

-DS/KR-MCM/20/3.00

श्री भूपिंदर सिंह (क्रमागत) : उसमें जो मेजॉरिटी होती है उसी की बात की सुनवाई होती है। तो उसी तरीके से सेबी में भी या लोकतंत्र के अंदर कोई भी संस्था हो, किसी के दिमाग में यह न आए कि वह जो चाहे कर ले और उसको ऐसी पॉवर न दी जाए कि वह वन मैन के हिसाब से जो अथॉरिटी है, वही कर ले। तो उसको ध्यान में रखते हुए मैं उम्मीद करूंगा कि मंत्री महोदय के सामने मैंने जो सवाल किया है, उसका उत्तर मुझे मिल जाएगा। बहुत-बहुत धन्यवाद।

(समाप्त)

MR. DEPUTY CHAIRMAN: Mr. Y.W. Chowdary, not present. Mr. Ishwarlal Shankarlal Jain.

SHRI ISHWARLAL SHANKARLAL JAIN (MAHARASHTRA): Mr. Deputy Chairman, Sir, I rise here to support the Securities Laws (Amendment) Bill, 2014.

As you know, in the earlier days, the investment into Stock Exchange was coming in a very small and paltry way. But former Prime Minister of India, Mr. Rajiv Gandhi had given a thought to the entire country that we should invest money into Stock Exchange so that it could be properly utilised for the betterment of the country. Later on the people started investing into Stock Exchanges. But many frauds occurred. So, it has been felt that the SEBI should be

given more powers, more teeth to control these things so that frauds do not occur again and again. So, I congratulate the Government that they have come forward with the Bill. Actually it was the UPA Government who had moved it. But now the NDA Government has brought it with minor alterations according to their own tune.

But one thing is contradictory in their saying. During the discussion on the Finance Bill, the Finance Minister said that they do not believe in retrospective enforcement of the base tax and Acts also. But here you are enforcing this Bill retrospectively. There is a contradiction in the statement. What is the necessity to give effect to this Bill from 18th July, 2013?

Sir, an Ordinance was there. As per the Ordinance the work was carried out. Now, a new Bill has come. It has replaced the old Bill. It should have come into force and that could have served the purpose. But here the Government has contradicted itself. I am really surprised to listen to this statement.

Sir, a Special Court has been designated and it will be in Mumbai. The reason may be that the SEBI office is situated in Mumbai itself. If search and warrant is to be issued from Mumbai, it could be carried out anywhere in the country. So, I do not think it

is contravention of jurisdiction. Because when we are empowering that Special Court with powers to search and issue a warrant, where is the question of jurisdiction? I think the entire country becomes under the jurisdiction of this Special Court. I do not think there is any ambiguity.

Regarding the investment of Rs.100 crores, it is really surprising. Less than Rs.100 crores means how much? Again it is a question of limitation. Even Rs.10 crores may be more for somebody, and even Rs.10 crores is less for some. So, less than Rs.100 crores doesn't fall under that, and above Rs.100 crores fall under that is something which doesn't appeal to my mind. That should be given a rethought.

As my hon. friend, Mr. Naresh Agrawal has said, it could have been sent to the Select Committee. Actually that would have been really better. But the SEBI has posted a consultation paper on their website in January, 2014.

(Continued by 2P/VK)

VK-HMS/2P/3.05

SHRI ISHWARLAL SHANKARLAL JAIN (CONTD): So, most of the suggestions had come from professionals, from persons dealing in particular fields, those who are dealing in securities. The expert opinion had already been gathered by SEBI and it was submitted to the concerned Departments. Sir, though we are the law-makers and we have the right to give our opinion, we are not experts in all the fields. Ultimately, the persons who are experts and who are dealing in this field, their opinion should be sought. Lastly, the Companies Act was passed hurriedly last year itself. Now the new Government is saying that as there are a lot of anomalies and practical difficulties in the Companies Act, we have to bring a new law again. Sir, to avoid this, there was a need to take an expert opinion. I think that has already been taken. So, the Bill seems to be very perfect one as it is strengthening the SEBI Board. I congratulate the Government for bringing it at the right time. With these words, I support the Bill. Thank you.

(Ends)

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

DR. ASHOK S. GANGULY (NOMINATED): Sir, I rise to support the Bill. However, my request is that we should not throw out the baby with the bath water because there were some very good features in the Securities Laws (Amendment) Bill, 2013 which has, unfortunately, lapsed. For example, there was a clause, “SEBI can attach bank accounts, property and arrest a person for his failure to comply with disgorgement orders.” Fortunately, you have introduced a clause saying ‘permission from the Magistrate or a judge’. The reason why SEBI was given this authority, which I thought was draconian, was that news should not leak out. How we are going to protect the news from leaking out from the network of those who violate the law, is something that we need to think about a little more deeply. Sir, another retrospective clause of 2013 Bill that will allow SEBI to settle non-criminal proceedings by issuing consent orders was added, and I hope that will survive. There is no question about it that the revised Amendment Bill has certain positive features and we should compliment the Government for that. One of the features in the 2014 Bill, which has been brought to this House, is to authorize SEBI to enhance penalties imposed by an adjudicating officer while also prescribing minimum levels of penalties for these offences. I think that is the

flexibility, which is well defined. However, one of the questions that came to my mind, while going through the Bill, was that given the organization of SEBI, does it have enough resources to carry out the enormous task that you are handing over to them? This is something that you might wish to look into because we have a lot of good laws, but the problem is that we fail to implement them. For example, the banks' campaign against habitual defaulters has really not made any progress. Recently, a bank Chairman or a CEO was detained for things which might be more widespread than we are aware of. Why aren't wilful defaulters being dealt with far more stringently heavily and with a sense of immediacy? It reminds me and a lot of people have spoken about the Ponzi schemes. It is an American word from Mr. Ponzi. But the fact is, it is the anti-*punzi* scheme. We call this पूंजी; savings. तो पूंजी के विरोध में जो होता है, वही हमारे देश में widespread है, that is completely under the radar

screen और गरीबों के गरीब, सब ले जाते हैं। On the other hand, the Ponzi schemes are being used to launder black money. That is the major use of the Ponzi schemes.

