

## RAJYA SABHA

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### \*SYNOPSIS OF DEBATE

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(Proceedings other than Questions and Answers)

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Tuesday, August 3, 2010/ Sravana 12, 1932 (Saka)

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### OBITUARY REFERENCE

**MR. CHAIRMAN:** Hon'ble Members, I refer with profound sorrow to the passing away of Shri Maruti Dnyanoo Mane (Patil), a former Member of this House on 27<sup>th</sup> of July, 2010 at the age of 72 years.

Born in December, 1937 at Kavathepiran in Sangli District of Maharashtra, Shri Mane (Patil) was Sarpanch of village Gram Panchayat Kavathepiran for 25 years and was Chairman of Sangli District Centre Cooperative Bank Ltd. He was the acting President of the Akhil Bhartiya Kustigir Mahasangh and was founder President of the Saptarishi Shikshan Prasarak Mandal and Hind Kesari Sports, Kavathepiran.

A well-known wrestler, Shri Mane (Patil) participated in several wrestling competitions all over the world. He won Gold medal in the Free Style category and Silver medal in the Greek Roman category at the Asian Games in Jakarta in 1962. Shri Mane (Patil) was also the recipient of Hind Kesari Puraskar in 1964, Dalit Mitra Puraskar for the year 2003-04, Jeevan Gaurav Puraskar awarded by the Maharashtra Government and the Dhyanchand Krida Puraskar in the year 2005.

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**\*This Synopsis is not an authoritative record of the proceedings of the Rajya Sabha.**

Shri Mane (Patil) represented the State of Maharashtra in this House from July, 1985 to July, 1986.

In the passing away of Shri Maruti Dnyanoo Mane (Patil), the country has lost a sportsman par excellence and an able parliamentarian.

We deeply mourn the passing away of Shri Maruti Dnyanoo Mane (Patil).

*(One minute's silence was observed as a mark of respect to the memory of the deceased.)*

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**SUPPLEMENTARY DEMANDS FOR GRANTS (GENERAL),  
2010-11**

**THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI NAMO NARAIN MEENA) :** I lay on the Table, a statement (in English and Hindi) showing the Supplementary Demands for Grants (General), for the year 2010-11.

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**SUPPLEMENTARY DEMANDS FOR GRANTS (JHARKHAND),  
2010-11**

**THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI NAMO NARAIN MEENA) :** I lay on the Table, a statement ( in English and Hindi) showing the Supplementary Demands for Grants (Jharkhand), for the year 2010-11.

**CALLING ATTENTION TO MATTER OF URGENT PUBLIC  
IMPORTANCE**

**Serious safety problems faced by airline industry in the country in  
the context of Mangalore aircraft crash**

**SHRI P. RAJEEVE :** I call the attention of the Minister of Civil Aviation to the serious safety problems faced by airline industry in the country in the context of Mangalore aircraft crash.

**THE MINISTER OF STATE OF THE MINISTRY OF  
CIVIL AVIATION (SHRI PRAFUL PATEL) :** Flight IX 812 of Air India Express operating from Dubai to Mangalore on Boeing 737-800 aircraft, was involved in an unfortunate accident on 22<sup>nd</sup> May, 2010 while landing at Mangalore airport. There were 160 passengers and 6 crew members on Board. While all crew members lost their lives, 8 passengers managed to survive the crash.

The weather on that day was conducive for landing and the visibility was 06 KMs. The runway was dry and ATC clearance had been given for Instrument Landing System (ILS) approach landing on Runway 24. As per Manufacturer requirements, the runway length for Boeing 737 – 800 type of aircraft should be 7500 feet. The runway at Mangalore airport is 8100 feet in length.

The aircraft was new. It was delivered on 15<sup>th</sup> January, 2008 and made its first commercial flight on 25<sup>th</sup> January, 2008. The aircraft did not have any reported history of technical snag.

The flight was under the command of Capt. Zslatko Glucika, age 55 years, who had a total flying experience of 10,215 hours, out of which 2844 hours was on Boeing 737 – 800 type of aircraft and he had 7630 hours of experience as Pilot-in-Command (PIC). The PIC had also successfully cleared the language proficiency test prescribed by DGCA. The Co-Pilot, Capt. H.S. Ahluwalia, age 40 ½ years, had a total flying experience of 3619 hours of which 3319 hours was on Boeing 737 – 800 type of aircraft.

