am just finishing. Now, I forgot my subject. I would like to repeat my last point because the Finance Minister is here now. When any money is given, the borrower and the lender are there. The lender should first make all efforts to take the money from the borrower. The confusion in the law is that though it is not mentioned in the law, but there is an interpretation by some people that they can directly go to the corporate guarantor who has given the security without bothering about the real borrower. So, it has to be clarified in the law that first the lender has to go to the borrower and if they are not able to get the money, then they must go to the corporate guarantor. ...(*Time-bell rings*)... This is very important point. So, these few things should be thought of and amendments should be welcomed. A number of amendments are required for this Bill, and in an Indian democratic country, you should go through them. लोकोत्तरायणाः संगठनः निरुपमानः सन्निवेशः नद्वितीयः निरुपमः।

MR. DEPUTY CHAIRMAN: Thank you, Dr. T. Subbarami Reddy. Now, I will invite Shri Binoy Viswam.

SHRI BINOY VISWAM: Sir, I must say that our Finance Minister is a vibrant Finance Minister. She is energetic and I should say that I admire her. But the policies that she adopts for the Government cannot be appreciated. Sir, the Insolvency and Bankruptcy Code (Amendment) Bill, 2019 should be called as a manifesto of an unholy alliance between the Governments, the corporates, the rich and the bureaucrats. Sir, the beneficiary of this Bill, as everybody knows, is neither the Government nor banks. As on 31st March, 2019, the public sector banks earned gross profits of 1,49,804 crores of rupees. But, the amount they were asked to provide to resolve bank loans comes to around 2,16,410 crores of rupees. Sir, the Government talks about stability and national pride, but, it is giving a blow to the banks to the tune of ₹ 66,606 crores of rupees. This is the fact behind this Bill. Sir, this Bill is really a big blow and maybe a death knell to the financial stability of the country. Sir, many colleagues were telling that this is to help the workers in the industries. No, Sir, it helped the Sterlite-fame Vedanta, to the tune of 8,400 crores of rupees in the electro steel resolution. In the Alok industry deal, it helped Ambani, their favorite political cousin, to the tune of Rs. 25,000 crores and the banks

were asked to sacrifice ₹ 25,000 crores for the benefit of Ambani and the beautiful term has come to the scene now, *i.e.*, haircuts. In this one deal, the haircut was 83 per cent and we call it a step forward! No, Sir, it can never be called a step forward. Sir, the Government informed the Parliament that as on 31st March, 2018, there were 9,331 wilful defaulters in this country, who owed ₹ 1,22,018 crore of money to the banks. What happened to them? Has the Government any plan to get back that money? Will the government be dare enough to tell who they are? Many a times, the Bank employees association, ...(*Time-bell rings*)... the AIBEA asked the Government, at least, to publish their names but the Government did not. Sir, my Party, the Communist Party of India, demands that all the names of the wilful defaulters should be published so that people should know who they are. You run after the small merchants, you go to the peasants' house, you recover the loans back from the students, but when it came to these persons, you close your eyes and say that you have a mechanism which you call resolution. Sir, we want recovery. Recovery is not resolution. In the name of resolution, you are helping the big industries and the looters.

MR. DEPUTY CHAIRMAN: Please conclude.

SHRI BINOY VISWAM: Sir, this is a Bill to cover the loot of the looters of the country.

So, I hope the Finance Minister, while replying, would answer as to what prevents you from publishing the names of the wilful defaulters. Thank you.

MR. DEPUTY CHAIRMAN: Thank you. Now, Shri Suresh Prabhu.

SHRI SURESH PRABHU: Sir, as we all know, the living beings have a lifespan. Some live longer, some shorter, depending on many factors like lifestyle, the type of environment they live in, as all these things decide how long one can live.

A corporate entity is also an artificial person. So, even a corporate entity is supposed to have a lifespan. It can live longer or shorter depending on the business plan, their ability to manage the business or the environment in which they operate.

[THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA) *in the Chair*]

Some of the sectors, which were mentioned earlier, steel, cement and others, faced challenges, as it always happens, because the externalities can influence a business that

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you are running. So, like a human being, like a living being, even corporate entities have a life. But, unfortunately, if you do not have a proper legal system allowing the corporate entity to live the life in full, you are losing precious capital, you are losing the value of assets and you will not be able to recycle them, and, it has happened in many cases. A very startling and eye-opening example is the textile mills of India. Mumbai, Kanpur, Ahmedabad, once upon a time, were known as the Manchester of the East. There were thriving businesses. I am sure, my friend, Mr. Viswam, as a trade union leader, will be happy that at that time, they were the strongest supporters of the Communist Party of India. Shripad Amrut Dange, the founder of the Communist Party, was their leader. So, what happened to the textile mills? Where did they disappear? Mumbai was the hub of textile industry. Lakhs of people lost jobs. Why? It was because at that time, we did not allow the textile industry to reinvent itself by allowing it to have a proper system. At that time they were facing problems like they were not modernised, they had debt, whatever it is. Had there been a law properly structured to allow the recycling of those assets, even today, you would have been one of the big home for textile industry. But, unfortunately, we did not have a legal system, and, therefore, we have seen, over a period of time, such corporate entities going directly from the ICU to the grave. Like a human being, I can come back from the ICU and can still lead a normal life because I am properly medically treated, I got the proper attention that I needed but, unfortunately, for a corporate entity, there was not a provision like this. Therefore, this particular Act, the IBC, has actually helped us to create a system whereby recycling of capital and assets both will happen. It will allow the industries to again reborn, get new life and can start protecting both the interests of employees as well as the economy as a whole. And to do that, you need a legal system. What was the system, Sir? We had so many laws which were trying to deal with the problem. We had SICA, the BIFR and many others. But we never had a system whereby we could actually take control of the assets and recycle them through a system which is transparent and independent and which also allows you to re-live a life beyond your present problems. Therefore, this is a very good beginning. It is a new law. It is relatively quite new. It was only recently passed by both the Houses of Parliament and now amendments have been brought in. Very importantly, this is a law which will allow us to make sure that rather than liquidation as the only solution, like death is the only solution, we can look for other possibilities. Can't we allow that entity to find out how long it will live? There are possibilities. Some companies

will die naturally like human beings. As former Forest Minister I love trees. I feel bad when a tree falls, but some of them have no choice. They can live for 500 years, but still they will not live longer than that. Mr. Jairam Ramesh knows that. If we have a situation in which some companies will die anyway, we can at least make sure that some of them survive and get back on their feet again. If there is no exit for a company, there is no entry even. Employment, which is really a priority of our Government and of any Government for that matter, will not be there unless there is investment. There will be investment only when the promoter or the investor realizes that exit is possible. If there is no exit, who will enter there? My dear friend, hon. Member of Parliament, Mr. Kapil Sibal, was saying that unemployment is a very big problem today. But, Sir, those sectors which he mentioned are already suffering from challenges. So, sectoral solutions have to be found out. But even if you find out sectoral solutions for real estate, steel, and automobiles, what is the legal system in which they will operate? Unless you have a legal system independent of sectors, overall umbrella system is not going to work. You talked about employment. Sir, in these sectors, already people are facing employment problems. If you can have a system whereby you will be allowing that company to be revived, the employees' rights will be protected and they will get jobs. Therefore, this is also in a way a pro-employment law.

Sir, I was talking about assets. I now understand that this is not a blanket situation in which all the companies' management will be changed. But there are possibilities that there could be a management which is responsible for a company's problem. In those cases, changing the management will be a solution. But not only in all cases. Obviously not. But if that actually is the conclusion that the Committee of Creditors come to it finally, then obviously, that should be the solution. By doing that, you are saving a company, because a better management can revive the company. It has happened globally. It has happened in India. It has happened in our own country. Therefore, we should actually look at it from a different perspective. I can very clearly see that this particular Bill deals with very limited amendments actually. This law is very recent. We always say that it is an evolution. Something like this is a completely different regime in India. It is a different regime in which sick companies and everything else has to be dealt with. The amendments are actually a reaction to some of the happenings within the judicial system or outside of it. One important element of that is differentiation

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between financial creditors and operational creditors. This is a very important point. If you are starting a business, what is the first thing that you do? Debt is normally two or three times more than the equity. That is the debt and equity ratio. If I have equity, I go to the bank. The bank puts twice or three times or sometimes even more money than that into the business. If they don't put the money which is two or three times of my equity, I cannot start a business. If I don't protect them, and most of them are public sector banks, and if I don't protect their interest, how can I make sure that there will be more investment that banks will be willing to make? So the interest of the financial investors or the bankers has to be properly protected. Then there are operational creditors. So, there again, it has to be properly taken care of. Therefore, the distinction between financial creditors and operational creditors is very important. That has been done not for the first time today. It has been done from the very beginning. There are secured creditors, unsecured creditors and the creditors which have a right, lien and security. Securitisation of the assets has been done to them. Therefore, this is something which is already there. Now, there is amendment of Section 53 which deals with this. Now, even the operational creditors will get something equivalent to what they would have got otherwise if the company had been liquidated. It is, I think, a very fair assessment. You were not going to get anything. Now, it is assuring but making a distinction, which is really welcome and, in fact, necessary to make it happen. Then comes the committee of creditors which will do commercial consideration and take a rightful decision. The hierarchy of creditors has to be decided properly. This actually is making it clarificatory and making sure that there is no confusion and ambiguity on this. That is a correct thing because this is something which has been accepted over a period of time. Even the earlier Companies Act of 1956, in Schedule-VI, talked about how to present the accounts of a company, in which there was a clear distinction between different kinds of creditors. So, this is not the first time that this is happening. But, it is making sure that in the IBC, it is very critical and very important.

Sir, voting is very important because ultimately, the decision for revitalization of the company, who is going to take the haircut, who is going to make sure that thing, etc. will have to be done through a process. Sir, the process is voting. It is very properly made. Even in our Parliament, how do we take a decision? We take it by majority. How are Lok Sabha Members elected? They are elected by majority. How are Member of Rajya Sabha, if there is an election in Vidhan Sabha, elected? It is by seeing who has

got more than 51 per cent votes or first-past-the-poll will get elected. So, there is a committee of creditors which actually is going to decide on the basis of their voting rights and, therefore, 51 per cent will be the correct. ...(*Time-bell rings*)... This will happen. While all creditors are equal in different ways, but some have to be more equal than others like in real life also. So, equality with relative priority is something which has been done. And, therefore, I think, a security is given to bankers. The contractual obligations must override the issue, which is actually the hierarchical structure that we are talking about. Sir, I think, unless the secured creditors are guaranteed this particular right, further lending will always be in trouble. If you really want to protect the rights of public sector banks, I think, this is the best thing to do. They are the largest lenders and if they are not protecting their interests, what will happen? Therefore, it is actually the rightful position and, therefore, I welcome it.

Sir, then I come to corporate restructuring. It is a very important thing. There could be mergers and acquisitions; there could be amalgamations; there could be reverse mergers. There are different forms of corporate restructuring. All of that should be allowed to be used as an alternative. This again is an amendment which actually makes it possible. There is an enabling provision which really makes it possible. Again, there is a legal binding. Some Members had an issue with that. Sir, legal binding is also on the Government. The State Governments and the Central Government will be bound by this time-bound action that will be take place. Therefore, this is not discrimination but, in fact, it is a very welcome measure including the Government becoming bound by the provisions.

THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA): Suresh Prabhuji, your Party has two more speakers.

SHRI SURESH PRABHU: Sir, I am concluding. Home buyers are one of the critical areas. We are seeing that real estate sector is suffering. Real estate sector suffering is a suffering for the corporate. But the bigger suffering is for those who actually bought and made contracts for flats. They wanted to live with their families. They were looking at some high dreams and suddenly, they are realizing to forget that dream. There is no reality also in which they can see their flat anymore. The plan for building also probably disappeared. So, in this situation, it is a welcome provision. There is a provision for 51 per cent flat owners agreeing to a plan. All the flat owners cannot come together. Some may be living in different parts of the country. Some of them may be NRIs who have



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invested in it. So, even if 51 per cent of the home buyers agree to a plan, it would be binding. Therefore, I think, Sir, a very good beginning of a new process is made, in which proper restructuring would be done and there would be unwinding of the situation in which the money of banks, promoters, employees and everybody else was struck. Economic activity will also get a boost. In fact, I must say, Sir, one thing very importantly and I must congratulate the Finance Minister for it. These Amendments have been brought in with a record time. When there was a judicial pronouncement on some of these issues by interpretation, I think, this must be one of the fastest responses given to an emerging situation. Therefore, I must congratulate the Finance Minister. Also, I think, you have presented it as the Corporate Affairs Minister. So, I would welcome her in both the capacities. I am sure that working together will really make it happen.

THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA): Thank you.

SHRI SURESH PRABHU: So, our friends, who have rightly so, and the Communist movement is born for protecting workers' interest. So, this is one thing which will allow the workers' interest to be protected. This is something which will ensure that even the flat owners' interest is protected. Therefore, even sectoral decisions can be taken. So, Sir, I abide by your ruling. Thank you very much.

SHRI T.K. RANGARAJAN: The mills were closed when your friend Datta Samant was there. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA): ...*(Interruptions)*... No, no. Clarifications later please. ...*(Interruptions)*... Mr. Jairam Ramesh. ...*(Interruptions)*...

SHRI T.K. RANGARAJAN (Tamil Nadu): When your friend Datta Samant was there, only at that time it was closed. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA): Mr. Rangarajan, you can seek clarifications later, ...*(Interruptions)*... Please do not interrupt. ...*(Interruptions)*... Mr. Jairam Ramesh.

SHRI JAIRAM RAMESH : Sir, some days ago, I stood up to attack the Government bitterly for trying to destroy the RTI. Today, I stand up to acknowledge that the Insolvency and Bankruptcy Code, 2016 was a major transformational move. I welcome not only the Code but these Amendments that are being brought forward today. The

IBC deals with a fundamental paradox of India. The paradox was that we had sick industry but we did not have sick industrialists. The IBC deals with the problem of sick promoters. It creates a market in the promoter field. Now, this is the third round of Amendments. We had one Amendment in January of 2018. Then, the second round in May, 2018 and I had an occasion to speak on all the Amendments. I said at the second round that we will soon have a third round and I say today that we will soon have a fourth round. There is no harm in acknowledging that the IBC is a new world that we have entered. The more we learn from our experience, the more Amendments we bring, the better off we will be. This third round of Amendments has been triggered by an extraordinary decision of the National Corporate Law Appellate Tribunal on July 4th. The Government has moved very quickly in the matter because the matter is pending before the Supreme Court.

What the decision of the NCLAT did –I want the hon. Members to be fully aware of this major decision of the Appellate Tribunal – was to bring the secure financial creditors and operational creditors on par. The second thing that the NCLAT did was to review the plan that had been approved by the Committee of Creditors. Sir, to give you one example, and this was on the ArcelorMittal case, takeover of Essar Steel, the Committee of Creditors had agreed to ₹ 54,547 crores. The NCLAT reworked this proposal to ₹ 69,192 crores. The Committee of Creditors had said that the banks should get ₹ 49 crores but the NCLAT said the banks should get ₹ 30,000 crores. The CoC said that the operational creditors must get ₹ 5,000 crores but the NCLAT said that the operational creditors should get ₹ 12,000 crores. So, the point is that the NCLAT sat in judgement of a resolution plan that had been agreed and brought the secure creditors on par with the operational creditors. Sir, this was not the intent of the IBC that was passed by this House in 2016. Therefore, the Government was actually duty bound, in view of the fact that this matter was coming before the Supreme Court in a matter of days, to bring forward this legislation and I congratulate the hon. Minister for coming very quickly with this legislation. I am sure she will move with equal rapidity in future because we are learning the ecosystem is also evolving.

Sir, I have five very specific questions to the Minister and one big point to make for her to think about. First, Sir, what is the Government's thinking, when successful bidders do not follow up after their bid? There is a Corporate Insolvency Re-structuring Plan. A company 'X' bids; a company 'X' is selected but the company 'X' does not move

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forward and country loses. So, what is the Government's thinking? How do you deal with the situation? Can you take penal action against somebody who actually wins the bid and does not move forward with the bid? Madam Minister, this is not an academic question but this is a real live question and I am sure you know as to what I am referring to.

Second, the Interim Budget of 2019 proposed amendments to the Indian Stamp Act of 1899 because stamp duty makes a very big difference in the bid process. I want to ask the hon. Minister where are we on the amendments to the Indian Stamp Act because that will affect the attractiveness of many bids.

Third, many of the cases that are coming to the IBC involve the mining sector and in the mining sector, State Governments are important stakeholders. I want to ask the hon. Minister, what is her thinking and what is the system that you are evolving that States are on board when as far as the resolution plan is concerned?

The fourth point that I want to raise is, does the IBC have over-riding jurisdiction over all other laws? The reason why I am asking you this is because SEBI has gone to the Supreme Court on a case challenging the IBC and saying that the SEBI Act should apply and not the IBC. However, there are Supreme Court Judgements which say that the IBC has over-riding powers over all other Acts and I would like to know for clarity from the hon. Minister.

The fifth and final question that I have is, and this point was raised by Shri Binoy Viswam, how do you indemnify new promoters against the actions of the past promoters? Are the past promoters getting away lightly? It is because actually most of these IBC cases are cases in which the previous promoters have really mismanaged and you have got to bring in new promoters. So, the question that I have is, can you indemnify the new promoters, the new people who are bidding from the actions of the previous promoters who have actually led to the IBC? This is something for you to think about.

Sir, the one big question; the one big issue to which I want to draw the hon. Minister's attention is what do you do about the MSME sector? The most important sector from an employment point of view and from an export point of view is the MSME sector and we all know the level of sickness in the MSME sector. However, Sir, you are not going to get bidders for an MSME firm because the promoter himself is in the best

**6.00 P.M.**

position to rejuvenate and renew that particular MSME enterprise. MSME enterprises generally do not go sick because of mismanagement deliberately. They go sick because of competition; they go sick because of delayed payments and they go sick because the structure of the industry has changed. Now, I think that we need to pay attention to the MSME sector. We have paid great attention to the big 12 cases that the RBI referred to the IBC. I want to draw the hon. Minister's attention to a recent report of the Reserve Bank of India. This is just one month ago. Less than a month ago; an Expert Committee that the RBI had set up on the MSME sector made the following recommendations. The IBC provides for a differentiated regime for insolvency and bankruptcy of firms; proprietary firms and individuals. Delegated legislation and rules in this regard are currently under discussion.

The finalisation of these rules can boost lender confidence because lenders will have more certainty and predictability regarding the recovery of defaulted loans. This can increase the amount of credit available to MSME in the Indian economy. The point is, if you want to revive...

THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA): Excuse me. One moment. Please. ...(*Interruptions*)... Mr. Jairam Ramesh, it is 6 o' clock. The House may be extended till the disposal of the Business for the day. That is the sense of the House.

SHRI JAIRAM RAMESH: If you want to revive the MSME sector, you have to have either delegated legislation or delegated rules in order to be able to deal with the problem of insolvency and bankruptcy. One simple way of doing this is to amend the MSME Act. The hon. Minister knows that the IBC mandates an information utility. It is mandatory as far as secured creditors are concerned, but it is not mandatory for operational creditors. My experience and the experience of most people is that sickness in the MSME sector comes because of delayed payments. We have delayed payments legislation but that is adhered to more in the breach. Therefore, my suggestion to the hon. Minister is to please consider amendments to the MSME Act in order to ensure that the operational creditor, namely, the MSME, is able to put the invoices in the public domain, which then puts a pressure on the company to actually pay the MSME sector on time. I think this MSME sector deserves special attention from the IBC point of view.

[Shri Jairam Ramesh]

The IBC, so far, has been really driven by banks, and naturally so, because you want to reduce the NPA levels, you want to boost credit and I have no problem with that. But I think now is the time to switch gear and I would request the hon. Minister, now, in addition to focussing on banks, also to focus on MSME sector.

THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA): Now, Shri Narain Dass Gupta.

SHRI NARAIN DASS GUPTA: Sir, thank you very much for giving me this opportunity. I rise to support the Bill. Without going into the past history as to how this Insolvency and Bankruptcy Code came into being in 2015, I will simply mention and confine myself to three amendments. One is the amendment, in Clause 2, where the Explanation has been added and that is a very welcome amendment. It will give the opportunity to the resolution applicant when he will take over the stressed assets. He can hive off and merge with the other units. He may first demerge whatever the unit will be. And the reason why it is a welcome suggestion is because when he will merge or demerge, he will get the benefit out of the Income-tax Act and for that, especially, there is a provision for merger and demerger, where there is no tax liability. This was required also because if I take over the existing stressed assets, I may not like to go with their existing name. That is a very welcome suggestion by the hon. Finance Minister and I welcome this. There are two more amendments to Section 12 (1) (3), where the time has been extended from 270 days to 330 days. Now you have included the time of the court proceedings also. After 330 days, it will go automatically to liquidation. My only submission is, how will we have a control over the proceedings of the court? Sometimes it may take 330 days in the court proceedings and the very purpose of this Insolvency and Bankruptcy Code was just to avoid the liquidation proceedings. But, here, it will go automatically to liquidation proceedings. It will cause loss to the financial creditors. In case of liquidity, then in the order of precedence to have the benefit, they will be the loser and, particularly, there can be loss of job also. That is why I just recommend that we may revisit this provision. As Bhupenderji has said that we will manage that the time does not go beyond 330 days, we will increase the courts of NCLT and will ensure it. But it is very difficult to say, to have a control over the proceedings of the courts.

Then, I come to Clause 30 where you have stated that in case the financial creditors do not participate in the voting, they will have the right, and they can participate in that. In that process also, if it goes below fifty per cent, whatever may be

the limit, then it will again go to the liquidation. That will also create a problem. The very purpose of this Code was to avoid the liquidation proceedings because earlier, there was an Act called SICA, and as you have rightly said, we could not address these issues. Again, the problem may come.

Finally, I will refer to the explanation. I will read it out. In the explanation, you have provided that 'the distribution in accordance with the provision of this Clause shall be fair and equitable.' How will you decide what is fair and what is equitable? Again, it may generate litigation because we should define what is just and what is equitable? This is all my submission. With this, I support the Bill.

THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA): Now, Shri K.J. Alphons.

SHRI K.J. ALPHONS (Rajasthan): Sir, I rise to support this Bill. The amendments proposed in all the three sections are most welcome, and I am not going into the details of the amendments proposed because most of the Members in this House who spoke, have spoken about them in detail. This House has set huge democratic Precedent here. Mr. Kapil Sibal has raised certain insurmountable problems in having these amendments implemented, and Mr. Jairam Ramesh came up and said, these are not huge problems, and he said, solutions are already there, I think, this is a true democratic spirit in which this House has to move.

Since I am not talking about the numbers, I think, there is one issue on which I am extremely happy about and that is, amendment to Section 31 which says, that this is binding on the Government because the biggest litigant in this country is really the Government, and therefore, if this is made applicable to Government and also semi-Government bodies, I think, it is fantastic, and it is a great move from the Government.