(Contd. by

RG/2Q)

RG-KLG/3.10/2Q

DR. ASHOK S. GANGULY (NOMINATED): You will recall that truckloads of depositors' receipts were sent to the SEBI to investigate who are the depositors to whom the money was returned by a certain company, which I do not wish to mention the name of. Therefore, the worry that I have is that the SEBI's public pronouncement, sometimes, border upon an overreach. And I would say that there must be some safeguards also that this 'holier-than-thou and holier-than-all' attitude may not start from one end of the pendulum swinging to the other end. This is a worry that I share with the House. I hope that the hon. Minister will make a note of it because all the pronouncements of the SEBI are more worrying than the reality of what it has done. ...(Time-bell)... The Vice-Chairman, Sir, having rung the bell, I, having never exceeded the time, as a disciplined Member, as always, will leave my speech incomplete.

THE VICE-CHAIRMAN (DR. SATYANARAYAN JATIYA): You were allotted only four minutes. We are running short of time.

DR. ASHOK S. GANGULY: I think, the hon. Minister would know, उन्हें पता है कि मैंने क्या बोलना था, क्या छोड़ दिया। Thank you.

(Ends)

PROF. M.V. RAJEEV GOWDA (KARNATAKA): Mr. Vice-Chairman Sir, I am happy to get this opportunity to talk about the Securities Laws (Amendment) Bill, 2014. I am also very happy to learn that over the last few years, the SEBI has been able to crack down on a number of chit fund and ponzi scheme scams. Around 20 lakh investors were being cheated of nearly Rs. 20,000 crores. Sir, it was possible for the SEBI to investigate these frauds and bring the culprits to book because of the Securities Laws (Amendments) Ordinances that the UPA Government brought in over the last two years. It is, finally, a very great relief to see that after years of these Ordinances being extended because of Parliamentary disruptions, the Securities Amendment Bill is set to become an Act.

India has a large number of very talented entrepreneurs. But if we create a regulatory ambience and an infrastructure that has gaps in it, then, there are some who go astray, who are tempted to

milch the poor investors of their hard-earned savings. This, often, takes place through fraudulent savings, chit funds and ponzi schemes. Every such scam gives a bad name to legitimate chit funds and spoils the investment landscape for the poorest of the poor. The SEBI has long been requesting sweeping powers, and the UPA's Ordinances and this Bill are the first major steps for plugging these regulatory gaps and for turning the situation around.

In order to protect the *Aam Aadmi* and *Aurat*, the UPA Government had promulgated these Ordinances. Finally, these Ordinances are seeing the light of the day in the form of an Act and this will really help change the whole regulatory environment. Already, in response to a Parliamentary Question in March, 2013, we saw that the SEBI had been quite effective. Six hundred and sixty nine companies were probed by the SEBI for violating the Collective Investment Scheme and collecting about Rs.7,435 crores. These Collective Investment Schemes are often illegal, unregulated and are ponzi schemes. Five hundred and fifty two of such companies were prosecuted and convictions were secured in 124 cases. Another 75 wound up their businesses and refunded money to their investors. The SEBI has initiated action against many such cases and companies that raised close to Rs.4,000

crores and asked them to wind down their schemes. In this fiscal year itself, 28 firms have faced the SEBI's wrath and are now turning around their operations and refunding the resources. On this note, I would like to congratulate and thank the NDA Government for adopting yet another vital and crucial policy initiative of the predecessor, the UPA Government.

Sir, one may ask: How does this Bill strengthen SEBI? This Bill gives tremendous scope to SEBI to determine what constitutes a Collective Investment Scheme. It allows potentially fraudulent schemes to be regulated carefully irrespective of the capital amounts involved or whether they were started by formal corporate entities or even by individuals.

(Continued by SSS/2R)

SSS-MP/2R/3.15

PROF. M. V. RAJEEV GOWDA (CONTD.): These were gaps in the previous regulatory architecture. This flexibility is vital for SEBI to do its job effectively. Sir, another aspect of this Bill is Section 11(c) which allows SEBI additional powers, including for search and seizure, for recording statements under oath etc. SEBI has been empowered to enforce court orders through attaching the

violator's property, bank accounts, through the arrest and detention of the violator. Such kind of powers are absolutely necessary, Sir, under certain amount of judicial oversight to ensure that potential violators think twice before indulging in their criminal activities. The NDA Government has also realized the importance of speedy and certain justice. It has retained the provisions in the Bill creating a special court to ensure speedy trials. Sir, at this moment, under the proposed law, this special court consists of a single judge. Basically, if you think about the challenge, the scope and the magnitude of the challenge before us, this may be a limitation of this Bill. We take pride in our democracy, we take pride in our rule of law, but our reputation suffers because of an overloaded judicial system. Justice delayed is not just justice denied, Sir, it is also a signal to crooks and criminals that they can get away by gaming the judicial system. Our Finance Minister in his previous avatar as a Law Minister had also paid attention to this particular issue and it got in a number of measures to unclog the judicial system. He would be quite cognizant of what I am talking about, and, therefore, I would urge him to ensure that such special courts are not just set up in Mumbai, but across the country so that in every region we have the judicial architecture strengthened to