DGCA has specified Flight Duty Time and Flight Time limitations by way of Aeronautical Information Circular No. 28/1992 dated 10<sup>th</sup> December, 1992 . As per these limitations for international flights with two pilot crew no air carrier may schedule a flight crew to fly for more than nine hours of flight time during any 24 consecutive hours without a rest period. The PIC was on vacation and joined on 19<sup>th</sup> May, 2010. He was given rest till evening of 21<sup>st</sup> of May, 2010. He took a flight (IC – 811) at 09.30 PM on 21<sup>st</sup> May, 2010 and was assigned flying duty for flight No. IX – 812 on 22<sup>nd</sup> May, 2010. The co – pilot had earlier been assigned flying duties on 18<sup>th</sup> May, 2010 at 06.00 AM and was given rest on 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> of May, 2010 before being assigned flight duty on flight IX – 812 on 22<sup>nd</sup> May, 2010. In the case of the crew of the ill – fated aircraft the flight time recorded was 8 hours and 35 minutes and adequate rest was provided to the crew.

Both the pilots were fairly experienced in landing and take-offs from Mangalore airport. While the PIC had made 19 takeoffs and landings here, the Co-Pilot had made 66 takeoffs and landings.

The PIC was a British National and had Serbian licence. As per the Rule 45 of the Aircraft Rules, 1937, the Central Government has the power to validate licences granted by the duly competent authority in any foreign State and which for the time being in force, for the purpose of flying aircraft registered in India. This power has been delegated to DGCA depending on demand and availability of Indian Commanders. The delegation is valid till 31st July 2011. Under the above delegation, DGCA issues Foreign Aircrew Temporary Authorisation (FATA). The FATA of the PIC of the ill – fated aircraft was valid till 31<sup>st</sup> July, 2010.

Out of 158 persons who died in the accident, interim compensation of Rs. 10 lakh to each adult deceased passenger; Rs. 5 lakh to each passenger below the age of 12; and Rs. 2 lakh to each injured passenger has been fixed. This interim compensation has been paid to the next of kin of 127 out of 128 adult passengers who lost their lives and to all 20 children, 4 infants and 8 injured passengers.

One passenger whose family members are in Dubai, due to unavoidable circumstances could not travel to India to claim interim compensation. Arrangements are being made to settle the claim in Dubai itself. Also interim compensation to 5 of the 6 crew members have been disbursed. In the case of the Commander Capt. Zslatko Glucika, whose family is in Belgrade, NACIL is in the process of distributing the interim compensation. An amount of Rs. 14.56 crores has been disbursed towards the above till date. It will be pertinent to mention here that the final compensation has to be assessed in accordance with the provisions of the Carriage by Air Act, 1972, which incorporates the Montreal Convention. Under this Convention, the amount of compensation is to be worked out in each case separately on “proof of loss basis”. It is the endeavour of the Ministry to secure maximum compensation to the family members of the deceased as per Montreal convention. In 40 such cases, Air India Express has almost finalized the extent of final compensation as per the Montreal Convention. For the rest, process is underway.

A Court of Enquiry headed by Air Marshal (Retd.) B.N. Gokhale has been set up under Rule 75 of the Aircraft Rules, 1937 on 3.06.2010. The Court is expected to submit its Report by 31<sup>st</sup> August 2010.

After the tragic crash, a Civil Aviation Safety Advisory Council (CASAC) has been set up in DGCA under the Chairmanship of Director General of Civil Aviation with 28 expert members from industry and stakeholders who have made significant contribution in aviation sector. The Council has constituted 4 different working groups for (i) Operations, (ii) Airworthiness, (iii) Air Navigation and (iv) Aerodromes. The Council can also invite international experts from ICAO, FAA, EASA, Boeing, Airbus etc. Based on the above safety issues directions were issued to all concerned regarding adherence to SOPs – Stabilized approach for safe landing; Approach and Landing Reduction(ALAR)/ Monsoon training; Review of missed approach – ‘Go around’ encouraged in case of un-stabilized approach; Hard landing not punitive – when within limits; Presence of Cabin crew in cockpit in case of one pilot leaving the cockpit – log to be

maintained by Sr. Cabin Crew; Cabin Crew to interact with pilots on intercom during period of lean cockpit activity; In the event of incapacitation of PIC, co-pilot to take over control and in the event of PIC not responding to calls of co-pilot regarding 'go around', assertiveness by co-pilot to be encouraged.

DGCA *vide* order dated 2<sup>nd</sup> June 2010 has decided that a team of officials from the Aerodrome and Flight Standard Directorate shall carry out special audit of airports identified as critical on a priority basis and shall review thoroughly the system and facilities at these aerodromes and also review any other assessment derived from the aerodrome specific restrictions. Recommendations of the audit would be implemented by AAI within 1 month, at its airports, while for Defence airports, matter would be taken up with Defence Ministry for the implementation. 11 airports have been identified as critical, namely: Agartala, Calicut, Jammu, Kullu, Latur, Leh, Lengpui, Mangalore, Patna, Port Blair and Shimla.