Sir, let me go beyond these amendments which are proposed. Why is our industry Which are sick? Let us go to the fundamentals. We have far too many industries sick. Phenomenal numbers are brought out here, and I think, the fundamental principle we must accept is that, unlike in human beings, I qualify, unlike in human beings, whatever must die, must die. Look at Air India! Rupees sixty thousand crores of peoples' money, your money, was eaten away, and there are people who would say, 'no, Air India must be salvaged.' We must let them die, and not allow them to eat up more and more resources. How long do you want these companies to be on ventilator? ..(*Interruptions*).. No, I am not conceding. For seventy years, we put these companies on ventilator. Our

[Shri K.J. Alphons]

money, India's poor people's money was eaten away. I think, this has to be stopped. I think, this is the great initiative taken by this Government. Why do the companies fall sick? I think, there is a question of ethics and morality here. Sir, where is corporate morality in India? Let me ask you. When you prepare your project report, it is inflated. Why? Because you want kick-backs. This is one thing which the Modi Government has done. We stopped these kick backs. PM said: there will be no corruption in Government. This is what we have done, This inflated project report, what does it lead to? Your calculations will not go entirely wrong if for a project which is worth ₹ 1,000 crores, you estimate it at ₹ 1,500 crores. How would that project ever become viable? Before the baby is born, it is sick. It is on ventilator. I think, we need to stop this. Then, the lending rates in India are very high. All over the world, what are the lending rates of the banks? When globally, lending rates are 3-4 per cent, and if you lend at 13-14 per cent, how does your industry compete? I am very happy to note that the Government has a better relationship, let me use the word, 'not control', with the Reserve Bank of India today. RBI is bringing down the interest rates. I think, we need to dramatically bring down the interest rates. Look at corruption at the bank level! How does a Bank like the Bank of Baroda, from one branch, transfer ₹ 5,000 crores to Hong Kong without anybody in that bank or the RBI knowing? We need better controls. We need better enforcement. Now, let me come to the project implementation. Before a project is implemented, today, most of the corporate sector takes away whatever equity they have put in. Mr. Vice-Chairman, Sir, I am telling some very plain truths about the Indian industry. Before you commission a project, whatever money you have put in is taken away. You have inflated your purchases and expenses. That is what they are doing. We need to change this entire corporate ethics.

Sir, let me come to auditors. Take for example just one company the IL&FS. How did it manage to borrow so much? We have credit rating agencies giving completely false reports. Senior bureaucrats manning IL&FS and what did happen? Our money, more than ₹ 1,00,000 crores. I am told, is in deep trouble. Why? Who did it? I think, corporate ethics must be there. Who audited IL&FS? Is it the same auditors who audited Enron? Possibly not, it is some other company; I know which company audited Enron. Not they. These are Indian auditors. The Hon. Prime Minister in his address to the Institute of Chartered Accountants of India said, 'You people have to be the conscience of the country but you are not being the conscience of the company.' Mr. Vice-Chairman,

Sir, there are fundamental problems because if you don't go along with the company owners, what happens? You will never get appointed to audit that company again. You will not. Therefore, they will go along.

Let us come to the role of independent directors. I am very happy that this Government has brought about regulations which says that independent directors are also responsible. We have far too many IAS officers, of my breed, going and sitting in the Board, keeping quiet, knowing everything that is happening; they keep quiet because they are looked after very well. Mr. Vice-Chairman, Sir, this has to stop. I am very happy that some directors of banks are going to jail. The independent directors also must go to jail. They are accountable to the country, Mr. Vice-Chairman, Sir. So, what do we need? We need a complete change in corporate morality. We need a complete change in bureaucratic morality. We need a change in the banking sector. We need all these things. These are fundamental. But, I am very happy that this regulation, based on these fundamentals addresses the problems which are ailing the industry.

I was a real estate dealer; in fact, I was the biggest real estate owner once upon a time in Delhi, as Commissioner of DDA, it. We need to settle things. I am extremely happy that the Supreme Court is doing it, sending real estate cheats to jail. I think, we need to bring about regulations not only in the real estate area but also in all sectors, wherever we know that people are cheating and running away. Mr. Jairam Ramesh asked a question: "What do we do about the original owners once the company is bought over, once there is a resolution" I think, we need to have a proper audit, an ethical audit. The people who have stolen money who had wrecked the company, must also be behind bars. This country needs to do this. We need to be tough. I am extremely happy that with the Prime Minister has the backbone, We have a Finance Minister who is determined. Therefore, I am extremely happy that in this House, we are all together in supporting this Bill. Thank you, Mr. Vice-Chairman, Sir.

SHRI KANAKAMEDALA RAVINDRA KUMAR (Andhra Pradesh): Mr. Vice-Chairman, Sir, thank you for giving me the opportunity. The Insolvency and Bankruptcy Code was brought with a claim that it will change the credit culture. It was also stated that the Insolvency and Bankruptcy Code will take away the control of defaulting company from promoters. The wilful defaulters has to follow the resolution process. The wilful defaulters from raising funds from the market. But, in reality, what is happening is known to everybody. The home buyers were running from pillar to post to get their grievances resolved.



[Shri Kanakamedala Ravindra Kumar]

Sir, amendment to Section 12 has been proposed. It inserts two proviso. There is already a proviso in the Principal Act. The Principal Act, at the time of appealing, prescribed for completing the Insolvency Resolution Process within 180 days. A proviso has been provided in the Principal Act itself that if an application is made to extend the time period beyond 180 days with the permission of the Committee of Creditors, it can be extended for a further period of 90 days. In total, the time granted is 270 days in the Principal Act itself. Now, through this Amendment, a proviso has been added which extends the time-limit to 330 days.

Sir, already there is a huge pendency in the National Company Law Tribunal. If you look at the website, the pending insolvency resolution petitions can be seen. There must be a sound mechanism in place to handle the issue of wilful defaulters. According to the reply given to a parliamentary question, the number of wilful defaulters has increased over the years. In 2016-17, it was 7,079. In 2017-18, it was 7,535. In 2018-19, it was 8,582. There is propaganda that corporate debtors are wilfully filing the insolvency resolution to evade the principle debt. There is no sufficient guarantee even at the time of granting loan. And, at time of liquidation, due to this whole process, they will get only 30-40 per cent. The rest of the things are free. It requires a penal provision in the Bill itself in order to curb this type of practice. The next thing is, the period of limitation should also be included in the Bill. In order to file proceedings before the NCLT, we have to look at period of limitation, whether time-barred debts can be entertained and whether provisions of the Limitation Act are applicable. I am saying this because there is an ambiguity in the Code itself. Secondly, the NCLTs have taken a different stand from one Tribunal to another Tribunal. There is an ambiguity. It has to be clarified in the enactment by making such an amendment.

Sir, there are many tribunals, but the posts have not been filled up. Vacancies are there. Even the malpractice can be curbed before granting the loan itself. Sufficient steps have to be taken by taking sufficient guarantee. Now, coming to the other aspect, most of the corporate debtors are taking undue advantage of this Code by simply filing for resolution process, thereby escaping the liability. And, Sir, some of the benami corporate debtors came into picture and ultimately, they are running the institutions. Therefore, this type of malpractice has to be curbed. For that, a mechanism has to be developed by making necessary amendments in this Code. Thank you.

**श्रीमती रूपा गांगुली** (नाम निर्देशित) : उपसभाध्यक्ष महोदय, I rise to support the Insolvency and Bankruptcy Code (Amendment) Bill, 2019. इस बिल में जो सबसे अच्छी बात मुझे लगी

वह है बड़ी ट्रांसपेरेंसी के साथ और बड़ी क्लियरली हर बात को एक्सप्लेन किया गया है। The best thing in this bill is it is time-bound. All procedures are made to be time-bound. टाइम बाउंड होने से, जिने लोगों को यह अफेक्ट कर रहा था, उनके लिए आसान हो जाएगा। इस बिल के बारे में बात करते वक्त, जो मुझे याद आ रहा है कि सबसे पहले इस बिल को वर्ष 2016 में श्री अरुण जेटली जी जब लाए थे, तब उन्होंने बड़ा क्लियरली एक्सप्लेन किया था NPA क्या है? वर्ष 2015 से पहले, यानी वर्ष 2014 से पहले हमें या आम आदमी को NPA के बारे में ज्यादा सुनने को नहीं मिलता था। मैं साधारण लोगों की बात कर रही हूँ कि NPA क्या है, उसे खाते हैं, पीते हैं या सिर में लगाते हैं, इस बारे में कुछ किसी को पता नहीं था। धीरे-धीरे NPA के बारे में पता चला। NPA हमेशा अंडर दि कारपेट रहा। बाद में, लोगों को पता चला कि ऐसे NPAs बनते गए हैं और किस वजह से बनते गए हैं और कितने पकड़े गए हैं, इस बारे में याह ज्यादातर माननीय सदस्यों ने डिस्कस किया है, इसलिए मैं उसके विस्तार में नहीं जाऊंगी।

महोदय, इस बिल में एक चीज बहुत अच्छी है। हम हमेशा बात करते हैं कि पब्लिक सेक्टर बैंक है, आपका बैंक है। मैं कहना चाहती हूँ कि बैंक एक बिल्डिंग नहीं है। अगर NPA बने हैं, तो बैंकों के भी बहुत सारे लोग इसमें इन्वॉल्व रहे थे। कॉर्पोरेट सेक्टर में सब चोर नहीं हैं, सब विलफुल डिफॉल्टर नहीं हैं। ऐसे बहुत सारे सेक्टर हैं, जहां ये धीरे-धीरे डिफॉल्टर बनते गए। ऐसे लोगों के लिए इस अमेंडमेंट में प्रोविजन है, ताकि वह एक बार उठकर खड़ा हो जाए। इस बिल के क्लॉज़ 2 में एक बहुत अच्छी बात कही गई है- “restructuring of the corporate debtor, including by way of merger, amalgamation and demerger”। इसमें सब किस्म के उपाय किए जा रहे हैं। टाइम बाउंड होने से एक फायदा है कि सबको जवाबदेही देनी पड़ेगी। आज की तारीख में यह भी एक सच है कि ऐसी कई घटनाएं हैं, जहां पर बैंक मैनेजर्स, जो डिफॉल्टर्स हैं, जो मिलने के लिए आए हैं, जो appointment मांग रहे हैं, वे उनको appointment नहीं दे रहे हैं, उन्हें घुमा रहे हैं, उनसे चक्कर कटवा रहे हैं। हमारे देश में अब जो ऐसा हुआ है कि एक नई किस्म की economic growth का दौर आया है, जहां पर लोगों को धीरे-धीरे आदत डालनी पड़ रही है। यह ऐसा देश है, जहां पर पहले, मैं कई साल पहले की बात कर रही हूँ, लोगों को लगता ही नहीं था कि ट्रेन का टिकट न कटना कोई अपराध है, लोगों को लगता ही नहीं था कि कुछ खरीदने पर बिल लेना पड़ता है या टोल टैक्स दिया है, तो टोल टैक्स की रसीद लेनी पड़ती है। उनको यह आदत नहीं थी। यह आदत, यह जो behavioral change है, इसके लिए हमें यह कहते हुए बड़ा गर्व होता है कि इस सरकार के आने के बाद सभी इन सब चीजों की ओर धीरे-धीरे बहुत स्वच्छता के साथ आगे बढ़ रहे हैं।

महोदय, अमेंडमेंट्स तो आने चाहिए, बल्कि और भी आने चाहिए, क्योंकि अमेंडमेंट का मतलब ग्रोथ होता है। यह खासकर नया बिल है, इसलिए इस सारे बिल पर दिन-ब-दिन काम करते हुए और भी जो amendments और changes लाने की जरूरत पड़ेगी, वे जरूर आएंगे।

[श्रीमती रूपा गांगुली]

महोदय, हम मंत्री महोदय को साधारण लोगों की तरफ से बहुत तहेदिल से एक धन्यवाद देना चाहते हैं कि जो सचमुच विलफुल डिफॉल्टर्स नहीं हैं, उनके लिए यह बिल, यह अमेंडमेंट बहुत काम आएगा। आपने मुझे बोलने का अवसर दिया है, इसके लिए आपका बहुत-बहुत धन्यवाद।

THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA): Now, Shri Ramdas Athawale. You have two minutes. .

सामाजिक न्याय और अधिकारिता मंत्रालय में राज्य मंत्री (श्री रामदास अठावले) : सर, पांच-सात मिनट दे देते।

THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA): No, you have only two minutes. You abide by the time. The Deputy Chairman has given only two minutes.

श्री रामदास अठावले : उपसभाध्यक्ष जी, आपका बहुत-बहुत धन्यवाद। मैं इस अवसर पर यह कहना चाहूंगा कि—

“देश में आ रहा है अर्थव्यवस्था में अमन  
क्योंकि मोदी सरकार में अर्थ मंत्री हैं निर्मला सीतारमण।  
हम काले धन पर करेंगे वार  
हम खत्म करेंगे भ्रष्टाचार।  
2024 में कांग्रेस की हो जाएगी हार  
पुनः आएगी मोदी सरकार।”...(व्यवधान)...

