CONCENTRATION OF ECONOMIC POWER

D. R. Pendse

FORUM OF FREE ENTERPRISE
SOHRAB HOUSE, 235 DR. D. N. ROAD, BOMBAY-1

> "Free Enterprise was born with man and shall survive as long as man survives."
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> —A. D. Shroff
> (1899-1965)
> Founder-President,
> Forum of Free Enterprise

Concentration of Economic Power

D. R. Pendse *

For the last three to four years, the problem of the Concentration of Economic Power has been appearing in all discussions of economic policy with such deadly frequency that one is led to believe that this is easily the most important danger and problem faced by the country. The Monopolies and Restrictive Trade Practices Act was specifically enacted to tackle this very issue and has come into force only recently. Is the legal framework contained in the Act not adequate to deal with this problem? Why do the economic policy makers continue to show such a pre-occupation with it? How far is this pre-occupation justifiable or understandable at the present juncture when the Indian economy is passing through a period of acute stress? I propose to make a few observations on these questions and to underline the need to sort out this question once and for all, so that we can get on once more with the basic jot, of accelerating economic growth, which has been badly neglected in the process.

The concern about the problem of the Concentration of Economic Power (CEP) is not new; and when the Monopolies and Restrictive Trade Practices Act (The MRTP Act) came in force in June 1970, it marked the crystallisation of a large number of ideas, on this very baffling question, put forward by a series of Commissions and Committees in the course of over a decade prior to that date. It all can be said to have begun noticeably in 1959 when Prime Minister Jawaharlal Nehru decided to have the question examined

* The author is Deputy Economic Adviser to Tatas. The views expressed are the personal views of the author. The text is based on the Sixth A.D Shroff Memorial Lecture delivered in Poona in 1971.

as to who had benefited from the additional income that had been generated in the country as a result of the development efforts of the first two Five-Year Plans. This was the famous Mahalanobis Committee, which after a four-year study, pointed out that there was CEP in the private sector and that the working of the planned economy itself had contributed to the growth of big companies. Since then, the scrutiny into CEP has continued in one form or another, the Monopolies Inquiry Commission (1965), the Hazari Committee (1967) and the Dutt Committee (1969) making significant contributions to its study.

The MRTP Act devotes a whole chapter of eleven sections to the question of CEP. This Chapter (Chapter III of the Act) is framed in pursuance of the well-known Directive Principle of State Policy in our Constitution, which requires the Government to see "that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment." The drafting of the Chapter, as indeed of the whole Act, is based on the proposals put forward by the Monopolies Inquiry Commission in 1965, but several notable modifications were introduced subsequently, mainly at the hands of the Joint Committee of Parliament in 1969.

This Chapter in the MRTP Act treats the problem very comprehensively, taking into account what emerged from the collective wisdom of the various studies mentioned above. For instance, experts had identified two main types of concentration, viz., the country-wise and the product-wise concentration. Hence this Chapter is made applicable to two types of undertakings (Section 20), viz. large undertakings (i.e. those having assets of Rs. 20 crores and above), to tackle the country-wise concentration; and to dominant undertakings (i.e. those having more than one-third share of the market and assets of over Rs. 1 crore), to take care of the productwise concentration. Similarly, since experts had pointed out that CEP was facilitated by certain practices such as the managing agency system, inter-corporate investments, holding companies, etc., the Act introduced a concept

of "inter-connected undertakings", (which, like many other provisions in the Act, has already become the source of a good deal of confusion and controversy). The logic underlying this concept seems to be that it is not the size of one single undertaking, nor the share of the market enjoyed by such a single undertaking that is relevant in determining the potential or the actual CEP, but what is more relevant is the combined size or the combined share of the market of the various inter-connected undertakings.

Starting with this logic, the Chapter provides that Government's prior approval or permission will be required for those activities of these undertakings, which have the potential of increasing their size or the market share, e.g. any substantial expansion of these undertakings (Section 21); establishment of a new undertaking which will attract this Chapter (Section 22); the merger or amalgamation of these undertakings (Section 23), etc. Such undertakings are also required to register themselves (Section 26) with the Government, presumably to enable the Government to maintain a census of these undertakings and keep a watch on their activities. The Government is free, but not bound, either to seek or to accept the advice of the Monopolies Commission on any case falling under these various sections of this Chapter. A drastic provision is contained in Section 27, under which the Government is empowered to order the division of an undertaking, if its working is found to be prejudicial to the public interest.

The private sector, particularly the large organised corporate sector, has generally reacted very unfavourably to the provisions in this Chapter. They have found these provisions far too restrictive and rigorous, and lacking in perspective. Leaders of industry have pointed out, with good reason, (a) that there is no CEP and it is only a bogey: (b) that the Act confuses concentration with size of corporate assets; (c) tnat the Act excludes the emerging areas of real CEP like agriculture and public sector industry; and of course, (d) that the Act makes no distinction between industrial houses with a proven good record and those without it. These objections are important in themselves; but are well-known to interested readers and need not be discussed here.