DGCA has also issued Operations Circular 12 of 2010 on 1<sup>st</sup> June 2010 impressing upon all Scheduled/Non-Scheduled/General Aviation Operators to strictly adhere to the standard operating procedures for approach and landing that would result in decent landings acceptable within the limitations of the aircraft without compromising stopping distance requirements.

I would also like to mention here that DGCA is committed to sustain and enhance a robust safety oversight system through proactive regulation and its strict compliance. The challenge before DGCA is to manage phenomenal growth of air traffic without compromising on aviation safety. DGCA has taken various initiatives to ensure safe operations, some of which I would like to highlight here.

A Surveillance and Enforcement Division has been set up in DGCA for preparation and monitoring of the Annual Surveillance Programme. The Division coordinates monthly meetings to review the surveillance conducted and a database of all findings detected during surveillance is maintained and monitored. While, DGCA

conducted 4327 surveillance activities in 2009, this year, 4788 activities have been planned and a substantial number of enforcement action has been taken.

A Board for Aviation Safety (BFAS) has been set up to resolve and monitor the progress of enforcement of deficiencies noted during surveillance. The BFAS also determines enforcement actions against the approval holders based on the seriousness of the deficiencies observed. To promote sharing of safety information by all stakeholders, the findings are displayed in a de-identified form on DGCA's website. This approach will help in identifying and dealing with safety threats before they result in any mishap.

DGCA has also started evaluating the financial health of scheduled airlines and its impact on safety and is in the process of framing regulations to ensure that safety is not compromised on account of financial distress of airlines.

Three ICAO technical projects in the areas of flight safety, aerodrome standards and navigation services have been commissioned by DGCA to enhance its safety oversight capabilities. The aerodrome project has just been completed and ICAO findings in the identified areas have been addressed. The other two projects are underway and are expected to be finalized soon.

An Aviation Regulatory Advisory Panel (ARAP) with eight Working Groups has been set up to review existing regulations in airworthiness, flight operations, flight safety, licencing, air transport services and air navigation services. The panel will study the best international practices and globally harmonized standards and suggest revision in current regulations wherever required.

The concept of Safety Management System (SMS), recommended by ICAO is also under consideration and a draft regulation for the same is under process.

**Replying to the points raised by hon. Members, the Minister said:** The Mangalore crash was a blot on the safety record. The reply which I have given, does give you a lot of details about

what happened on that tragic day and also some of the issues which can be addressed over a period of time. Earlier, all airports were Government-owned and they were not subjected to licensing at all. In 2004, the Government took a decision that all airports must be licensed, primarily because private airports were also being given the permission to come up in our country. There are 89 airports which are operational in our country. In the case of Mangalore, it is one of the few airports which have already been licensed. Mangalore terrain itself is a very difficult terrain and therefore it is classified from the beginning itself as one of the critical airport. It is a table-top runway, well known to all the Pilots who fly in and out of Mangalore. They are briefed accordingly. In the case of Mangalore, the whole runway was just around 6000 ft. This new runway on which this ill-fated accident took place was actually commissioned only in 2006 and it is 8100 ft. Regarding FAA having downgraded India, I would say that it is absolutely incorrect. We are following a well prescribed procedure since 1992 and in fact, a new procedure is very shortly to be notified by the DGCA.

Regarding observation of the High Court I would just like to state that there are not such observations. Those were some interim observations. In regard to Safety Board or independent enquiry or investigating authority, let me be very clear that the Planning Commission is not supportive of a larger like this. The Ministry of Civil Aviation are keen to have an investigation and safety arm like there is in the United States. The Ministry of Civil Aviation proposes to enhance the scope of the DGCA. No pilots are being allowed to fly in the country without having the requisite qualifications. Irrespective of an ill-fated accident, I would compliment the performance of the DGCA and all the other authorities which are responsible for safe conduct. Regarding British Prime Minister's plane, I would say that nothing of that sort happened. The reports coming in the media and on television channels at times seem to be exaggerated.

Total available ATCOs strength is almost 1912 against the total sanctioned strength of 2100. To say that there are huge shortages of ATCOs. ATCOs are over-worked is not correct. Each and every

airport in our country cannot be classified as unsafe. If there are shortcomings in the system, we are supposed to correct them. We have recently constituted a Civil Aviation Safety Advisory Council to guide the DGCA and the Government.

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### **MATTER RAISED WITH PERMISSION OF THE CHAIR**

#### **Alleged diversion of funds from Special Component Plan meant for SCs/STs to Delhi Commonwealth Games, 2010**

**SHRI SATISH CHANDRA MISHRA:** The Congress ruled Delhi Government was provided under the Special Component Plan around Rs. 750 crore for the upliftment of SCs/STs. The amount was not utilized for the same. The information sought under RTI reveals that Rs.744.35 crore pertaining to this Special Component Plan was diverted to the Commonwealth Games.