SHRI BHUBANESWAR KALITA (Assam): Sir, I am on a point of order. Sir, sometimes, it is okay. But, every time he speaks, he takes the name of a particular political party and speaks all sorts of things.

THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA): Mr. Athawale, please, confine to the Bill. Please, don't rake up other issues. ...(Interruptions)...

श्री रामदास अठावले : ठीक है, कांग्रेस शब्द निकाल दो, अपोजिशन हार जाएगी, ऐसा बोल देते हैं।

THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA): No, no. You confine to the Bill, please. ...(Interruptions)...You speak on the Bill.

श्री रामदास अठावले : ठीक है।

बंद करना है हमें दिवाला,  
हमें नहीं चाहिए हवाला।  
2014 के पहले तुम्हारा था रेरा,  
लेकिन 2019 में नरेन्द्र मोदी जी ने आपको था धकेला।

...(व्यवधान)...

SHRI BHUBANESWAR KALITA: Sir, where is this in the Bill? ...*(Interruptions)*...

श्री रामदास अठावले : बिल पर बोलूंगा।...*(व्यवधान)*...

PROF. MANOJ KUMAR JHA: Sir, I am on a point of order. ...*(Interruptions)*...

श्री रामदास अठावले : मैं बिल पर तो बोल ही रहा हूँ।...*(व्यवधान)*...

THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA): Ramdasji, please speak on the Bill.  
...*(Interruptions)*...

श्री रामदास अठावले : रेरा के संबंध में आपने ही तो बोला था।...*(व्यवधान)*...हम तो आपको...*(व्यवधान)*... दे रहे हैं कि...*(व्यवधान)*... रेरा कानून आपने कार्यकाल में आया था।...*(व्यवधान)*...

PROF. MANOJ KUMAR JHA: Sir, I am on a point of order. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA): Mr. Ramdas, he is on a point of order. Mr. Jha, under which rule?

PROF. MANOJ KUMAR JHA: Sir, it is under Rule 110. It is relating to passing of Bills. Rule 110 talks about the scope of debate. Sir, it says that the discussion on a motion that the Bill be passed shall be confined to the submission of arguments either in support of the Bill or for the rejection of the Bill. And, what we are hearing here is all kinds of things, except nuanced view on the Bill. That is it, Sir. Thank you.

THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA): All the time it was like that. Mr. Ramdas, you please confine to the Bill and don't deviate.

श्री रामदास अठावले : उपसभाध्यक्ष जी, यह जो “The Insolvency and Bankruptcy Code (Amendment) Bill, 2019 है, जो “संशोधन” बिल है- अपने देश में जब कंपनियां बंद होती हैं, तब कंपनियों के बंद होने के बाद employment की भी एक प्रॉब्लम क्रिएट होती है, इसलिए निर्मला जी यह बिल लाई हैं और हमारी सरकार employment क्रिएट करने की कोशिश करती है। जो लोग कंपनियां अच्छी तरह से चलाना चाहते हैं, अगर वे कंपनियां किसी अच्छे कानून

[श्री रामदास अठावले]

की वजह से बंद हैं, तो National Company Law Tribunal के माध्यम से ऐसी कंपनियों को मदद दी जाती है।...**(समय की घंटी)**...14 दिनों में उसको examine किया जाता है। अगर उसके बाद NCLT को लगा कि कंपनी बंद होने के कारण सही हैं, तो फिर उसकी मदद करने के संबंध में 180 दिनों में उसको examine किया जाता है। अगर NCLT उसके लिए positive है, तो उसके लिए और भी 90 दिन बढ़ाए जाते हैं और उस कंपनी की मदद की जाती है। इसलिए यह बिल ऐसी कंपनियों की मदद करने के लिए है। लेकिन कई लोग fraud करते हैं, जिस तरह नीरव मोदी ने पंजाब नेशनल बैंक से इतना पैसा लिया। बैंक वाले गरीबों के लिए पैसा नहीं देते हैं, लेकिन बड़े-बड़े लोगों को ज्यादा पैसा दे देते हैं। ऐसा भ्रष्टाचार करने वाले बहुत सारे बैंक वाले लोग भी हैं। उनके ऊपर भी कड़ी कार्रवाई करने की आवश्यकता है। लेकिन जो कंपनियां अच्छा काम कर रही हैं, जो मालिक employment create करने का काम कर रहे हैं, ...**(समय की घंटी)**...ऐसे मालिकों की मदद करने के लिए यह बिल बहुत important है। यह बिल लाने का मौका मोदी सरकार को मिला है।

मैं आप लोगों का आभार व्यक्त करता हूँ। कांग्रेस पार्टी हमारे बिल का समर्थन नहीं करती है, लेकिन आज हमारे जयराम रमेश जी बहुत अच्छा बोल रहे थे। वे भी अच्छा बोलते हैं, लेकिन जब मैं अच्छा बोलता हूँ, तो कुछ लोग हंगामा करते हैं।...**(व्यवधान)**...इसलिए यह अच्छी बात है कि जब सरकार एक अच्छा बिल लाई है, तब as an Opposition कांग्रेस पार्टी ने इसका समर्थन किया है, सब लोगों ने इसका समर्थन किया है, आपने भी किया है। आप तो हमारे अच्छे मित्र हैं, लेकिन जो हंगामा कर रहे हैं, मुझे मालूम नहीं है। इसीलिए जब मैं बोलता हूँ, तो वे क्यों हंगामा कर रहे हैं? मैं कोई कांग्रेस के विरोध में नहीं हूँ। मैं तो आपका मित्र ही रहा हूँ। पहले कई साल मैं आपके साथ भी रहा हूँ। तीन बार मैं आपके साथ चुन कर आया हूँ। इसलिए यह ठीक बात है। इस बिल का समर्थन कांग्रेस पार्टी ने भी किया है, बाकी Opposition ने भी किया है, इसलिए मैं उनका भी आभार व्यक्त करता हूँ।

THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA): Please conclude. ...*(Interruptions)*... Please conclude. ...*(Interruptions)*... Please conclude. ...*(Interruptions)*...

श्री रामदास अठावले : इसी तरह जब हम अच्छे कानून बनाएंगे, तब आप उनको support करते रहिए।

THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA): Please, Ramdasji. ...*(Interruptions)*...

श्री रामदास अठावले : अगर आप support करते रहेंगे, तो जनता हमको support करती रहेगी और दोबारा और भी ज्यादा कानून बनाने के लिए 2024 में पुनः मोदी सरकार आएगी। आप उधर रहेंगे, हम इधर रहेंगे। जय भीम, जय भारत।

THE VICE-CHAIRMAN (SHRI TIRUCHI SIVA): Now, the hon. Minister.

SHRIMATI NIRMALA SITHARAMAN: Sir, let me commence by thanking every Member because a debate in the post-lunch Session of the Parliament is always a bit difficult because many of the Members do give a little input and sometimes participate further. But, today's post-lunch debate was actually very invigorating. Every Member, who spoke on this Bill, has very well gone through the amendments; has understood the spirit with which the IBC has been brought into this country, with every Member's cooperation. And, post 2016, nearly three years since its implementation, there has been a repeated need to bring in the amendments because the amendments were always brought in as a response to what was developing outside the Parliament, where the industries, the curators, the courts, all of them were using the IBC to give solutions. But, there were greater challenges, newer challenges that were coming up. As a result, amendments are always brought up. This time, I am glad many of the Members have credited the Government with speedily coming up with amendments for what was developing in the recent past in the last few months, a situation where we thought the very legislative intent of the Act itself was being corroded upon. Therefore, we had to respond and come out with these amendments. I am glad that very many Members recognized that the response of the Government has been in time and speedy. Therefore, I would just go over rapidly on what these specific amendments aim to achieve. And, then, will respond to each of the Member's queries and suggestions.

Sir, the Insolvency and Bankruptcy Code, actually the Amendment Bill that we are talking about now, seeks to amend seven Sections of the Insolvency and Bankruptcy Code, 2016. I shall keep referring to it as the 'Code'. These Sections 5(26), 7, 12, 25A, 30, 31 and 33 are largely to remove the ambiguities and to facilitate a smooth conduct of the corporate insolvency resolution process, for maximizing the outcomes in line with the Preamble of the Code. I, particularly, thank Shri Suresh Prabhu, who metaphorically said, we have to give a life to these companies. So was the mention by Shri Ashwini Vaishnaw, a Member from Odisha, who spoke about the speedy responsive way in which we are coming back with amendments, which shall keep the company alive. Also, Shri Jairam Ramesh referred to it. So, it is a response to what was developing and, since, specifically, some of the Members have taken the name of the Resolution plan and also the interpretation given by the NCLT in the ESSAR case, where I am glad that points were literally brought out like nuggets, where the interpretation was trying to treat

[Shrimati Nirmala Sitharaman]

secured creditors, operational creditors, and treating them at par, defeated the purpose and also the spirit of the Act. So, with such very serious interpretative problems coming up, it was only incumbent on the Government to come up with such amendments, the amendments which are, actually, clarificatory in nature.

(MR. DEPUTY CHAIRMAN *in the Chair*)

So, the intent of the Government is to ensure the maximization of value of a corporate debtor as a going concern, while simultaneously adhering to strict timelines. As regards the timelines related point, I could hear, many of the speakers did raise questions and doubts, if, actually, we can implement them; actually, can we have these kinds of timelines added? I am very grateful to Shri Bhupender Yadav who very correctly pointed out the spirit behind the Insolvency and Bankruptcy Code in a changing India. Post 1991, we have had quite a lot of opening up, quite a lot of economy and issues related to speeding up the economy, bringing in more lubrication into what we want to do. They were all discussed and in the spirit of that kind of a change which is happening in India, which is getting greater attraction, of late. In spite of the global headwinds, we needed to bring in that kind of a reform and it is not going to be as though it is being done exclusive of the courts and it is, certainly, not eroding into the Courts' domain. I would just want to bring in this particular quote or a couple of paraphrasing of the Court's words, which will remove from the minds of any one of us who would suspect that by bringing these kinds of timeline-related constraints, we are trying to tread on to the Court or we are trying to impose something on the Courts. Not at all; we are not imposing on the Court. It is something which I want to explain to you by using the Court's own words. In the Swiss Ribbons matter in 2019, the hon. Supreme Court had observed, – I am not quoting; I am using their words; so, let there not be a misunderstanding; I am paraphrasing the words of the court, –"the Defaulters' paradise is lost" through this IBC. So, India can no longer be a defaulters' paradise. So, because of the IBC, now, it is very clear, there has to be a resolution. Even if it leads to liquidation, defaulters will have to be facing law. So, that is being recognized by the Supreme Court.

Secondly, again, on the issue of, whether we can amend such laws even as issues are pending in the Courts, I, again, am not saying that the Court said it in anticipation that we are going to do something, but I am only using some of these observations by

the Court. "Economic laws need flexibility and experimentation." This is an observation by the Court. If the Courts have said that, why are we hesitating in using the legislative mandate that this House has? Legislative mandate is what we are doing. We are not at cross purposes with the Court. It is the legislative mandate. If we don't use our mandate and leave the space open, after all, nothing is left in a vacuum, something fills it up. But it is our duty to have the legislation and, therefore, we are doing it. The Court again had observed in the Swiss Ribbons matter, "We need to move away from traditional approach" –also an observation of the Court. So, if you are slightly worried, by saying –and some of our Members did observe –are we trying to do something which is very away from what has been the traditional practice, well, yes, we may have to experiment and it is because we started the experiment even in 2016, repeated amendments are coming. And, I would, with one more observation, move over to, in fact, quoting the observation of Jairam Rameshji, in his participating in a debate earlier which he himself recalled in August, 2018 which will explain why we have to come back repeatedly with amendments because it is such a path-breaking Code that we have come up with. The Supreme Court again had observed, "The constitutional..." – and it upheld the constitutional validity of the Code. So, if the constitutional validity of the Code has been upheld and well within our jurisdiction, well within the division of power as envisaged in the Constitution, the three pillars are using their own areas, Legislative, Executive, Judiciary, the fourth being the Media and the Press, within our legislative or the constitutional area of operation, domain of operation, we are bringing in certain amendments. Only the Code itself is absolutely constitutionally valid. So, let's not have doubts in our mind saying, 'are we doing too much, are we treading into the area of the courts, are we putting restriction on the courts'? No, we are not experimenting. Aren't we? Because the courts themselves have said it.