ensure that white collar criminals do not get away with their scams. Sir, over the years, SEBI has really needed a lot of regulatory support to do its job. This can be seen from a Report, a survey conducted in SEBI and NCAER in 2011. It showed that the investor population in India has actually dwindled from 20 million to 10 million in the last 25 years. This has happened despite automation, despite trade guarantees, tax concessions and a sharp decline in brokerage charges. Investors have left the market because they have seen people's investment get decimated because of shady practices without any redress available. Barring occasional blips, the primary market remains lifeless, Sir, and mutual funds are not able to attract the retail money that it needs to attract. Sir, in economics, we teach a concept called 'Revealed Preference'. To understand how well regulatory environment functions, we need to see what people actually do. Through their actions we are able to understand the true impact of our regulatory architecture. In India, when we look at the true impact, you see where people are parking their savings. They are parking their savings in fixed deposits in banks, knowing fully well that inflation will reduce the value of their savings. They are focussing their money on the temptations offered by Ponzi schemes, by other elements like chit funds, which really

should not necessarily be part of a modern financial architecture. Sir, SEBI has a huge role to play in fixing this kind of a problem. It needs to reassure every Indian that equity markets and mutual funds are viable, secure avenues for investment, that their risks are transparent and visible to everyone. SEBI has both the roles of a nurturer of markets and of a policeman, and it is not as if these roles are in conflict. The more effective SEBI is, as a policeman, the more trust it engenders in the people of India and the more resources will flow into the stock markets. If SEBI can end scams, then India has a treasure trove of savings below people's pillows, underneath their beds, wherever they park their savings, and that will start coming back into the market and it will ensure that Indian entrepreneurs can draw on huge resources that are currently lying unpacked or being invested in gold.

(Contd by NBR/2S)

-SSS/NBR-SC/2S/3.20.

SHRI RAJEEV GOWDA M.V. (CONTD.): Sir, SEBI can do much more on the enforcement front. Already, some of my earlier speakers and colleagues have spoken about insider trading and issues of that sort.

Sir, let me also draw your attention to the Non-Performing Assets of various public sector banks. Numerous promoters have ended up defrauding these banks and, somehow, have escaped even prosecution, forget arrest and anything more. Sir, SEBI needs to go after these sorts of criminals and ensure that our banking system is also strengthened in association with our equity market.

Similarly, many foreign private equity firms have come into the Indian market and invested in various private sector companies here. Again, various promoters have runaway with those resources, siphoned them off and the private equity players have had no option but to sell their investment at a deep discount just to ensure that their overall portfolio does not get tainted by this particular experience. We need to go after those kinds of crooks and criminals as well and only then we will be able to attract one more avenue of investment which is crucial to India's growth.

Sir, SEBI also has some other challenges. I would like to point out that public accountability over SEBI needs to be strengthened. There is also concern about investor voices being paid attention to by this organisation. And, finally, there is also

concern about overlap jurisdictions and what impact that would have on the actual regulatory outcome.

Sir, on accountability, I would like to point out that we must institute a mechanism by which SEBI tells to some pillar of the Government about how well it is doing in terms of its enforcement mandate every year. Asking the Government to pay attention to this would be essentially executive interference into the affairs of an independent regulator. But, nothing comes in the way of Parliament asking SEBI for its Annual Report on how well it is doing the job that we have entrusted it with. I would urge, through you, the hon. Finance Minister to work out an arrangement whereby SEBI provides us this kind of accountability every year. Today, not just SEBI but any time Parliament interacts with regulators in the context of some crisis or some scam. Those settings are not conducive for constructive engagement. We end up in a confrontational setting. At least, one of the parties may be on the defensive. We need to change that in the interest of strengthening our financial regulatory architecture.

Sir, India's regulatory mechanisms -- whether RBI, SEBI, IRDA and FMC -- have not been part of a concrete design; they

have evolved over the years through various decisions taken in different contexts.

Through these gaps, we find Ponzi Schemes emerging. We find various regulatory overlaps, various regulatory challenges and these will allow various entrepreneurial firms, not in the healthy sense but in the sense of looking for holes in the system, to innovatively shop between various regulatory forums, to come up with mechanisms that evade regulation. We cannot allow that to happen. And, we must strengthen the regulatory enforcement architecture to ensure that no such gaps remain.

Sir, I do have another concern with one aspect of this Bill. This has to do with disgorgement of funds that have been collected from scamsters. Right now, the hon. Finance Minister proposes to park this money in SEBI's Investor Protection and Education Fund. Sir, this money belongs to investors who have lost their precious life-savings. How can you take it and put it aside in one of the funds? Why doesn't the Finance Minister earmark one of his trade mark 'Rs. 100 crores' for the education purpose and ensure that this hard earned savings of the poorest of the poor goes back to those who have invested in chit funds and Ponzi Schemes?

Finally, SEBI has looks at its mandate in somewhat a limited manner, just like the RBI adopted a mandate of financial inclusion which ensures that the banking services reaches to the poorest of the poor in every village. Similarly, I urge, through you, the hon. Finance Minister to ensure that SEBI also ends up financial inclusion as part of its mandate.

(CONTD. BY KGG "2T")

-NBR-KGG-GS/2T/3.25

PROF M.V. RAJEEV GOWDA (contd.): There is no reason why equity markets and mutual funds should be the preserve of urban well-heeled individuals. These sorts of markets, these sorts of investment avenues must be accessible to the poorest of the poor, must be accessible to everyone in every village.

Sir, I believe, SEBI can make financial inclusion part of its mandate and give a new meaning to the word 'equity'. It is not just about stocks, it is also about justice and inclusion. Only when SEBI actively pays attention to financial inclusion, will we be able to ensure that these modern elements of financial architecture--the mutual funds, the stock market schemes, each one of them-- would be accessible to every individual; they will not need to be tempted by prospects from various fly-by-night operators.