As per census of the Government the number of Scheduled Castes is 2.34 million in Delhi alone. The Congress ruled Delhi Government instead of utilizing that money for the welfare of Scheduled Castes has diverted for the Games. Uttar Pradesh Government has arranged coaching facilities for those children of the Dalit society who prepare for various competitive examinations and launched various programmes for their livelihood. But the Delhi Government instead of using this money for such programmes has diverted in the Games, which is a big shame. The people belonging to Dalit society were living in hutments at various places and earning their livelihood. The Government has destroyed those hutments and any alternative place was not given to them. Delhi Government has compelled those people to resort to begging. But the Delhi Police even don't allow them to do so and harass them. All this is being done for the Game just for the 14 days. The manner in which money is being misused in Delhi in the name of Commonwealth Games is not a hidden fact.

Under the Special Component Plan upliftment of the Scheduled Castes and Scheduled Tribes for the whole India Rs.72,000 crore was allocated, which was diverted to various departments. For the last four years the Central UPA Government has not released meant for Dalit. The Congress Government of Delhi does not consider Dalits as the public of the country and treat them as vote bank only. The rights of Dalits cannot be snatched in this manner.

Sixty years have passed since India got independence but till now, nothing has been done for showing honour to the Dalits. Today, the entire Congress took a side and started opposing Uttar Pradesh Government when it started constructing monuments for Dr. Baba Saheb, Hon'ble Kanshiram etc. This shows the mentality of the Congress.

In the whole country wherever there is backlog for the Scheduled Castes and Scheduled Tribes in Government job, it should be enquired. The mere denial of these issues will not be allowed. A Special Parliamentary Committee should be constituted to enquire these issues and criminal cases must be started against the people involved in it.

**SHRI M. VENKAIAH NAIDU:** The things going on in the Commonwealth Games is another story. There must be a separate discussion in the House for this. The work should be started for the upliftment of Dalits. In place of this spending Rs.744 crore in the name of Commonwealth Games is an atrocity. This is unconstitutional. I want that the Government should take stern action against the concerned persons by intervening in this matter.

**SHRIMATI BRINDA KARAT :** Around Rs.744 crore allocated for the Special Component Plans of the Delhi Government for the Dalit has been diverted. The Planning Commission works against under whom after all. The Prime Minister himself looks after the Planning Commission. The Commission has its own rules and those are monitored. Therefore, this has been done openly today in Delhi in which constitutional rights of the Dalit has been violated and

the money allocated for them has been robbed off. That is a sort of economic atrocity.

A large chunk of the contract labourers working in Delhi belongs to the Scheduled Castes and Scheduled Tribes. The minimum wage allocated in Delhi is Rs.203 but those labourers are getting just Rs.100. They are being driven out by destroying their hutments. I have two demands. First one is this the Rs.744 crore should be returned alongwith interest for the development of Dalits and the second one is that a legal and constitutional provision should be made for the component plan in place of the executive order. Meanwhile, stern action should be taken against the guilty.

**SHRI JANARDAN DWIVEDI:** I understand the seriousness of these questions. I request the Government to answer these questions. But there must be a separate discussion for the issue of Uttar Pradesh and any other issue. That should not be connected with this issue.

**SHRI D. RAJA :** The diversion of money meant for the welfare of Scheduled Castes and Scheduled Tribes to Commonwealth Games is unpardonable. It is betrayal of the Constitutional responsibilities of an elected popular Government. This has to be treated as an offence. This is a great offence by the elected Governments in the name of democracy, and we cannot tolerate such things to continue. The Commonwealth Games should have been a pride of the nation, but it is becoming a big shame and a big scam.

**SHRI RAJNITI PRASAD :** If money has been diverted, it should be properly inquired and guilty must be punished.

**SHRI SABIR ALI :** Diversion of this amount, should be inquired.

**SHRI MAHENDRA MOHAN :** This Rs.744 crore was allocated for the upliftment of the Scheduled Castes and Scheduled Tribes. That money has been wasted in the name of Commonwealth Games.

**DR. BHALCHANDRA MUNGEKAR :** The diversion of Rs.744 crores by any measure is indefensible. It is not a problem only of the Planning Commission. This was the decision of the National Development Council that the funds earmarked for the Special-component Plan and the Tribal Sub-Plan are not lapsable and non-divertible. In view of this, it is a serious matter and the Government owes a serious explanation for this.

**THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI PRITHVIRAJ CHAVAN):** It is very serious matter. I think that the Government will come back with full information and exact details of what is happening very shortly.