Let me now –before I get into the details of what I want to highlight –recall, and I quote. I am glad that the Member whose words I am quoting is himself here. In the August, 2018 debate, Jairam Rameshji had said very clearly, "We have the Insolvency and Bankruptcy Code which we are amending from time to time as we gain experience." Exactly; we are gaining experience, and therefore, we are using every opportunity which has to be in time. This time we have been speedy which I am glad many of the Members have conceded, and I am very grateful for that. But that is a point. "We have to, as we move along, do these amendments." And again in a different line, Jairam Rameshji has also said earlier as, "I expect..." just as he said now too. I quote, "I expect that in the



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months ahead as we gain more experience in the implementation, we will continue this process of fine-tuning both of the IBC as well as the GST." So, as we gain experience, it is going to be necessary for us to come up with amendments, such amendments which are going to be in response to the developments outside.

Now, regarding today's amendments, very quickly –I said, there are seven –I would just tell you what is it that we are doing through these amendments. The salient features of these Amendments are that we are bringing clarity on allowing comprehensive corporate restructuring schemes such as mergers, demergers, amalgamations, etc., as a part of the resolution plan. Many of you have did mention. The Resolution Plan is something which is going to be determined and framed up by the Committee of Creditors, the CoC. Government doesn't give it. Government does not give the resolution. There is a Committee of Creditors for each of these issues and they are the ones who decide it. So, that is the first thing. We are bringing clarity to include these sort of parts in the resolution plan. Greater emphasis is being given on the need for a time-bound disposal at application stage. I will, in a minute, give you the details of what kind of waiting list is there before us. It is now our duty, it is our duty as a House which had passed this Code, to also ensure that we don't clog up. I understand, many of the Members rightly said, 'The clogging up is not for anything else but for want of you appointing people.' I can give you an answer for that also. I recall, hon. Member, Shri Kapil Sibal, mentioning that. I have an answer to give for that too. Deadline for completion of the CIRP, which is a Corporate Insolvency Resolution Process, within an overall limit of 330 days, including litigation and other judicial processes. Votes of all financial creditors, which I am glad very many of you have picked up, for the scattered dispersed creditors, some of whom now you can –everyday you read –compare with the home-buyers. The homebuyers can now have a voice. They can vote in a separate voting process, their vote would be taken for what it is worth and, therefore, they participate in the resolution process. That is being enabled now in the light of so many different issues which have come for the home-buyers, which is a very serious issue. Many Members even highlighted the quantum of money which is locked up because they are waiting for resolution. This will move towards, or help towards moving, a resolution situation. So, votes of all the financial creditors covered under Section 21(6)A shall be cast in accordance with the decisions approved by the highest voting share, that is, more than 50 per cent of

financial creditors on present and voting basis. The basis that we use there is, present and voting. The specific provision for financial creditors who have not voted in favour of the resolution plan is a very important point that I want the House to take into cognizance. Now, do we forget them? No, we don't. Those who have not voted in favour of the resolution plan and the operational creditors shall receive, at least, the amount that would have been received by them if the amount to be distributed under the resolution plan had been distributed in accordance with Section 53. Many Members did refer to Section 53 and asked what the fall-out of invoking Section 53 would be. I am saying it very clearly here that that takes care of not just everyone who has voted in favour, but even those who have chosen not to vote in favour. Even they would be taken care of under Section 53 of the Code, or the amount that would have been received if the liquidation value of the corporate debtor had been distributed in accordance with Section 53 would be provided. So, Section 53 takes a full play there as regards those who have not voted.

Inclusion of commercial consideration in the manner of distribution proposed in the resolution plan within the powers of the Committee of Creditors is another point which Shri Jairam Ramesh brought out as a nugget. When a commercial decision for which the final word rests with the CoC, was treated not as a commercial decision, it really brought in a very big contention, saying, is this going against the IBC's very spirit? That is why, in this speedily brought in amendment, that is a very important point that we have brought in. What is commercial shall remain commercial and that cannot have a different dimension. Therefore, that is a very important part of this set of amendments that we are bringing in now. Another point that was raised was about clarity that the resolution plan shall be binding on all the stakeholders including the Central Government. I am glad many Members, including Shri Alphons, said that the Central Government shall also be a party to the resolution plan; you are bound by it. That is something which this amendment brings in. Partly answering Shri Jairam's question, which I would come a bit later to, if this is binding on the Central Government, State Governments would also be bound by this, and so would be local authorities to whom a debt in respect of the payment and the dues may be owed. Clarity has also been brought in that the Committee of Creditors may take the decision to liquidate the corporate debtor any time after constitution of the Committee of Creditors and before preparation of information memorandum. Even then, the moment the Committee of Creditors is constituted, the motion sets pace. So, that has to be very clearly laid out

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before and these are the amendments which we are bringing in. The changes are expected to lead to a timely admission of applications. That is the most important point. Delays at the admission stage itself are worrying. So, we are expecting this to lead to a timely admission of applications and timely completion of the corporate insolvency resolution process. Analysis of data available demonstrates that there are delays in admission of applications and spillage of CIRP cases well over the time-limits which are permitted through the Code. The amendments are expected to, again, address the issue of sanctity of time-lines of completion of the entire corporate insolvency process. So, this is the larger picture with which we are moving ahead. I would now like to address some of the specific issues which many of the Members have raised.

I will start with Kapil Sibalji who, in fact, identified and said that too many Amendments are coming through; you are bringing in such Amendments which may not be implementable and so on. He broadly mentioned that twenty seven Amendments have already been brought in. I just want to clarify that twenty seven is not a correct figure. This is the third Amendment to the IBC Code. The First Bill amended eight clauses. The Second Bill amended thirty eight clauses and in the third one now, we are coming up with Amendments to eight clauses. As on 30th June, 101 cases were withdrawn, 120 cases were resolved, and 475 cases moved into liquidation. Of the 475 cases, 349 cases were in the BIFR or were sick units. This point is mentioned in passing, but I want to underline that majority of the cases which are now under the CIFR are the backlog and the legacy which has come from the BIFR stage. So, if BIFR cases are also being dealt with now with certain rapidity, it is because IBC is proving its worth and what couldn't be achieved through the BIFR is actually being achieved now. In that, I would just like to give you some data. I recall some Members were talking about behavioural change. Actually, I credit them for having used those expressions. Actually, there is a behavioural change, a behavioural change which is happening for good and that should actually convince Shri Binoy Viswam that the whole object is not to kill and finish off. We are actually coming up with resolutions which can help the sick unit to live its पुनर्जन्म, the next *Janma*. So, it is actually giving life. Suresh Prabhuji said, "It is actually giving life to companies which are in almost ICU stage; we are not killing them off; we are giving more energy to them; we are infusing life into them." So, I would like to link

this behavioural change point of view to one statistics that I want to put before you. The following are the details of disposed of cases before admission, that is, even before admitting into the restructuring process, the CIRP. The total number of companies or cases under Section 7 was 894. Under Section 9, they were 5,102. Under Section 10, they were 83. So, a total of 6,079 cases got disposed of even before they got admitted into the process of resolution. What does that mean? It means people realized that if this comes into the effect, and it has come into effect, they have to go through this process and they may probably end up with a process of resolution and in the process they may be out of owning their companies or the resolution process would have its implication on their credibility and, therefore, many of them have chosen to have disposal mechanism through which they could get out clear. What in terms of amount of money has this meant? There were 6,079 cases. All of them got disposed of before admission. Somebody did mention, "Do you have a mechanism? What is the mechanism? This Code doesn't. The Amendment Bill that you have brought in doesn't speak of any mechanism." No; it does have. That is why even before it sets rolling, people have come on their own to say, "Please, this is what we want to do; dispose of our cases." That is the indication of an effective mechanism, not just a mechanism, through which 6,079 cases got disposed of before admission and it meant an amount of ₹2,84,000 crore being redressed. It means that that is the amount which is being used for settling claims. So, if that is the kind of impact we are having because of the mechanism which is in play and people have come to get the cases disposed of even before the mechanism sets rolling in a particular case, it just shows how effective this whole process is. If that is the way in which much before the cases could come into resolution process, I will give you the data for those which have come into the process. As of 30th June, 2019, 2157 cases were admitted into Corporate Insolvency Resolution Process, the CIRP. Out of these cases, 164 cases were closed by appeal, review or settlement and; 112 cases were withdrawn under Section 12A of the Code. I think, Shri Kapil Sibal had referred to Section 12A. Then, Resolution Plan was approved in 117 cases and 474 cases have resulted into liquidation. In the total 117 resolved cases, an amount of ₹1,24,636 crores is realised. In some cases, it is realisable, if I can say because some of them are almost at the fag end of the process. But, ₹ 1,24,636 crores are realised. This is possible with the CIRP. What I gave you earlier was before entering into it.

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Now, I will give some more data. As on date, 1,852 applications filed under Section 7 are pending admission beyond statutory period –see the length of wait –of 14 days. And, five big cases, some of which Shri Kapil Sibal named, Essar, Amtek Auto, Bhushan Power and Steel, Era Infra Engineering and JP Infratech, and so on. Out of the 12 big accounts referred to IBC, these are pending for more than 600 days. Now, if we think that we can wait, we can't impose time limit on the Courts –when I say courts, I also mean the tribunal, –we can see cases pending for more than 600 days due to continuous litigation by some or the other party in the matter. So, even the process is waiting because one litigation is here, one other is there. It is never getting started. So, to emphasise on the intent of the Legislature for time-bound resolution of matters, we have proposed to bring in the Amendments to Sections 7 and 12 of this Code.

Now, I will give a bit more data because I think many of us were very keen to know about figures saying, 'what is this going to end up in.' About the status of the CIRP, I have given till now what happens before, what happens just at the entry. Now, regarding the Corporate Insolvency Resolution Process (CIRP), under the Code, I want to give you data again as of 30th June, 2019. First, I will talk about the status of CIRPs. Number of admitted cases is 2162; number of cases closed on appeal, which I read out about, is 174; number of cases closed by withdrawal under Section 12A, is 101, I have given you a slightly later data; number of cases closed by resolution is 120; closed by liquidation, 475; and ongoing CIRPs are 1292. So, now, I would like to mention the number of days of waiting. I would like to mention here the details of the ongoing CIRPs, along with the timelines. Ongoing CIRPs are 1,292, the figure just now I gave you. Over 330 days, 335 cases; over 270 days, 445 cases; over 180 days and less than 270 days, 221 cases; over 90 days but less than 180 days, 349 cases; less than 90 days, 277 cases. The number of days' pending includes time, if any, excluded by the tribunals. So, that gives you a picture on what is the kind of wait and, therefore, why we want to bring the Amendments for this speeding up. Most of the times, you are talking about the cases which are pending. Of course, there was a talk about what happens to the creditors. They keep on waiting for eternity. Now, I will give analysis of the 475 CIRPs, which I repeated twice, which have yielded to liquidation. As of 30th June, there are 475 which have yielded to liquidation. Claims of the financial creditors are ₹3,15,370 crores. Then, I come to claims of the operational creditors. Of course, regarding risk, both of them are being treated equally, but what are the claims? The claims are ₹31,285 crores.

So, the total claim is about ₹3,46,655 crores. The liquidation value here is ₹24,117 crores only. So, these are the companies which had been in difficulty and under BIFR for years. Look at the change of profile once they come in for liquidation process through the IBC. So, it is more important to understand that the IBC does not aim to delay or to just allow the asset value to fritter away, but, on the contrary, gives solutions where the optimization of assets is possible. So, the liquidation value is only seven per cent of the total admitted claims of these companies. This is important because they are coming from the BIFR background. Sir, 73.42 per cent of all these cases –I am not going through that data totally –are BIFR cases or cases of those which are not any more as going concerns, which means that they are dead cases. 73.42 per cent cases are in this category.