Sir, with these suggestions and taking all these other issues into consideration, I commend this Bill as a key step to improve India's financial architecture. It is still a small step in a long journey and there is much more to do in the days ahead. Thank you, Sir.

(Ends)

SHRI RAJEEV CHANDRASEKHAR (KARNATAKA): Sir, our economy is only beginning to recover from several years' of decline

and drift. As the Finance Minister is aware, Sir, I have repeatedly argued in Parliament and outside that our economy and Government need significant reforms and changes for a transformation and for it to recover and grow sustainably. Having well-regulated, free and competitive financial markets is one important part of that.

Sir, I had last spoken about this subject in 2010 when the House was debating the Securities and Insurance Laws (Amendment and Validation) Bill, where I had raised the issue of decline of independent regulation in the financial sector. Over the last few years, as many of my colleagues have pointed out, we have witnessed a spate of scams and crises that have their roots in regulatory failure or incapacity. These have, in turn, caused serious setbacks to investor and consumer confidence in many areas that still need investment and growth. So, Sir, this Bill that strengthens the securities regulator, SEBI, is very welcome.

I only hope, Sir, that the Finance Minister makes this the first step of a review and strengthening of the complete spectrum of independent economic regulators because, I believe, these institutions, more than any other single governance action, will impact the ability of our country to attract long-term investments.

As my colleague said, the Parliament has not spent enough time reviewing the Acts and performance of most of these regulators.

Sir, the issue of accountability is an important one before we discuss powers that are to be granted to regulators. I strongly believe, Sir, and many hon. Members have echoed this today that the banking regulator, for example, needs to explain why it blindly oversaw the unprecedented concentration of risk, where nine-ten industrial groups have accounted for 95 per cent of the banking system's net worth, creating a too-large-to-fail situation and putting tax-payers and owners of the public sector banks at risk for the performance of these groups.

The stock market also, Sir, similarly is increasingly becoming a playground for laundering money and is reportedly seeing many insider trading linked transactions linked to either takeovers or M&As. It is in this background and context that we are discussing the strengthening of the stock market and securities regulator, SEBI.

Sir, coming to this Bill, the SEBI has, in recent times, redeemed itself partially with assertive action on insider trading and Collective Investment Schemes. This amendment is primarily to cover the regulatory gap or vacuum that exists *vis-à-vis* the CISs.

There have been many instances where investment schemes have managed investment funds or depositors' funds without supervision of SEBI or any other regulator and that has been the call from investors to strengthen SEBI.

Sir, let me just quickly raise a few issues relating to this Bill. Under Clause 3, SEBI would regulate all schemes with a corpus of Rs. 100 crores or more. I strongly believe, this should be caveated by the corpus or number of investors. It should be Rs. 100 crores or 500 investors, or any appropriate number that you consider. Sir, there is also an issue of the new definition of 'CIS'. Is this definition too large? Will it cover normal FMCG companies that raise deposits from the dealers, for example?

(Contd. By TDB/2U)

TDB-ASC/2U/3.30

SHRI RAJEEV CHANDRASEKHAR (CONTD.): Therefore, is there a need to make sure that the definition is not something that is so large and creates harassment and problems for legitimate businesses? Specially, Sir, this is on Clause 11AA(2). This provision should be considered in light of the fact that only one CIS has been registered with SEBI since 1999, and that CIS also is yet to launch a scheme. I would, therefore, like the Government to clarify this issue, even though I do believe that it is better to over regulate on behalf of investors rather than not having any protection for them, as has been the case for the last few years. (Time-bell)

Sir, on the issue of powers, I would like to say that in the process of giving powers to regulators to prosecute criminal elements... (Time-bell) Sir, I am going to conclude quickly. Please give me one more minute. Sir, I will quickly run through three issues.

Sir, the Bill correctly provides a safeguard in terms of search and seizure by making a magistrate's approval required. Sir, I think, that principle should also apply for attachment because attachments create a very disorderly exit for investments and

disruption of jobs. I think, since there is a special court, it may be a good idea to amend that clause to ensure that attachment is also sought after a magistrate's approval.

Sir, Clause 15 in the original Act and sub-Clauses 6 to 15 in the Bill are about penalties. I think, the penalties are not punitive enough, and I propose that it should be raised from Rs.1 lakh and one crore to Rs.5 lakh and five crore.

Sir, finally, to the issue of transparency in the functioning of SEBI, regulators like SEBI are being granted increasing powers by Parliament assuming that these powers would be exercised in the interest of investors and the economy. (Time-bell) Sir, please give me one-and-a-half minute more. But there will always be a temptation to misuse this power. Therefore, I am suggesting amendment in Clause 17 or indeed have a new clause that ensures all consent agreements and cases are transparently disclosed, along with SCORES, on the SEBI website, instead of it being kept secret. This must be made legal and binding on SEBI as a part of its obligation to be transparent.

Sir, I hope these amendments would be considered by the Government to make the Bill and SEBI more effective and more

accountable. Thank you, Sir.