In fairness to Government, an important point that needs to be made, however, is that activities of the concerned undertakings, such as expansion, merger, etc., mentioned earlier, are not altogether prohibited under the Act; they are only subjected to Government approval, which is to be given if Government is satisfied that the proposal is in the public interest. Section 28 even lays down certain guidelines for the Government to determine whether a particular proposal is in the public interest. This may all be good in theory. Spokesmen of industry have, however, pointed out disapprovingly to several policy measures taken by the Government in recent times in the name of public interest. These have shaken the confidence of the business community, and there is a perfectly understandable growing feeling that entrusting such vast powers to the Government would in effect amount to a virtual denial, at any rate of long, long delay. of all proposals falling under this Chapter, whether in the public interest or not.

Secondly, while the Act starts with the avowed objective of curbing only the CEP which is to the common detriment, the various provisions of the Chapter throw the burden on the applicant undertaking to prove that its proposal is in the public interest. In other words, unless the undertaking itself proves to the contrary, to the satisfaction of the Government, the presumption would appear to be that every proposal is to the common detriment. This twist to the approach runs counter to the fact that all the experts and Commissions, notably the Monopolies Inquiry Commission, had eulogised the role of CEP in accelerating industrial development of the country, in achieving industrial &versification, in securing favourable foreign collaboration terms, etc.

At any rate, a piece of legislation has now been brought into force; a legislation, which is at least comprehensive and

which vests vast discretionary powers in the hands of Government to approve or reject projects, almost at will. It is, therefore, legitimate to conclude that Government now has, at its command, a more than adequate weapon to tackle the problem of CEP.

However, Government still does not seem to be satisfied; and one notices to one's dismay that the authorities are so obsessed with this problem that almost every single decision of economic policy seems to be motivated, at least partly, with the desire to curb concentration. This was an important argument advanced not only when banks were nationalised or when the managing agency system was abolished, but it still continues to be a major plank in several matters such as, say, in the determination of institutional financial assistance, in newsprint allotment policy, in the Press Bill, in the taxation measures and, most important, in the industrial licensing policy

The interesting point is that when these other instruments of economic policy are burdened with anti-concentration overtones, the Government invariably uses the concept of what has come to be known as Larger Industrial Houses. This is quite different from the concept of the large or dominant or the inter-connected undertakings to whom the MRTP Act always makes a reference in treating the problem of CEP. The concept of Larger Industrial Houses as well as the list of companies deemed to be belonging to these Houses are both taken from the Report of the Dutt Committee on Industrial Licensing Policy, published in July 1969. This list is outdated (it relates to the date 31-12-1966 or earlier), it is full of inconsistencies, and is logically unsound and has received considerable adverse comment. Before June 1970, when the MRTP Act came into force, it had at least the merit (!) of being the only list available to policy makers to treat CEP. Now, with such a comprehensive legislation in force, even that merit has disappeared, and there is a strong case for not depending any more on this list, and for letting the MRTP Act be the sole keeper of the country's conscience in matters of CEP.

The fact remains, however, that, contrary to what the MRTP Act says, the problem of CEP has come to be identified as the problem of the twenty Larger Industrial Houses, as per the Dutt Committee's definition. Indeed, so much is now being said about this that an uninitiated observer would be tempted to conclude that CEP, as manifested by the existence of these 20 Houses is the most, if not, the only urgent economic problem before the country. Since this is emphatically not so, the question naturally arises as to why there should be such a strong and persistent anti-big business feeling in the country. This needs to be examined in some detail.

The point, of course, has been made that the latent anti-big business feelings of India's masses—these feelings themselves being the expression of the anti-rich feelings of the poor all over the world—are fanned by the politicians as an easy vote-catching device and that the flames of the feelings are kept up to divert public attention away from Government's failures in effectively tackling the real economic issues. While there is a substantial element of validity in this point, the industrial and business community is also not free from blame.

In the first place, an increasing number of people in this community have taken recourse to manifold malpractices. To quote a famous industrialist, "........... under the new conditions the ethical standards of a growing segment of the Indian business and industrial community fell to distressingly low levels. The fruits of corruption, tax evasion, black-marketing, foreign exchange 'fiddles', and other fraudulent and unscrupulous devices were so great that many succumbed to temptation and in the process wrought havoc with the public image of the private sector.

"In particular, the misuse by some of the so-called larger houses of their resources and influence to secure benefits for themselves by political intrigue, bribery and other forms of skulduggery, led to the bogey of concentration of economic power being raised against all large Houses and concerns."

In addition, there is an increasing tendency in our society to indulge in conspicuous consumption and display of wealth. The continuous flow of black money into the economic structure of the country, and the controls and taxation measures adopted by the Government are themselves to no small extent responsible for this tendency. But the fact remains that such consumption and display leads to social tensions which politicians and trade union leaders are quick to turn to their account.