Then, there was a question. Probably, Shri Kapil Sibal raised it. It is about the operational creditors and financial creditors. He is an eminent lawyer. I am not reading the book to him, but I still want to explain this point. All financial creditors form only one class and they cannot be sub-classified into secured or unsecured creditors for the purpose of distribution of moneys under the resolution plan. That can't be. The NCLAT, the Appellate Tribunal, held that the distribution of moneys under the resolution plan is not a commercial decision to be taken by the CoC. Those are the two points on which we are coming up with the clear Amendment, so that that grey area, which is not grey to me, but the grey area, which has come up, is being addressed.

SHRI KAPIL SIBAL: Sir, will the hon. Minister yield for a minute? I did not talk about operational creditors at all in the course of my submission. But what I am worried about is the following. She may clarify it. Sub-section (b) of Section 30 says, "In sub-section (4), after the words "feasibility and viability," , the words, brackets and figures "the manner of distribution proposed, which may take into account the order of priority amongst creditors as laid down in sub-section (1) of section 53, including the priority and value of the security interest of a secured creditor" shall be inserted."

My worry is that you are making a distinction amongst the secured creditors, and that is the gravamen of this Amendment. That is what I am worried about. I never talked about operational creditors.

SHRIMATI NIRMALA SITHARAMAN: I will certainly give a response to the hon. Member about this point. There was this discussion also about the haircut. A lot of our

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hon. Members did speak about this. I remember my university colleague, Prof. Jha, saying that this is not a haircut, this is complete *mundan*. No, that is not true. Haircuts are there. Yes, I agree. But they are only haircuts. Financial creditors, on an average, are getting 43 per cent of the claims, but 188 per cent of the liquidation value.

But, there is 188 per cent of liquidation value which is after rescuing the company and bringing about a behavioural change. I guarantee that you should be worried that they are going to be left with nothing to comb. They will have something to comb. You asked as to what are the steps taken by the Government in the clogging up of the cases in the NCLT. Are we blaming the courts and the tribunals when we have not empowered them adequately with infrastructure, soft power in terms of number of qualified people and resolution professionals? I want to give a picture as to what exactly are the things that we are doing. Some points will be very specific and some will be general. In view of the increasing number of cases, the Government has increased the number of benches of NCLT from 10 to 15, during just the last one year. In one year, we have increased it from 10 to 15. The number of members has also been increased in a phased manner. Recently, 26 new members have joined bringing the total number of members to 52. Sir, more than one court has been operationalised in the benches where a large number of cases are pending, such as, in Mumbai, Delhi, Chennai and Kolkata. The projects like e-governance and e-courts have also been implemented for faster and speedier disposal of the cases. I would like to tell you about some specific steps that we have taken. At Allahabad bench, the interior with all the renovation work is being done in an area of about 10,763 square feet. The tendering process has also been started. At Mumbai bench, the renovation and interior work is nearing completion in an area of about 38,520 square feet. In Delhi, in the CGO complex, a total area of about 10,812 square feet is under renovation again with interior work, all these are under process. In Delhi, in MTNL building, for NCLAT, the appellate tribunal, in an area of about 48,720 square feet, the renovation work is happening there and interior work is almost near completion. Sir, for the new benches at Amravati, near Vijayawada, the interior and renovation work has been undertaken in an area of about 9,886 square feet. The planning has already been completed and the interior work will start soon. At Indore, the renovation and interior work is being started in an area of about 9,496 square feet. The planning has already been done. We are talking about the infrastructure, but, steps taken for capacity-building

were also questioned. The question was asked about the capacity-building for the members and employees of the NCLT and the NCLAT. Sir, regular colloquiums are being held for capacity-building of members, so as to ensure speedier and uniform judicial delivery system. Sir, for capacity-building of officers and employees, relevant training has also been given from time to time. The Ministry has also approved a programme of induction-level training for newly-joined members and in-service refresher training for existing members. The NCLT has been entrusted to conduct the programme. The induction colloquium for newly appointed members of the NCLT was held between 13th July and 17th July, in collaboration with the National Law University, New Delhi. As regards the resolution professionals, Sir, the IBBI registers and regulates the Insolvency and Bankruptcy Board of India. It registers and regulates all the professionals, *i.e.*, the CAs, the CSs, the Cost Accountants, the advocates with ten years of work experience with at least ten years of experience. They pass an examination conducted by the IBBI. So, they are not just picked up and left without a screening. They have pre and post registration trainings also. So, we are giving a lot of attention for these professionals to be absolutely trained and ready.

Mr. Deputy Chairman, Sir, Shri Manish Gupta had asked this question about Section 240A, which provides relief for MSMEs, and, on MSMEs, several Members spoke with a lot of concern. I just want to inform the Member that Section 240A provides certain relief to MSMEs. Section 29, clauses(c) and (h) do not apply on them. Operational creditors have been beneficiaries. Thousands of applications are withdrawn before admission as the company arrives at a settlement with the operational creditors. Sir, 6,079 applications for ₹ 2.8 lakh crore were realised. I have given the figures.

Shri Ravi Prakash Verma spoke about resolution plan under the Code and also spoke about realization value and so on. Without naming the case, in which this has happened, I would like to tell you that the liquidation value of this particular example, I want to read for you, was ₹ 9 crores. Claim of financial creditors was ₹ 900 crores. Realisation for creditors was ₹ 54 crores. Realisation of percentage of claim was six per cent. Realisation, as a percentage of liquidation value, was 600 per cent underlining the fact that Insolvency and Bankruptcy Code's resolution plan gives better returns for those creditors.

The company, the example of which I have given you, was in the BIFR. I have not named the company. It was with the BIFR for a decade, and, because of IBC, it was able



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to come up for a solution. Company was revived, Mr. Viswam, the company was revived and the creditors got 600 per cent of the liquidation value. Without IBC, and, this is something which I would like to inform all the Members, creditors would have got only one per cent of the claim, that is, Rs. 9 crore. So, the IBC actually benefits every one of the creditors, not just the big. Forgetting the small is not on the agenda, in fact, the small benefit, and, even more, companies are not shutting, resulting in unemployment; companies are resuming, resulting in workers going back to work.

Shri T.K.S. Elangovan spoke about dues of the Government. This is not a new provision, Sir. It exists even today as it is under Section 53. The Bill only clarifies it. Case laws have also been holding up the fact that Government dues to be treated at operational debt level.

Sir, now I come to a last few responses. I won't take more of your time. You have been very generous but I thought that it is important for me to respond to all the Members who have raised all these questions and it matters to the Indian economy that the step being taken by the Government, through the amendments in the IBC, is largely approved by all our Members because that is the message which has to reach the industries, which has to reach the workers, which has to reach the public at large that moneys are not being forgotten, the value of the assets are not being forgotten, the workers are not forgotten by the IBC. It is made for all, it is not made for any one particular section.

Sir, Shri Ragesh had asked several questions. Corporate establishment and corporate person are not different. Sir, through you, I want to inform the Member who asked this question. Insolvency of corporate persons has commenced; insolvency of individuals is yet to commence. Individuals are of three categories, (i) personal guarantors to corporate debtors, (ii) partnership and sole proprietorship firms, and, (iii) other individuals. So, insolvency of individuals will be implemented in a phased manner. We are working on it. We have started the work on it.

Shri Vijayasai Reddy suggested the Government should rescue financially-viable companies. Government is facilitating the rescue of such companies. The commercial matters are decided, as I said, by the CoC, and, not by the Government. The stakeholders who are in the CoC decide it. The Government does not intervene in the process.

I think I have mentioned quite a few on MSMEs. There was this question, I am not sure which of the hon. Members had asked this, what happens if an SME has an account in a bank which has NPA, whether we will forget them and so on. I want to assure you here that the provisions of the sub-sections (c) and (h) of Section 29A shall not apply to the Resolution Applicant in the CIRP of the MSMEs. Thus, the promoters of the corporate debtor can make application as a Resolution Applicant even if they have an account with the bank which has an NPA. Even when they are in the NPA stage, they can still ask for resolution.

Dr. T. Subbarami Reddy, who normally takes a lot of interest in all the Bills which come up for discussion and goes through a lot of details and comes up with very valuable suggestions and valuable amendments, also had an observation on the insolvency professionals. He observed that the professionals throw out the management. It does not work that way, Sir. It is the creditor-in-control model. We moved away from the debtor-in- possession model which I did read out when I made the initial remarks. The difference between the way in which SICA and the SARFAESI Act dealt with companies and now the IBC deals with companies is that we have moved away from the debtor-in-possession model which did not work at all. The professional is adequately empowered and enabled and he does not throw out managements.

DR. T. SUBBARAMI REDDY: Once a professional is appointed, he gets abnormal powers. He simply deals with the Company Board and takes over the management of the company and nobody can touch him. He can derail the company. All the creditors, which are commercial banks, will lose the money. This is a very important issue. Please check it up.

SHRIMATI NIRMALA SITHARAMAN: Sir, the Indian Contracts Act, partly also answering Dr. T. Subbarami Reddy's point, allows the lender to realize from the borrower or the guarantor also. So, the lender goes to the borrower first and then to the guarantor.

I think as we were discussing the Bill, in one of the interventions, Shri Kapil Sibal mentioned that taking into account the order of priority and value of security interest of a secured creditor..., it is the domain of the CoC, the Committee of Creditors, to decide. They may decide to take more or less on their own volition. The extent of security interest is a material information. At this stage, I think I broadly touched upon that response. There can always be greater discussion, Mr. Kapil Sibal. Mr. Deputy Chairman,

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through you, I request him for any such suggestion or guidance that he may want to give, but later.

Shri Ravindra Kumar had said that the period of limitation should be there. Section 238A introduced on 6th June 2018 provides for applicability of the Limitation Act of 1963. So that is taken care of.

I now respond to the five points which Shri Jairam Ramesh made as the concluding remark. What happens if the successful bidder does not pursue? The regulations introduced on 24th January of 2019 require performance security before approval by adjudicating authority. Criminal prosecution is also possible. If somebody who has successfully claimed that he could come up with a thing and then bids for it and later does not show up, in that case, criminal prosecution is permissible. IBC has actually an overriding effect. For instance, you asked whether IBC will override SEBI. Section 238 provides that IBC will prevail in case of inconsistency between two laws. Actually, Indian courts will have to decide, in specific cases, depending upon the material before them, but, largely, yes, it is IBC. Then, on individual insolvency you spoke of MSME promoters and so on. Rules and regulations in respect of personal guarantors to corporate debtors are ready. We would be operationalising them soon. There are two other categories, proprietors and partnership firms, which would also come in the realm that you are talking about, and other individuals would be done in a phased manner, but we are making provision for all of them.

There is also this question about indemnity for successful resolution applicant. The amendment now is clearly making it binding on the Government. It is one of the ways in which we are providing that. The Government will not raise any further claim. The Government will not make any further claim after resolution plan is approved. So, that is going to be a major, major sense of assurance for the people who are using the resolution plan. Criminal matters alone would be proceeded against individuals and not company. There will be no criminal proceedings against successful resolution applicant. There will be no criminal proceedings against successful resolution applicant for fraud by previous promoters. So, I hope that is absolutely clear. I would want all the hon. Members to recognize this message and communicate further that this Code, therefore, gives that comfort to all new bidders. So, now, they need not be scared that the taxman will come after them for the faults of the earlier promoters. No. Once the resolution plan

is accepted, the earlier promoters will be dealt with as individuals for their criminality but not the new bidder who is trying to restore the company. So, that is very clear.

Then comes Information Utility, on which you have asked something. We have only one IU. Creditors are learning to use it. Operational creditors are individuals. Mandatory submission of information by everyone may be difficult at this stage. Last thing is about MSME which you had raised beyond your five points. Section 240A and sub-sections (c) and (h) of Section 29A –I read this before also –do not apply to resolution applicant for MSME. Government may relax any provision for MSME. You have given a suggestion. We take that on board. We would see what we can do about it. However, there is a definition of MSME in the MSME Act, to which you referred to. Apparently, the Government wanted to redefine MSME to have its expanded scope. Maybe, we would be able to respond to this a bit later. However, MSMEs, as operational creditors, are using the Code and benefitting. Some of the figures I read here were benefits which accrued to smaller units. Information Utility accepts information from everyone including the MSMEs. I have mentioned that it can help. Mr. Deputy Chairman, Sir, you have been very indulgent and given me all the time to respond to everybody; I hope I have not missed out any individual who asked any question. But, largely, this debate has been very invigorating. I am very grateful that everyone participated with such in-depth arguments. I hope once this gets passed, I would only underline the gravity of this that a unanimous passing of such an Act would give a message to our economy and I am very grateful in anticipation that we would pass this Bill today. Thank you.