(Ends)

श्री भुपेन्द्र यादव (राजस्थान) : उपसभाध्यक्ष महोदय, अभी सेबी बिल पर चर्चा करते हुए काफी वक्ताओं ने मार्किट एब्यूज़ को लेकर और मार्किट में जो चिटफंट जैसी छोटी-छोटी कम्पनियां हैं, पूरे देश में पिछले दस सालों में मार्किट का एब्यूज़ करते हुए जो कम्पनियां आई हैं, उनके संबंध में अपने विचार रखे हैं। अभी कुछ दिनों पहले सुप्रीम कोर्ट ने सेबी के सेक्शन 11AA के ऐक्ट को जो चेलेंज किया गया था, उस पर डिस्मिसिज़न देते हुए महात्मा गांधी जी की पंक्तियों का प्रयोग किया था। उस जजमेंट में जो पंक्तियां प्रयोग की गई थीं, मैं उनको कोट करना चाहता हूं, “Earth provides enough to satisfy everyman’s need, but not everyman’s greed”. यह धरती सब लोगों की आवश्यकताओं की पूर्ति कर सकती है, लेकिन सभी लोगों के लालच की पूर्ति नहीं कर सकती। इसलिए सुप्रीम कोर्ट ने अपना दूसरा जजमेंट एन. नारायण वर्सेज सेबी दिया है, उसमें भी कोर्ट ने एम्फेसाइज़ किया कि वर्तमान में जो सेबी ऐक्ट है, उसको ज्यादा मजबूत बनाने की आवश्यकता है। मैं सुप्रीम कोर्ट का जजमेंट एन. नारायण वर्सेज सेबी को कोट करना चाह रहा हूं, “India’s capital market in the recent times has witnessed tremendous growth, characterized particularly by increasing participation of public. Investors’ confidence in the capital market can be sustained largely by ensuring investors’ protection. Disclosure and transparency are the two pillars on which market

integrity rests. We would like to demonstrate on the fact of this case as well as the law on the point that market abuse has now become a common practice in India's securities market, and if it is not properly curbed, the same would result in defeating the very object and purpose of the SEBI Act which is intended to protect the interest of investors and securities and to promote the development of securities market". इसलिए यह जो बिल आया है, पहले भी तीन बार ऑर्डिनेंस के माध्यम से आया है। यह इसकी आवश्यकता को इसलिए बताता है कि क्लेक्टिव इन्वेस्टमेंट स्कीम जो सेक्शन 11 AA है, यह 1999 में इस ऐक्ट में इन्सर्ट किया गया था, लेकिन एक तथ्यात्मक जानकारी यह है कि यह जो क्लेक्टिव इन्वेस्टमेंट स्कीम है, इसमें 1999 के बाद अभी तक केवल एक कम्पनी ने अपना रजिस्ट्रेशन कराया है।

(LP/2w पर जारी)

LP-KLS/3.35/2W

श्री भुपेन्द्र यादव (क्रमागत) : इसलिए जो सौ करोड़ रुपये से ऊपर की स्कीम है, इसमें कम से कम छोटे इन्वेस्टर का जो दायरा आता है, छोटी इन्वेस्टमेंट करने वाला जो व्यक्ति होता है, उसकी किसी प्रकार से सुरक्षा हो, उसका रेग्युलेशन हो, इस बात को इस बिल में लाकर एक अच्छा प्रयोग किया गया है।

दूसरा, मैं इस अमेंडमेंट बिल के माध्यम से सैक्शन 51 (i), सब सैक्शन 3 पर भी बोलना चाहता हूं। अभी तक सैट के जो ऑर्डर होते थे, उनको रिव्यू करने की जो पावर है, वह सेबी को दी गई है। सैट के ऑर्डर को तीन महीने के अंदर रिव्यू करने की पावर है। एड्युकेटिंग ऑफिसर्स के जो ऑर्डर्स हैं, उनको रिव्यू करने की जो पावर उसको दी गई है, उस संदर्भ में मुझे लगता है कि यह मार्किट में ट्रांसपेरेंसी लाने, जल्दी निर्णय लेने और लोगों की जो ग्रीवांस है, उनके लिए एक अच्छे मैकेनिज्म का कार्य करेगा। इस प्रकार की कंपनियों का जो फंड है, जिसको सेबी के द्वारा डिस्बर्स किया जा रहा है, उस फंड का प्रयोग भी इस बिल के माध्यम से करने का प्रयास किया गया है। वह फंड एजुकेशन के लिए, जो छोटे इन्वेस्टर हैं, उनको ज्यादा जानकारी देने के लिए, उनको एजुकेट करने के लिए प्रयोग किया जाएगा। इसके द्वारा इस बिल में एक अच्छा प्रावधान लाने का प्रयास किया गया है।

काफी सारे वक्ताओं ने सर्च एंड सीज़र के पावर की बात कही है। इससे पहले जो ऑर्डिनेंस इश्यू हुए थे, उसमें यह पावर सेबी चेयरमैन के पास थी। अभी जो बिल के माध्यम से आया है - क्योंकि सर्च एंड सीज़र करने के लिए

सेबी चेयरमैन को पावर थी, उससे पहले यह व्यवस्था थी कि कंसर्न्ड मजिस्ट्रेड के पास जाकर सर्च एंड सीज़र की परमिशन मांगी जाएगी, लेकिन अगर कोई सेबी के सर्च एंड सीज़र की परमिशन किसी दूसरी कोर्ट में जाकर मांगेगा, तो मुझे लगता है कि सर्च एंड सीज़र का जो विषय है, वह पहले ही पब्लिक हो जाने का खतरा है। इस बिल में यह काफी अच्छा प्रावधान किया गया है कि सर्च एंड सीज़र की पावर, जो सेबी की डेजिग्नेटिड कोर्ट है, उसके मजिस्ट्रेट को दी गई है। इसमें एक अच्छा प्रावधान यह किया गया है कि सेबी चेयरमैन की पावर के लिए मजिस्ट्रेट को यह पावर दी गई है, ताकि सर्च एंड सीज़र करने से पहले, उसमें ज्यूडिशियल माइंड की जो एप्लीकेशन है, उसका प्रभावी रूप से प्रयोग किया जा सके।