I assure the House that there is no question of any diversion of money which is meant for the SC and ST.

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## GOVERNMENT BILL

### THE INDUSTRIAL DISPUTES (AMENDMENT) BILL, 2009

**THE MINISTER OF LABOUR AND EMPLOYMENT (SHRI MALLIKARJUN KHARGE):** I move:

"That the Bill further to amend the Industrial Disputes Act, 1947, be taken into consideration."

**SHRI BALWANT APTE Alias BAL APTE, initiating the debate, said:** This Bill was sent to Standing Committee but its report is treated as a mere formality and the Government does not care to look into concrete suggestions made by it. The committee has submitted the report on the basis of consensus of the stakeholders. All the central trade unions were represented and there was broad consensus as several issues.

This is not a comprehensive Bill. The definition of 'appropriate government' ought to have been recast as the earlier part

of the definition would become irrelevant. But it is not there. A suggestion that contract labour be included within the purview of 'appropriate government' does not find place in the Bill. The Bill proposes that a supervisory workman getting more than Rs. 10,000/- as salary will not be workman. This limit should have been increased to Rs. 25,000/- in view of increased salaries. Giving workman an opportunity to go directly to the Tribunal is very welcome step, but why on expiry of three months? Suggestion was made to reduce this period to 45 days but it has been ignored by the government.

The provision of this Grievance Redressal Machinery was provided in the amendment Bill 1982 but it was never implemented. Now, it appears that this provision is sought to be implemented. But only those establishments employing twenty or more workmen shall have Grievance Redressal Machinery. The figure 20 should have been replaced with 10, because big establishments already would have Works Committee.

This Bill says that Tribunals will be empowered to execute their own awards as if the award is a decree. Execution of an award or any decree requires machinery having power and sanction. Without any machinery, it is meaningless. However, I support the Bill as the intention of the Government is good and some lacunae are sought to be corrected.

**SHRI G. SANJEEVA REDDY:** I support the Bill and amendments with some suggestions to improve the Bill. The Bill or amendment should ensure industrial peace, industrial development and progress of the working class in the country. But this Bill, in no way, is going to solve the present problems of the workers. There are a number of private ports developed recently, who is going to be the 'appropriate government' for them? The Bill says that for industrial disputes in private ports, the 'appropriate government' is the State Government. Now some ports will go to Central Government and some will go to State Governments. We are dividing the port industry and the port workers. I suggest that 'appropriate government' for entire port industry should be the Central Government.

The second point is about the supervisor. If a person is earning Rs. 10,000 or more, he will be considered a non-workman. That means he is at the mercy of management. He can be removed or dismissed any time and he will have no right to go the Labour Court or any other Redressal Machinery. You are denying him the machinery under the Industrial Dispute Act.

The workmen's minimum wage is fixed at Rs.10,000 for all purposes under the Bill and a supervisor getting Rs.10,000 more will not be considered for getting the benefits under the Act. I would suggest that it should be 'any workman or any supervisor'. The supervisors are workmen; they are not officers. Therefore, I would suggest that protection in law should be given to them. The amount of Rs.10,000 should be increased to Rs.25,000 or Rs.30,000. As regards amendment under Section 2A, this Amendment has already been done by some State Governments, ten or twenty years back. The Government of Andhra Pradesh had implemented it in 1998. We welcome it even though the Government of India has brought it very late. In the case of workman dismissed from his service, he should have the right to either go in for conciliation or go directly to the Labour Court and file a petition there.

Today only one thing is required and, that is, quick disposal. But what has been happening here? It takes ten years, twenty years and before that no justice is available in this country. Then, two National Labour Commissions were set up by the Government of India and lakhs and crores of rupees were spent. But their reports have not yet been taken up for consideration. You should put a provision saying that within six months a labour court has to give its decision on an issue. As regards the Grievance Redressal Machinery and Works Committee, there is a difference between the two. 99 per cent of the industrial managements have not appointed any Works Committee. There is no representation of workers. Then, how do you expect the grievance redressal machinery to become operative? Today, the main problem is only that of a quicker disposal of industrial disputes and timely implementation.

I support the Government on section 11, with regard to award and settlement. I would like to know from the Minister as to what he is going to do with section 33(c)(i)&(ii) of the Industrial Disputes Act for recovery of money. The award and the settlement, which is going to be implemented, should not require any stamp duty. That should be clarified. I have another point with regard to section 29. Non-implementation of the award or agreement should be dealt in a more effective way.

I am supporting this Bill, but this Bill must have some meaning to bring industrial peace and development in this country, a peace of mind to the investor and the consumer should get the products at a cheaper price. I once again request the hon. Minister to kindly take the labour issues seriously.