MR. DEPUTY CHAIRMAN: Thank you. I shall now put the Motion moved by Shrimati Nirmala Sitharaman.....(*Interruptions*)...

SHRI K.K. RAGESH: Sir, I have one small question. ...(*Interruptions*)... Section 60 of the principal Act is not notified. Even after two-and-a-half years of enacting it, Section 60 is not notified. ...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: Thank you. ...(*Interruptions*)...

SHRI K.K. RAGESH: What are the steps that the Government is going to take? Will the Government notify Section 60? ...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: Thank you. I shall now put the Motion moved by Shrimati Nirmala Sitharaman for consideration of the Insolvency and Bankruptcy Code (Amendment) Bill, 2019 to vote. The question is:

"That the Bill further to amend the Insolvency and Bankruptcy Code, 2016, 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 Shri Manish Gupta. Are you moving your amendment?

SHRI MANISH GUPTA: Sir, I am not moving.

*Clause 2 was added to the Bill.*

*Clause 3 was added to the Bill.*

MR. DEPUTY CHAIRMAN: In Clause 4, there is one Amendment (No.1) by Dr. T. Subbarami Reddy. Are you moving your Amendment?

DR. T. SUBBARAMI REDDY: Sir, I want to place on record.....(*Interruptions*)...

MR. DEPUTY CHAIRMAN: Are you moving or not? ...(*Interruptions*)...

DR. T. SUBBARAMI REDDY: Before that, I would like to say that the Finance Minister has given an extraordinary and exemplary reply. I compliment her. I am very much satisfied.

MR. DEPUTY CHAIRMAN: Thank you.

DR. T. SUBBARAMI REDDY: There is only one small thing before my decision as to whether to withdraw or to go for division. The most important thing is the third party. When they give guarantee along with the borrower, they should not straightaway go to the third party. The lender should go to the borrower. This may be examined again by the Minister.

MR. DEPUTY CHAIRMAN: Are you moving it or not?

DR. T. SUBBARAMI REDDY: No, I am not moving.

MR. DEPUTY CHAIRMAN: Thank you.

*Clause 4 was added to the Bill.*

*Clauses 5 and 6 were added to the Bill.*

MR. DEPUTY CHAIRMAN: In Clause 7, there is one Amendment (No.2) by Dr. T. Subbarami Reddy. Are you moving your Amendment?

DR. T. SUBBARAMI REDDY: Sir, I am very much satisfied with the reply of Finance Minister. I am not moving.

*Clause 7 was added to the Bill.*

*Clauses 8 and 9 were added to the Bill.*

*Clause 1, the Enacting Formula and the Title were added to the Bill.*

MR. DEPUTY CHAIRMAN: Now, Shrimati Nirmala Sitharaman to move that the Bill be passed.

SHRIMATI NIRMALA SITHARAMAN: Sir, I move:

That the Bill be passed.

*The question was put and the motion was adopted.*

MR. DEPUTY CHAIRMAN: Now, Special Mentions. Shri Jairam Ramesh.

SHRI JAIRAM RAMESH: Sir,.....(*Interruptions*)...

MR. DEPUTY CHAIRMAN: Please, let the House be in order. ...(*Interruptions*)... Special Mention of Shri Jairam Ramesh. ...(*Interruptions*)... Please speak. ...(*Interruptions*)... Please let the House be in order. ...(*Interruptions*)... Please. ...(*Interruptions*)... He is your Member. ...(*Interruptions*)... Call him back. ...(*Interruptions*)...

श्री जयराम रमेश : सर, देखिए, इतने लोग खड़े हुए हैं।

MR. DEPUTY CHAIRMAN: Please, Jairamji, you continue. ...(*Interruptions*)... You continue, please. ...(*Interruptions*)...

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**SPECIAL MENTIONS****Demand for early decisions to recognise historical places in States as centrally protected and to notify heritage bye-laws expeditiously**

SHRI JAIRAM RAMESH (Karnataka): Sir, Parliament enacted the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010 which set up a National Monuments Authority. This Authority was to be responsible for framing heritage bye-laws for the 3691 monuments across the country protected by the Archaeological Survey of India. These bye-laws are essential in view of the demographic and developmental pressures around the area of the monuments and the need to protect them as well. Just a few days ago, two sets of heritage bye-laws were tabled in the House by the Minister of Culture. These pertain to (1) the Nizamuddin Basti group of monuments and (2) Humayun's Tomb-Sunder Nursery-Batashewala group of monuments. Both are in New Delhi. Last Friday, bye-laws for 3 more monuments were tabled for Purana Qila, Khair-ul-Manzil mosque and Sher Shah Gate, all in the Capital. It has taken eight years to prepare and table these five sets of bye-laws. This is an unacceptable pace of work. I urge the Minister of Culture to prioritise the centrally protected monuments and complete the task of preparing and tabling the heritage bye-laws for these monuments at least over the next three years.

In addition, –and, Sir, this paragraph you should associate–I wish to draw the attention to the fact that a number of requests are pending from various State Governments for having places of historical importance declared centrally protected. Of the 3691 centrally protected monuments, for instance, just about 70 are in Bihar which does not reflect its significance in the evolution of Indian civilization and culture. I urge the Minister of Culture to take a decision expeditiously on all such requests from States.

श्री रणविजय सिंह जूदेव (छत्तीसगढ़) : महोदय, मैं स्वयं को इस विशेष उल्लेख के साथ सम्बद्ध करता हूँ।

**Demand to fix-time-frame for fulfilling the objectives mentioned in the Constitution**

डा. सत्यनारायण जटिया (मध्य प्रदेश):\* महोदय, भारत के संविधान के प्रति हम प्रतिबद्ध हैं। इसमें उल्लिखित सामाजिक, आर्थिक, राजनैतिक न्याय करना हमारा दायित्व है।

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\*Hindi translation of original speech made in Sanskrit.

सामाजिक न्याय प्रत्येक नागरिक को समान बनाता है। किसी भी रूप में कोई भी किसी नागरिक से न बड़ा है, न छोटा। इसी में व्यक्ति की गरिमा और प्रतिष्ठा अन्तर्निहित है। आर्थिक न्याय सब नागरिकों को अर्थ सम्पन्न बनाने का संकल्प है। वह प्रत्येक को भूख, लाचारी और बेकारी से मुक्त करता है। राजनैतिक न्याय प्रत्येक की मतदान तथा राज-काज में हिस्सेदारी सुनिश्चित करता है। संविधान के अंतर्गत स्वातन्त्र्य के अधिकारों में विचार अभिव्यक्ति, विश्वास, धर्म और उपासना की स्वतंत्रता प्राप्त है।

भारतीय संविधान के महान उद्देश्यों को पूरा करने का संकल्प हम सबका है। हमने ही संविधान को अंगीकृत, अधिनियमित और आत्मार्पित किया है। महाभारत के शान्ति पर्व में एक आदर्श राज्य की संकल्पना ऐसी है—

नैव राज्यं न राजासीत् न दण्डो न च दाण्डिकः।  
धर्मणैव प्रजाः सर्वा रक्षन्ति स्म परस्परम्॥

अर्थात् न राज्य था, न राजा था, न दण्ड था और न दण्ड देने वाला। स्वयं सारी प्रजा ही एक दूसरे की रक्षा करती थी।

अतएवं संविधान के इस निश्चय को पूरा करने के लिए केन्द्र सरकार समयबद्ध ऐसे उपाय करे, जिससे संविधान के उद्देश्य को पूरा करके उसे सार्थकता प्रदान की जा सके, केन्द्र सरकार से मेरा अनुनय है।

**श्री नारायण लाल पंचारिया** (राजस्थान) : महोदय, मैं स्वयं को इस विशेष उल्लेख के साथ सम्बद्ध करता हूँ।

**श्री रणविजय सिंह जूदेव** (छत्तीसगढ़) : महोदय, मैं भी स्वयं को इस विशेष उल्लेख के साथ सम्बद्ध करता हूँ।

MR. DEPUTY CHAIRMAN: Now, Dr. Santanu Sen.

**Demand to improve the poor functioning of the National Institute of  
Homoeopathy, Salt Lake, Kolkata**

DR. SANTANU SEN (West Bengal): Sir, the National Institute of Homoeopathy situated at Salt Lake city, Kolkata, West Bengal is really in a very poor shape.

There is scarcity of faculties. The number of students are decreasing day-by-day. Infrastructure has become horrible.

No significant research work is taking place adequately. Issue of cleanliness is also a major concern.



[Dr. Santanu Sen]

Though, Department sanctions huge fund for this National Institution, there is hardly proper utilization of the said fund. Patients do not get proper and satisfactory treatment there.

So, the above-mentioned points should be taken care of. Thank you very much, Sir.

MR. DEPUTY CHAIRMAN: Shri Ram Shakal.

**Demand to call off the decision of closing down the Research Dissemination Center of Central Silk Board at Sonbhadra, Uttar Pradesh**

**श्री राम शकल** (नाम निर्देशित) : माननीय उपसभापति महोदय, जनपद-सोनभद्र में केन्द्रीय रेशम बोर्ड की तसर अनुसंधान प्रसार केन्द्र की इकाई राबट्सगंज में स्थापित है। उक्त इकाई को केन्द्रीय रेशम बोर्ड द्वारा बंद किए जाने का निर्णय लिया गया है। जनपद, सोनभद्र में उत्तर प्रदेश सरकार के रेशम विकास विभाग द्वारा 23 रेशम फार्म स्थापित हैं, जिनका कुल क्षेत्रफल 1200 एकड़ है, इसके अतिरिक्त जंगल क्षेत्र में भी लगभग 500 एकड़ में जहां अर्जुन/आसन के पेड़ बहुतायत में हैं, उनमें विभाग द्वारा कीटपालन का कार्य कराया जा रहा है, जिसमें 800-1000 परिवार जो आदिवासी एवं अनुसूचित जाति/जनजाति के हैं, जिनके जीविकोपार्जन का मुख्य स्रोत कोया उत्पादन से प्राप्त आय ही है। साथ ही जनपद में विभागीय एवं व्यक्तिगत क्षेत्र में 15 बीजागार भी नियमित रूप से संचालित हैं जिनसे कीटाणु उत्पादन के उत्पादन के समय नियमित परीक्षण एवं कीटपालन के समय नियमित भ्रमण बीमारियों के बचाव की जानकारी देने हेतु अनुसंधान प्रसार केन्द्र के वैज्ञानिक उपरोक्त कार्यों में अपना सहायक योगदान देते आ रहे हैं, जनपद में 4 महिला समूहों द्वारा नियमित धागाकरण का कार्य भी कराया जा रहा है जिसे बढ़ाए जाने की आवश्यकता है। जनपद-सोनभद्र नीति आयोग द्वारा आकांक्षा (एस्पिरेशनल) जनपद घोषित है ऐसे में इस विभाग के कार्यों को और अधिक बढ़ाए जाने की आवश्यकता होगी। ध

अतः माननीय महोदय, मैं आपके माध्यम से वस्त्र मंत्री जी से मांग करता हूँ कि जनपद-सोनभद्र (राबट्सगंज) में केन्द्रीय रेशम बोर्ड की संचालित इकाई अनुसंधान प्रसार केन्द्र को यथावत कार्य करते रहने की अस्वीकृति देने की कृपा करें।

MR. DEPUTY CHAIRMAN: Shrimati Sarojini Hembram.