इसको ज्यादा न्यायिक बनाने की बात कही गई है। एक महत्वपूर्ण प्रावधान, जो इस बिल के माध्यम से आ रहा है, जिसकी एक बहुत बड़ी आवश्यकता भी है, वह इन्फॉर्मेशन और रिकॉर्ड लेने का प्रावधान है। क्योंकि इन्फॉर्मेशन और रिकॉर्ड के बारे में जो दीपक पटेल का केस है, इस पर सैट का एक ऑर्डर है। दीपक पटेल के केस में इनसाइडर इन्फॉर्मेशन की बात है। उस ऑर्डर में इनसाइडर इन्फॉर्मेशन में जो प्रॉफिट वाली बात है, उस पर तो सेबी ने उस समय निर्णय दिया है, लेकिन इनसाइडर इन्फॉर्मेशन के बाद के प्रॉफिट के बाद, जो दूसरी बात थी, जिसमें टेलीफोन केस का मैनुपुलेशन था, उस पर उन्होंने कहा कि उसकी जो पावर है, वह सेबी के पास नहीं है। पूरी दुनिया में इस समय जिस प्रकार से एक तरह की इन्फॉर्मेशन्स लेने का जो विषय है, उसमें सेबी को इंस्टीट्यूशनल इन्फॉर्मेशन प्राप्त करने के लिए

और इन्फॉर्मेशन को शेयर करने के लिए इस एक्ट के अंतर्गत जो पावर दी गई है, वह एक तरीके से आने वाले समय में इस एक्ट को मजबूत बनाएगा। यह सैट के जो सारे ऑर्डर्स आए हैं, उन सभी ऑर्डर्स को भविष्य में उचित प्रकार से लागू भी करेगा।

अभी पैनल्टीज़ और एब्जुडिकेशन की बात चल रही थी। पैनल्टीज़ और एब्जुडिकेशन में जो विषय था, वह मैक्सिमम 1 करोड़ का विषय था। लेकिन इसको मिनिमम करके एक बहुत बड़ा परिवर्तन किया गया है। मैक्सिमम में यह विषय ऊपर तक जाता, लेकिन छोटे स्तर पर, छोटे इन्वेस्टर्स के जो पैसे हैं, उन छोटे इन्वेस्टर्स के पैसे का किसी भी प्रकार से न्याय नहीं हो पाता है, इसलिए इन्होंने उसकी सीमा न्यूनतम 1 लाख रुपये कर दी है। इस प्रावधान को परिवर्तित करके छोटे इन्वेस्टर के प्रोटेक्शन की बात की गई है। हमारे देश में सेबी की मार्किट की संभावनाएं बढ़ रही हैं, इसलिए मार्किट की संभावनाएं बढ़ने के साथ-साथ उस मार्किट में जो ज्यादा से ज्यादा छोटे इन्वेस्टर्स हैं, उनका ख्याल भी रखा गया है। जब हम देश में बचत को बढ़ाना चाहते हैं, तो बचत का पैसा बाकी विषयों पर न लगकर मार्किट में आए, उसको एक प्रकार की सुरक्षा मिले, इसकी व्यवस्था की गई है। हम उस पैसे को सुरक्षित करके देश में एक अच्छा इन्वेस्टमेंट फ्रेंडली माहौल बनाएं, सेबी को अपनी इन्फॉर्मेशन लेने के लिए, सर्च करने के लिए ज्यादा से ज्यादा ट्रांसपेरेंट मैनर में काम करने का अवसर मिले, सैट का जो ऑर्डर है उसको सही समय पर रिव्यू किया जाए, इन सभी विषयों को इस बिल में लाने का प्रयास किया गया है। मेरा यह मानना है कि इसमें जो वर्तमान

में परिवर्तन आए हैं, इन परिवर्तनों के माध्यम से मार्केट की जो रेग्युलेटरी बॉडी है, उस रेग्युलेटरी बॉडी को हम ज्यादा प्रभावी और सक्षम बनाएंगे।

(2x/akg पर

जारी)

AKG-USY/2X/3.40

श्री भुपेन्द्र यादव (क्रमागत) : यह सेबी द्वारा कोई पनिशमेंट देने का विषय नहीं है। मार्केट में सही तरीके से रेग्युलेटरी मेकेनिज्म चले, सही तरीके से इन्वेस्टर का हित ध्यान में रहे, मार्केट में ट्रांसपेरेंसी रहे और मार्केट में अकाउंटेबिलिटी रहे, उसको लेकर सेबी की रेग्युलेटरी बॉडी का प्रावधान किया गया है। यह किसी निवेश को रोकने के लिए नहीं है, बल्कि निवेशकों का जो हित है, विशेष रूप से छोटे निवेशकों का जो हित है, उन छोटे निवेशकों के हित के लिए सेबी इसके माध्यम से ज्यादा पारदर्शी तरीके से कार्य कर सके। इसलिए पेनल्टी को लेकर, सर्च और सीज़र को लेकर, कलेक्टिव इन्वेस्टमेंट स्कीम को लेकर प्रोविजंस में सेबी को जिस प्रकार की बाध्यता अभी आ रही थी, जिसके लिए समय-समय पर सुप्रीम कोर्ट के निर्णय के द्वारा कहा जा रहा था और जिस प्रकार के विषय इस समय कोर्ट के सामने आ रहे हैं, उनको देखते हुए, उन बाध्यताओं को खत्म करने का प्रयास किया गया है। पहले भी इसके दो ऑर्डिनेंसेज़ आए हैं, फिर तीसरा ऑर्डिनेंस आया है, लेकिन तीसरे ऑर्डिनेंस में भी सुधार करके सरकार नए प्रावधानों के साथ यह बिल लेकर आई है, जो स्वागत योग्य कदम है। इसलिए मैं इस बिल का समर्थन करता हूँ और आशा करता हूँ कि इस बिल के माध्यम से निवेशकों को

और मार्केट को एक नई मजबूती मिलेगी और ट्रांसपेरेंट मैनर में हम अपने निवेशकों के साथ न्याय कर सकेंगे। धन्यवाद। (समाप्त)

SHRI NARESH GUJRAL (PUNJAB): Sir, I rise to support the Bill.