**SHRI TAPAN KUMAR SEN:** I rise to give my observations on the Bill. This may be a small weapon in the hands of the poor contract workers to get their things done. I thank for accepting that amendment. On the aspect of wage ceiling, as on today, Rs.10000 does not mean anything. As regards supervisors, I would like to tell you that in majority of the industries, the employer takes away their all rights. That can be taken care of by appropriately taking care of the ceiling aspect. I think the question of putting ceiling in the matters of industrial disputes is absolutely superfluous and this Bill deserves deletion of that clause. The Works Committee was not appointed in 99 per cent cases. No employer has been prosecuted for it. Similarly, in the matter of grievances redressal machinery, the lacuna regarding number of employees needs to be properly addressed.

The award of the Tribunal must be implemented in a fixed time-frame. When you are making 'appropriate Government', you should have more DNC and ANC office under the Central Ministry spread over the States. The Industrial Dispute Act is to be implemented by the labour department but for the SEZ, the labour department is not responsible to address the labour problems. The Development Commissioner has been appointed. The labour issues have to be dealt by the labour department and the labour department

also needs to be strengthened if the provisions of the Industrial Disputes Act have to be meaningfully implemented.

**SHRI TIRUCHI SIVA:** I support this Bill. Some amendments have been brought in this Bill. Wage ceiling of ten thousand rupees is also very less. I would urge the Government to enhance it at least to Rs.25,000. It is not needed to fix a ceiling to decide as to who is the workman. Requirement of 20 workers for establishing Grievance Redressal Committee should be reduced to ten. It is not enough to appoint a Grievance Redressal Committee. There should be a monitoring Committee also. There is adequate representation for women. Acquisition of law degree along with specified seniority level is sufficient for the presiding officer. The vacancies of the presiding officers should be filled immediately.

**SHRI GOVINDRAO WAMANRAO ADIK :** I would like to give only a few suggestions. It was very difficult for workers to get reference for the dispute to be brought before the labour court and there is no limitation for labour courts to decide the matters within a particular limit. The idea is to get rid of delay. Now, this reference from the Government is not required and the workmen can go directly to the labour court. If it is intended to get rid of the delay in filing cases, why the aggrieved worker have to wait for three months more? Six representatives will be there in the grievance Committee. Who is going to preside over that Committee? In case of an equality of votes, what is going to happen? Who is going to be bound by the decision of the above Committee? This should be clarified.

**\*SHRIMATI RENUBALA PRADHAN : (Spoke in Oriya.)**  
I welcome and support this Bill. So far there was no adequate legal right of the workers. He had to tolerate the injustice. Now they can easily approach the Labour Court. This is also sending a caution to industrialist and employers. I demand that daily wage may be increased to Rs.15,000/- . The creation of Grievances Cell in various industries is also a welcome step. It should be clarified whether the

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\* Synopsis of speech delivered by Hon'ble Member in Oriya.

power of the State Government will be compromised. I hope that Government will take care of its implementation.

**SHRI R. C. SINGH :** I will speak on certain points. The provision of raising ceiling from 1,600 to 10,000 has to be deleted because salary revision is a continuing process. Management and supervisory staff should be provided all benefits. The number of twenty or more than twenty workers should be reduced to five or more than five. The contract workers have not been provided any social security. The responsibility of principal employer should be fixed and provision of punishment should be made. All clauses should be implemented. The award of tribunal is not implemented. Full payment should be made to the suspended or dismissed worker till the time final decisions comes. Compulsory recognition should be given to the trade union.

**SHRI RUDRA NARAYAN PANY :** There are many doubts regarding implementation of this Bill. Many recommendations of the Standing Committee on Labour have been ignored. Important recommendation of compulsory recognition to trade unions and other recommendations have not been taken care of.

The Bill related to the social security of the unorganized workers requires a handsome provision of fund. In the previous years, much less funds were allocated therefor. The Construction Labour Act was not enforced properly. The provision of the relevant Section aims at bringing about an age of private economy. It will not be beneficial for the workers and ministerial staff. Such an economy should not be set up in the well-being of our people. We have to think seriously of the interests of the farmers, industrial labourers and supervisory staff. The extent of their wages should be increased. We have to discourage contract labour as well as casual labour. We should also take care of the interests of those labourers, who are migrating from the States.

The industrial disputes should be settled in order that peace can be maintained there. The agricultural labourers should be made more active to attain food security in the country. Their employers

also need proper attention. Even in this electronic age, those, doing physical labour, must be provided social security.

**SHRI RAMA CHANDRA KHUNTIA:** I support the amendment to Industrial Disputes Act, 1947 because the Government have brought an amendment, which will extend facilities to the workers. I will like to make it clear that whatever legislations on labour have been brought and passed in the country, it is only when the Congress was in power. So, it proves that the attitude of the Government is not to neglect labour-related issues. The UPA Government is a pro-labour Government and it has not acted against the interests of the working class.