**Demand to establish new rake points and develop proper infrastructure in existing ones in Odisha**

SHRIMATI SAROJINI HEMBRAM (Odisha): Sir, I would like to raise a very important issue pertaining to the farmers of Odisha and their agri products. The supply

of fertilizers to various parts in our State is hampered due to very less number of rake points. To ensure smooth supply of fertilizers to various places in the State, we need to have sufficient number of rake points. The State is also facing operational difficulties in the existing rake points due to non-availability of required infrastructure at existing rake points. In 16 districts of Odisha, 19 rake points are not having necessary infrastructure facilities. In my district Mayurbhanj, Rairangpur rake point ...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: Sarojiniji, please read only the approved text, the text which you have been given.

SHRIMATI SAROJINI HEMBRAM: In Rairangpur and Baripada of my district Mayurbhanj, there is no platform and no cover shed in the rake points. In Baripada, which...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: You please lay it because there is deviation from the approved text. You have to read only the approved text.

SHRIMATI SAROJINI HEMBRAM: Farmers face difficulties of transportation of their product. Because of extra transportation charges, the value of their products increases. Hence, modernization of existing rake points is very much essential. Hence I urge upon the Government to facilitate the fertilizer rake points with necessary infrastructure like platform, covered shed, electricity, drinking water facility and approach road. I also urge upon the Government to open more number of new rake points and develop infrastructure in the existing ones for smooth supply of agri products in the State.

SHRI SASMIT PATRA (Odisha): Sir, I associate myself with the Special Mention made by the hon. Member.

MR. DEPUTY CHAIRMAN: You should get your approved copy, that will help. Now, Shri Rakesh Sinha.

#### **Demand to develop Kanwar lake of Begusarai as an attractive tourist spot**

**श्री राकेश सिन्हा** (नाम निर्देशित) : महोदय, कांवर झील एशिया की सबसे बड़ी झील है, जो लगभग 20 वर्ग किलोमीटर क्षेत्र में फैली हुई है। इसका पानी मीठा होता था। इसका एक वैशिष्ट्य गौरतलब है। इसमें साइबेरिया के लाखों पक्षी आते रहे हैं। यह इस झील को एक आकर्षक पर्यटक स्थल बना देता है। हजारों पर्यटक असुविधाओं के बावजूद यहां आते रहे हैं। यह झील बिहार के बेगूसराय जिले में मंझोल में स्थित है। दशकों से यह झील उपेक्षित रही है। स्थानीय लोगों एवं NGOs के प्रयास के बावजूद कोई कदम नहीं उठाया गया है। यहां तक कि जिला प्रशासन

[श्री राकेश सिन्हा]

भी इस प्रश्न पर निष्क्रिय है। महोदय, इस सदन को भी आश्चर्य होगा कि इतनी महत्वपूर्ण धरोहर हमारी आंखों से ओझल है। इस पर अविलंब कार्रवाई की आवश्यकता है। झील भले ही किसी विशिष्ट स्थान पर है, पर इसका राष्ट्रीय एवं वैश्विक महत्व है। यह हमारे लिए गौरव का विषय है कि हमारे देश की एक झील साइबेरिया के पक्षियों को आकर्षित करती है।

संस्कृति और पर्यटन मंत्रालय से मेरी गुज़ारिश है कि वह कांवर झील को बचाने के लिए त्वरित कार्रवाई करे। इस कार्य में स्थानीय जनता हरसंभव मदद देने के लिए तैयार है। सरकार स्थानीय प्रशासन से भी जानकारी प्राप्त करे और इस झील को दुनिया के पर्यटकों, विशेषकर रूस एवं इसके पड़ोसी देशों के पर्यटकों को आकर्षित करने की योजना को क्रियान्वित करे। कांवर झील को देश में सुन्दर पर्यटक स्थल के रूप में विकसित किया जाए। केन्द्र सरकार से मेरा आग्रह और मेरी मांग है कि 1989 के नोटिफिकेशन में अधिगृहीत जमीन का मुआवज़ा (compensation) किसानों को दिया जाए या जमीन की खरीद-बिक्री से रोक हटायी जाए। सभी हितधारकों की रक्षा करते हुए झील का पुनरुत्थान किया जाए।

MR. DEPUTY CHAIRMAN: Shrimati Kahkashan Perween.

#### Demand to start "Hunar Haat" in Bhagalpur, Bihar

**श्रीमती कहकशां परवीन (बिहार) :** महोदय, मैं आपकी अनुमति से यह कहना चाहती हूँ कि अल्पसंख्यक मंत्रालय द्वारा शिल्पकारों, दस्तकारों और खानसामों के लिए बहुत ही महत्वपूर्ण स्कीम "हुनर हाट" देश भर में आयोजित की जाती है। मुझे यह ज्ञात हुआ है कि हुनर हाट के माध्यम से देश के गरीब आर्टिज़न एवं क्राफ्ट्समेन को मौका-मार्केट मुहैया कराई जाती है।

महोदय, बिहार का भागलपुर बुनकरों का शहर है। यहां बड़ी संख्या में लोग लघु एवं कुटीर उद्योगों से जुड़े हुए हैं। इन्हें भी प्रमोट एवं मौका उपलब्ध कराने की आवश्यकता है, ताकि ये अपने जीवन को अच्छे ढंग से व्यतीत कर सकें एवं अपने उत्पादों को हुनर हाट के माध्यम से पूरे देश में बेच सकें।

मैं अल्पसंख्यक कार्य मंत्रालय से अनुरोध करती हूँ कि एक हुनर हाट बिहार के भागलपुर शहर में भी लगाई जाए।

† محترمہ کہکشاں پروین (بہار) : مہودے، میں آپ کی اجازت سے یہ کہنا چاہتی ہوں کہ وزارت اقلیتی امور کے ذریعے شلیکاروں، دستکاروں اور خانساموں کے لئے بہت ہی اہم اسکیم "ہنر ہاٹ" دیش بھر میں آیوجت کی جاتی ہے۔ مجھے یہ معلوم ہوا ہے کہ ہنر ہاٹ کے مادھیم سے دیش کے غریب آرٹینجن و کرافٹس-مین کو موقع مارکیٹ مہیا کرانی جاتی ہے۔

†Transliteration in Urdu Script.

مہودے، بہار کا بھاگلپور بنکروں کا شہر ہے۔ یہاں بڑی تعداد میں لوگ لگھو و کثیر ادھیوگوں سے جڑے ہوئے ہیں۔ انہیں بھی پرموشن اور موقع مہیا کرانے کی ضرورت ہے، تاکہ یہ اپنے طرز زندگی کو اچھے ڈھنگ سے گذر بسر کر سکیں اور اپنے اتپادوں کو ہنر ہاٹ کے مادھیم سے پورے دیش میں بیچ سکیں۔

میں وزارت اقلیتی امور سے انوروہہ کرتی ہوں کہ ایک ہنر ہاٹ بہار کے بھاگلپور شہر میں بھی لگایا جائے۔

MR. DEPUTY CHAIRMAN: Ch. Sukhram Singh Yadav.

**Demand to transfer Bara toll Plaza on National highway of Kanpur  
Dehat to near Sikandra or make it toll free for locals**

چوڈھری سخرام سینگ یادو (اتتر پردیش) : مہودے، کانپور منڈل کے ستھانیہ ناگاریکوں کی لمبے سمن سے مانگ ہے کہ کانپور دہات کے راشٹریہ راجمارگ پر ستھت 'بارا ٹول پلاجا' کو سیکندرا کے پاس کسی ستھان پر، جہاں پہلے ٹول پلاجا تھ، ستھانانتاریت کر دیا جاے۔ کانپور دہات اور کانپور نگر پہلے اک ہی جیلا تھ۔ اب بھی کورٹ-کچھری سے لےکر تمام سارکاری کاریوں کے لیے دونوں جنپدوں میں جنتا کا آنا-جانا لگا رھتا ہے، جسکے چلتے دونوں جنپدوں کے ناگاریکوں کا کانپور دہات اور کانپور نگر آنا-جانا لگا رھتا ہے۔ کئی بار تو دین میں کئی چکر لگانے پڑتے ہیں۔ بار-بار ٹول پلاجا پر بھگتان کرنا اور جام میں فانسکر سمن برباد ہونا، یہاں آم بات ہے۔ اسکے کارن کئی بار یہاں دھرنا-پردرشن سے لےکر مار-پیٹ بھی ہوتی رھتی ہے۔ اس ٹول پلاجا سے لوگ آکروشیت ہیں۔ لوگ اپنے دینچریا کے کاریوں میں اسکے کارن دیککرتے مھسوس کر رھے ہیں۔

کانپور میں 4 ٹول پلاجا ہیں، ارتھات آنंतरام اور باراجوڈ (بارا) ٹول پلاجا (ڈٹاوا-چکھری خنڈ میں)، الییاپور ٹول پلاجا (کانپور-کبرے خنڈ میں) اور بدوری ٹول پلاجا (چکھری-ڈلاہاباد خنڈ میں) ہیں۔

ات: مھری مانگ ہے کہ کانپور دہات کے راشٹریہ راجمارگ پر ستھت 'بارا ٹول پلاجا' کو سیکندرا کے پاس کے کسی ستھان پر، جہاں پہلے ٹول پلاجا تھ، ستھانانتاریت کر دیا جاے یا ستھانیہ واہنوں کو اس ٹول پلاجا سے نی:شولک آنے-جانے کے لیے سارکار کوئی تریکا ویکسیت کرے، جسسے ستھانیہ لوگوں کو انکے دینچریا کے کاریوں میں اناوश्यक دیککرتے ن آریں اور ان پر آرتھیک भार بھی ن پڑے۔

**Demand to complete the incomplete projects of Ministry of Road  
Transport and Highways in Odisha**

SHRI AMAR PATNAIK (Odisha): Sir, about nine stretches of National Highways

[Shri Amar Patnaik]

in Odisha (about 1221 kms.) have been entrusted to the NHAI by the Government of India for upgradation to four lane standard under different programmes.

Out of the above, works in respect of 416 kms. are in progress under the NHAI. Since the last rainy season, the National Highways are in alarming condition which requires immediate repair to keep them in traffic-worthy condition, which is their responsibility.

Major bridges over Brahmani on NH-53 (Duburi-Chandikhole section) and over Mahanadi near Bhutmundai on Paradeep-Chandikhole section of NH-53 are in dilapidated condition. Even though the NHAI has engaged contractors for improvement of the work, the agency has not yet started the work. It is apprehended that the bridges may collapse at any time resulting in dislocation of communication system on NH-53.

The Ministry of Road Transport and Highways during 2015, 2016 and 2017 has approved twelve State roads in principle for consideration as new NHs for the State of Odisha, subject to outcome of DPR. Out of these twelve projects, alignment options in respect of only four works have been approved and the remaining eight projects are yet to be approved by the Ministry of Road Transport and Highways, the Government of India. The Ministry is not taking any action for approval of alignment options of the remaining projects and declaration of roads as NHs. I urge that the Ministry should take urgent steps. Thank you.

SHRI SASMIT PATRA (Odisha): Sir, I associate myself with the matter raised by the hon. Member.

#### **Demand for effective enforcement of cyber laws**

SHRIMATI SHANTA CHHETRI (West Bengal): Sir, there is an ongoing explosion of cyber crimes on a global scale. The theft and sale of stolen data is happening across vast continents where physical boundaries pose no restriction or seem non-existent in this technological era. India, being the largest host of outsourced data process in the world, could become the epicentre of cyber crimes. This is mainly due to absence of the appropriate legislation.

The Data Security Council of India and the Department of Information Technology must also rejuvenate its efforts in this regard on the similar lines. However, the best

solution can come from the Sound Data Protection Law. It is high time that we must pay attention to data security in India. Cyber security in India is surprisingly missing and the same requires rejuvenation. There have been instances when our Prime Minister's official website was hacked. We must at least now wake up. I humbly request the hon. Information Technology Minister that data breaches and cyber crimes in India can't be reduced until we make strong cyber laws. We can't do so by merely declaring a cat as a tiger. Cyber law of India must also be supported by sound cyber security and effective cyber forensics.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 11.00 a.m. on Tuesday, the 30th July, 2019.

*The House then adjourned at forty-one minutes past  
seven of the clock till eleven of the clock  
on Tuesday, the 30th July, 2019.*