The securities markets play a crucial role in the economic and the financial stability of a nation. They transform domestic savings into a real sector. The more efficient the market, the more healthy and prosperous is the economy. To ensure that markets take robust and clean shape, the hon. Finance Minister is ushering in some key reforms. I congratulate him for this Bill, which can be summarized as follows: (a) To protect the interests of the investors, especially against the ponzi schemes; (b) to punish the fraudsters expeditiously by constituting special courts; (c) to strengthen the investigative and prosecutorial powers of the SEBI by giving it more teeth; and (d) to provide protection and safeguard against the misuse of search and seizure powers of the SEBI, which were not there in the original Ordinance. I hope that the same safeguards would also apply if SEBI decides to intrude into somebody's privacy by tapping phones, etc. The hon. Finance Minister, while your intentions are noble, the problem is that the investigative and the prosecution process takes too much time in our country. Don't we all remember Harshad Mehta, Ketan Parikh, and, now, Jignesh

Shah? While they were all arrested, their properties were seized, but those who suffered the losses are still waiting to be reimbursed. I would urge upon you to provide rules that explicitly provide the first right to disburse funds to those who suffer wrongful losses due to the unfair actions of the cheats.

Similarly, day in and day out, small investors, especially those living in remote areas where the banking services are not there, are cheated by Mr. Ponzis and Mr. Natwarlals day after day; and, their numbers are increasing because the punishment is not meted out expeditiously.

Sir, I have four suggestions for the hon. Finance Minister. One, create a new investor-protection service on the lines of the IPS or the Customs Service or the IRS where officers are trained to process domain knowledge to crack such cases of economic fraud expeditiously. Second, as my colleagues have mentioned before, invest heavily in the judicial infrastructure, including enacting fresh laws which will not allow smart and expensive lawyers to prolong cases infinitely and allow the rich to get away.

(Contd. by 2y – PK)

PK-SCH/2Y/3.45

SHRI NARESH GUJRAL (CONTD.): In the USA, the entire process takes 15 to 18 months. In Japan, it is even less. But in India, cases go on for decades and nobody is punished for a long, long time.

Thirdly, like in the USA, the security meetings are held in open public and the Senate exercises control over their Securities and Exchange Committee, we should also have an effective Parliamentary control over the SEBI. I hope, again, the rules will provide for some such institution.

Lastly, Sir, irrespective of the name, reputation, position or stature of a crook, every fraudster should be treated equally before the law. Hon. Minister, go after the crooks who *looted* our nationalized banks, especially in the last ten years. They *looted* the country in the name of infrastructure and PPP. Go after those who cornered scarce national resources including spectrum. Go after those who created companies in the Stock Exchange which vanished with the promoters, and go after those who have cheated the small investors through *ponzi* schemes. Sir, if you bring even 50 per cent of them to book expeditiously, I am sure going ahead, economic crimes would decrease in the country. Mr. Finance Minister, you are one of the ablest lawyers in the country and I am

sure that you will find a way to provide sufficient protection against the sharks to the small investors so that the Indian market prospers. Thank you.

(Ends)

SHRI ANIL DESAI (MAHARASHTRA): Mr. Vice-Chairman, Sir, I rise to support the Securities Laws (Amendment) Bill, 2014, as it takes certain steps to ensure not only the support but it also takes into account the interest of the middle class, especially the lower middle class. The definition of 'domestic savings', in real parlance, if you happen to see, is that it comes from the middle class and the lower middle class of the country. To protect investors' interest and ensure orderly development of security markets, it is necessary to enhance the powers of SEBI which is the capital market regulator.

The Bill seeks to amend the Securities and Exchange Board of India Act, 1992, with the consequential changes in the Securities Contracts (Regulations) Act, 1956 and the Depositories Act, 1996.

Sir, Collective Investment Schemes are a class of investment products regulated by the SEBI. The Bill considers widening the scope to include all pooling of funds of Rs.100 crore or above. Till

now, they were not regulated by any law. This amendment is essential as it could catch ponzi schemes and will also protect the interest of small investors who contribute almost 45 per cent to the GDP. The Bill also empowers the Chairman of the SEBI to authorize search and seizure of documents relevant to an investigation. The Bill provides SEBI with explicit powers to order disgorgement of unfair gains. It also permits SEBI to attach bank accounts, property and arrest and detain a person for his failure to comply with disgorgement orders or pay any monetary penalty. The Bill establishes special courts to try offences under the Act. Two provisions are enacted with retrospective effect. One, the SEBI is giving powers to settle non-criminal proceedings, issuing consent orders. Two, it may sign agreements for exchange of information with foreign financial regulators.

Sir, in our country, a series of frauds are committed by chit funds, cheating millions of poor people. These chit fund operators would continue with their unfair games because they will not come under the net since they are operating well below the level this legislation is taking place. They will smartly keep their turnover within Rs.100 crores. It is a significant amount and millions of poor

people may be cheated. There should be some regulatory body to take care of this.

(Contd. by PB/2Z)

PB/2Z/3.50

SHRI ANIL DESAI (CONTD.): Sir, another thing which I would like to mention is algorithmic trading done by foreign institutions, making huge money by using hitech gadgets. They use these gadgets in the form of hitech computers. They take milliseconds. Transactions take place at a very high speed and huge profits are garnered which do not come under the domain of the people, or, people, at large, are not aware of it. This should be determined very seriously. This should be taken care and they should not go unchecked where this kind of ungainful things, which happen in the markets, take place.

(MR. DEPUTY CHAIRMAN IN THE CHAIR)

Especially, these kinds of transactions do take place when the market is very volatile, particularly, when the Budget Session is on. Somehow, some newspapers had covered these stories but nothing has happened as far as any action is concerned.