The amendment about the appropriate Government will definitely give a clear indication about the appropriate Government, and it will also be helpful for the workers. Labour Department should take a decision to appoint more officers, DLCs, LCs to meet the urgency and to give the benefit to the workers. Government should consider to include the contract labour in this clause. The enhancement in the wage ceiling of the workmen from Rs. 1,600 per month to Rs. 10,000 is a welcome step. The Government have amended the Industrial Disputes Act, but the Minimum Wages Act, the Payment of Wages Act, and the Compensation Act should also be amended. If the ILO Convention 87/98 is ratified, it would be very good for maintaining good industrial relations. In the developed countries, the ILO Convention 87/98 has been ratified and everything is okay there. There is one association, and everybody is a member of that. They are also maintaining it very well. The Government must prepare its mind to ratify this Convention.

It is definitely a praiseworthy proposal that the workman has a right by this amendment to go to the court. If the workman fails to get justice from the grievance handling procedure, then he must have the right to go to the court. The idea is good but idea should not be misused to delay. The point about expanding the scope of qualification of presiding officers of the labour court or tribunal under section 7 of this Act is a good proposal. This way the posts lying

vacant in labour courts and labour tribunals could be filled up and the cases can be expedited.

As far as empowering the tribunals or labour courts is concerned, the Government has brought amendments so that decision of the labour court or tribunal is awarded directly and the labourers get justice at an early stage, but, we are very much apprehensive about the implementation of this legislation.

The capital invested in industry does not belong to the capitalist. It is the capital of the general public. The Government should think that labour and worker have an equally important role in the progress and development of the country. I do expect that the Government will protect the interest of the working class.

**Replying to the points raised by the Members, the Hon'ble Minister said:** This Bill has been finalized after detailed consultations with stakeholders and the Ministry has formulated the proposals mainly on the issues on which consensus had been arrived at. The Standing Committee made certain recommendations and it was decided to accept some of their recommendations.

Section 2(a) (i) relating to 'appropriate Government' is appreciated by all the Members of the Committee and the Government has accepted this recommendation of the Committee. This Bill seeks to enhance the wage ceiling from Rs. 1600 per month to Rs.10,000 per month. This would also bring about parity with other labour laws like the Payment of Bonus Act, 1965 and the Payment of Wages Act, 1936. Through this Bill it is proposed to provide direct access for the workman to the Labour Court or Tribunal in case of disputes arising out of Section 2A.

Through the proposed amendment, the workmen can now directly approach the Industrial Tribunal-cum-Labour Court after filing high grievance before the conciliation machinery and giving 45 days for conciliation. Earlier, it was 90 days. The proposed amendment would help in an effective and speedy redressal of worker's grievances, giving him a choice either to continue with

conciliation or to go to adjudication. A new Chapter II-B has been added, setting up of Grievance Redressal Machinery in order to promote better industrial relations at the industrial establishment. There has been a long-felt need to provide for an in-house Grievance Redressal Machinery which would work as an elaborate grievance ventilation within an establishment and reduce the burden on adjudicators. At present, retired/serving High Court or District Judges are eligible to work as presiding officers in the Industrial Tribunal-cum-Labour Courts. This is creating considerable problems in the availability of officers willing to serve as presiding officer. In order to have a wider range of eligible officers from the relevant field, the Bill seeks to expand the scope of qualifications of presiding officers by making officers of Central Labour Service of the rank of Deputy Chief Commissioner and State Labour Department of the rank of Joint Labour Commissioner and officers of the Indian Legal Service Grade-III also eligible to be appointed as presiding officers. It is proposed that any award, order or settlement by a Tribunal shall be executed as a decree of a civil court.

At present, there is not specific provision in the Act with regard to salaries and allowances, and other terms and conditions of service of Presiding Officers of Industrial Tribunals-cum-Labour Courts. This amendment empowers the Government to make rule to decide and review all these terms of conditions for Presiding Officers. After passing this Bill, we will work for welfare of employees by implementing it. I thank all the members for supporting this Bill. If this Bill has some delicious we will bring it again, it is not end of it.