The last point which I would like to make is, the effectiveness of any legislation would depend on how implementation of the same

would be there. As far as this new law is concerned — the new Bill, the amendment Bill, which would come into practice — its effectiveness would depend on the powers which are given to the SEBI Chairman -- the SEBI which will operate it — like the attachment of property. There is a possibility that the honest employees — like whistleblowers -- of an organization may bring to light any frauds which take place in an organization. How would you protect the honest employees? The firm that would be taken to task for such frauds will be coming under the scanners of SEBI. But what would happen to employees and their families who have done it because they are the bread-winners for the family? So, that has to be taken into account.

Another thing which I would like to mention is, similar law is prevailing in the State of Maharashtra. So, in the case of multiplicity of laws, if any conflicting things come, which law would prevail? That also needs to be made clear.

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

(Ends)

SHRI M.P. ACHUTHAN (KERALA): Thank you, Sir, I support this Bill. The aim of the Bill, it is said, is providing more powers to the capital market regulator for enforcement of laws against illegal

collective investment schemes and to curb insider trading. These amendments would give the market regulator legal backing to clamp down on unscrupulous entities that are using new methods to take investors for a ride.

**(THE VICE-CHAIRMAN, DR. E.M. SUDARSANA NATCHIAPPAN,
IN THE CHAIR.)**

The real issue is the implementation and avoiding delay in pronouncing the Budget. I don't know whether SEBI will be able to do much with its new powers which include the power to search and seize the assets of defaulting firms and give an access to call the data records in case of insider trading activities. For this, SEBI's staff pattern needs to be dramatically changed. It is to be staffed with people with an appropriate level of expertise in different aspects of law and accounting. Simply enhancing the number of staff will not do. The recruitment drive will have to be accompanied by large-scale training of understanding of securities laws and new powers and dynamics of market. It will have to open more offices across the country to make the new powers operational. Then only can this Act be implemented effectively.

Recently, the SEBI has given an instruction that all the listed companies, including public and private sector companies, must

give 25 per cent of their shares to public. I doubt that this is a policy matter. Sir, we have discussed many times the issue of disinvestment of the public sector companies in this House itself. Sir, disinvestment is a policy matter. How can SEBI insist on giving 25 per cent of the shares of the public sector companies, including navaratna companies such as ONGC, for disinvestment? (Contd. by 3a/SKC)

SKC-VNK/3A/3.55

SHRI M.P. ACHUTHAN (CONTD.): This is a back-door way of disinvestment and privatization. Therefore, I think, SEBI has no power to insist on giving out 25 per cent of the company's shares for disinvestment. The hon. Finance Minister must clarify this and ask SEBI not to give instructions that are contrary to the policy of the nation. Even when the Government came forward with the disinvestment of 5 per cent or 10 per cent shares of a public sector undertaking, there was a huge resistance from workers and political parties. How can SEBI, the regulator, insist on such a method and act in contrast on policy matters? This needs to be looked into. I support this Bill. Thank you.

(Ends)

DR. K. P. RAMALINGAM (TAMIL NADU): Thank you, Mr. Vice-Chairman, Sir.

I rise to support the Bill. I support the Bill because the hon. Finance Minister would certainly have given it a considerable thought and applied his wisdom before finalizing the draft of the Bill. I also hope and believe that our Finance Minister would have given a deep thought to the effect and implications it would have if a statutory authority like SEBI is vested with judicial powers. Certainly, the hon. Minister's experience and wisdom would have prevailed upon him. It is under this assumption that I support the Bill.

Sir, the Statement of Objects and Reasons of the Bill has validated the cause and the background under which the Bill has been moved. I am convinced with all the reasons enumerated. Also, after hearing the Finance Minister's detailed introduction, I am fully satisfied.

Sir, the amendment to Section 11 of the principal Act empowers SEBI to call for information and records from any person, including any bank, authority, board or corporation established or constituted under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or

inquiry by the Board in respect of any transaction in securities. While functioning so, it should be ensured that SEBI does not transgress its powers. I would expect an affirmative reply from the Minister in this regard during his reply.

Sir, the amendment proposed in Sections 15A, 15B, 15C, 15D, 15E, 15F, 15G, 15H and Sections 15HA and 15 HB pertain to the quantum of penalty. I welcome all those provisions.

Sir, I now come to the introduction of new Sections -- 26A, 26B, 26C, 26D and 26E. These Sections deal with the establishment of Special Courts. Establishment of these Special Courts with the sole purpose of providing a speedy relief to the affected investors is a good initiative. But, he must take care that the investors do not get into any legal tangle while trying to get back their hard-earned money. What is the point in securing the shed after the horses have run away?

Sir, various schemes with tall and high claims and scams cheated the common man all over the nation. Starting from the Kalaimagal Sabha scam 15 years ago in Tamil Nadu, the Teakwood Scheme, that is, *Thekku maram*-growing scheme, Ramesh Cars Scheme in Tamil Nadu, Chit funds fraud in Tamil Nadu, Sahara case, Ponzi scheme, Emu farming scheme and then, last but not

the least, the Sharada Chit Fund Scheme in Odisha and West Bengal, they all cheated the poor man out of his money. There are many instances of the common man being cheated regularly, in a systematic manner. There is no end to this. The hard-earned money of the common man is cheated by a few and the law has been blind in this regard so far. At least now we woke up with this Bill. We have made a new beginning. I hope this initiative will go a long way in preventing the common man from being cheated.

Sir, I would also request the hon. Minister to provide for a special provision in this Bill stating that when a public sector undertaking is being sold, the Central Trade Union must also be consulted. This is my request.

With these words, I whole-heartedly welcome this Bill.

(Ends)

(FOLLOWED BY HK/3B)