*The motion for consideration of the Bill was adopted.*

*Clauses etc. were adopted.*

*The Bill, as amended, was passed.*

**THE NATIONAL COMMISSION FOR MINORITY  
EDUCATIONAL INSTITUTIONS (AMENDMENT) BILL, 2010**

**THE MINISTER OF HUMAN RESOURCE  
DEVELOPMENT (SHRI KAPIL SIBAL), moving the motion for  
consideration of the Bill, said:** The National Commission for Minority Educational Institutions Act, 2004, in a sense, was looking at our experience over the years in respect to minority educational institutions that were set up in this country. In the context of that experience we realized that certain protections were required to be given to minority educational institutions. It was important to set up at the national level an adjudicating authority, a body which would really provide a forum for consideration of many of the matters that came up while educational institutions set up by minorities were being run. In the original Act, an educational institution by definition did not include a university. There are three ways of setting up a university in this country. One is through an Act of Parliament, like the Aligarh Muslim University Act. The other is through an Act of the State Legislature. There is, of course, a third breed of institution which we call deemed to be university. The Jamia Millia is the university that was set up prior to the Constitution.

In order to comprehensively deal with this issue, it is important for us to expand the definition of educational institutions. Therefore, by virtue of this Amendment, we have removed that inhibition of other than a university which was a part of the original definition of educational institutions, to ensure that the Authority here under this Act is also entitled to deal just not with schools and colleges but also with Universities that have been set up. So, we thought that it was important for us to give that protection and extend that protection also to universities. Therefore, that is really one of the substantive amendments that have been made. If a State Government wants a minority institution to apply for a No Objection, then, it should, actually, legislate on the subject.

There is an appeal provision under the Act. Under the appeal provision, the authority which has refused to grant no-objection is

naturally in conflict with the minority which is wanting to set up the institution and the State Government, of course, is a party. Under the old law, the Commission could only hear the matter in appeal in consultation with the State Government. We have removed the consultation part of it, and of course, now the appeal can be heard and while the appeal is being heard, the competent authority which has refused the no-objection and the State Government are parties before the Commission and the State Government's view will be put up before the Commission and the Commission, then, of course, will take the decision. India is standing at the threshold of a revolution in terms of which we will require more and more institutions to come up, both by the majority community and the minority community. Therefore, if we want the expansion of this sector, we must also expand the jurisdiction of entities which deal with disputes. Various kinds of disputes are going to come up.

Minority educational institutes are functioning very well in South India but in North India or North Eastern States, wherever there were educational institutes, malls and markets have come-up there and these institutes have closed down. These educational institutes have been replaced by the Madarsas. You are going to constitute a very important commission. You are saying that this commission will work for the empowerment of minority institutes and educational empowerment of minorities. You are talking about the people which are the most backward in the field of education in the country. These people go to the Madarsas only and receive education there. Nobody can reach the mainstream education through education in these Madarsas, nobody can get employment through education from these Madarsas, no multinational company will provide employment to them. Madarsas have not been covered in this Bill and it is being said that a separate board will be constituted for the Madarsas. Today, in this country more than three lakhs of Madarsas are functioning, minority institutes are functioning from a single room. What is the machinery you have to determine whether an educational institute is minority institute or not. You must have been thinking what it has to do with the Madarsas and minority institutes. In a particular district

there may not be a single minority institution but there will be atleast one thousand of Madarsas. The children are compelled to study in these Madarsas. You are saying that the minorities should be empowered. Will the Madarsas help empowerment? In this Bill, what will be the role of Madarsas, how the Madarsas will be covered by this Bill, how they will be regulated and how they will be brought in the mainstream education? We have a federal structure. The State Government must have a role therein. There should be more than 5-6 members in the commission. All these amendments will create confusion, there will be no empowerment.

**SHRI SATYAVRAT CHATURVEDI:** India is a country with diversity. There are cultural, religious, economic and political diversities. On the one hand, these diversities are the power of our country and on the other hand, some times due to the new discrepancies created by these diversities pose administrative and legal problems also. There are Governments of different political parties and people of different ideologies in different States of the country. A number of complaints were received time to time from the State Governments, NGOs and various institutes in this regard. Ultimately, all the material, evidences and facts were placed before the Standing Committee of the Ministry of Human Resource Development for thorough consideration. On the basis of the recommendation of the Committee, proposal to amend the Act was brought. There was discrepancy in the definition of minorities educational institutes and small amendment has been brought to make it clear. Now, the people belonging to the minority community will be able to establish their own institutes and no law or government could stop them to establish institutes of the University level. After the amendment, it will become compulsory for a State Government to enact a comprehensive law with regard to the minority educational institutional institutes in the State. The right to issue No Objection Certificate will remain with the State Governments. Competent Authority will also be the State Government only. There should be a provision that the State Government should not enact a law which is contrary to the spirit of the law passed originally by the Parliament.

This amendment Bill has been brought to empower the minorities to run their institutes. It will make it convenient for the minorities to establish and operate their educational institutes.

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**V. K. AGNIHOTRI,**  
*Secretary-General.*

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\*\*\*Supplement covering rest of the proceedings is being issued separately.