These misdeeds of some have done untold damage to the public image of the entire organised corporate private sector, and the bogey of CEP is being raised against all industrial houses and concerns. This will be truly unfortunate; for, while the unscrupulous will continue to prosper and accumulate more and more wealth and economic power without using it for the common good, the socially conscious Houses will find it increasingly frustrating to reconcile themselves to the situation where all are tarnished with the same brush. In course of time this would have a totally undesirable effect on the industrial fibre of the country.

This is a predicament which needs to be avoided at all costs. If the country's economic policies are not to get bogged down in bogies of concentration raised by interested parties, Government's hands need to be strengthened so that it can tap the enormous energies of the socially conscious private sector. This socially conscious private sector itself could do with a pat on the back so as to bring back its morale; and the less than good sections of the private sector also need a conclusive warning that their current methods will cease to be paying propositions.

To serve all these causes, it should be worthwhile for the Government to set up urgently a Concentration Evaluation Commission, charged specially with the task of evaluating, once and for all, as to who has used the concentrated economic power to the common good and who else to the common detriment. There are of course several easily identifiable criteria to decide this question, e.g., — the prices and the quality of goods produced; the labour policies; the quality, the reputation and the responsibility of its management; contribution to such social objectives as employment generation and help to the small-scale sector; its performance in the fields of exports and/or import substitution; its contribution to R & D; and so on. These are only indicative illustrations, and the Commission should really be left free to evolve and define its own criteria.

The Government, on its part, should offer and indeed undertake that at least those industrial houses, which would be certified by this Commission to have used their so-called concentrated economic power to the common good, would not be subjected to the strains of the Government's anti-concentration policies and postures. The proposals and plans of larger houses will of course continue to be examined on merits, and subjected to other usual criteria, in the same way as in the case of an identical proposal received from a non-larger House. The suggestion is that once such a Commission has completed its job, belonging to or being a part of a good larger Industrial House should cease to be a disqualification in respect of such policy measures as licensing, financial assistance, etc.

It may be necessary perhaps to repeat these investigations once in, say, every ten years, because it should not be the intention that the decisions of this Commission should be a perpetual free pass to some or a perpetual denial of growth to others. That would be wrong in principle; and that may even encourage the unscrupulous to try all methods to get a good chit at any cost. Hence, it is of utmost importance that such a Commission should be a compact body to be manned by persons of outstanding ability and highest known integrity, devoting their full time to this enquiry.

Incidentally, the Dutt Committee did go through a similar exercise and gave a good chit to 70 out of 73 Large and Larger Industrial Houses. But, considering the Government's continued preoccupation with anti-concentration policies, it appears, that the Government cannot believe, or

cannot persuade the people to believe, that there could be so many good industrial houses. A thorough enquiry at the hands of such an Evaluation Commission would at least reinforce the Government's hands to take quicker and more effective action of future proposals emanating from the larger houses. The present Monopolies Commission, as far as the question of CEP is concerned, somehow seems more suitable to count the trees than to locate the forest: and in any case, it has enough to do, and to do it more effectively, in regard to the question of monopolistic and restrictive trade practices, a function which it has woefully neglected so far. If both the Government and the private sector industry are serious about getting on with the crucial job of planned economic growth, there is no reason why they should not seriously examine this proposal.

Admittedly, the setting up of such an Evaluation Commission would not tackle our immediate economic problems. Indeed. it would be no exaggeration to say that the country is at present passing through an economic emergency. Any discussion on the Concentration of Economic Power must, therefore, answer the one question that is really relevant in such a trying situation: Are the Government's policies and postures, designed in the name of curbing the concentration of economic power, truthfully helping to solve any of these problems of immediate importance?

The principal problems are easily identified. There is, first of all, the abject poverty of the people; the prices are spiralling and industrial production is stagnating. Any one of these problems is capable of completely upsetting the structure of the economy of any growing nation. When we have to face all these problems simultaneously, is it not reasonable to expect that every single instrument of economic policy is brought to bear on tackling these problems? It will be argued in what follows that the anti-concentration policies do little to tackle these immediate problems. To that extent, the continued pre-occupation and obsession of the authorities with the anti-concentration policies is entirely out of context with the difficult situation faced by our country.

'The poverty of the Indian people is too well-known to need elaboration. Prof. Dandekar's recent pioneering study has quantified the problem very clearly; and it is clear that at least 60 per cent of our people are deprived of even the minimum consumption standards prescribed by the Planning Commission (viz., a *per capita* consumption of Rs. 402/- per year at 1967-68 prices). To bring these 60 per cent to this minimum, their total consumption (and therefore income) would have to be increased by over Rs. 1,200 crores per year. The problem has assumed an unmistakable urgency because it is the votes of the poor that have given the Ruling Party such a massive mandate on the promise of *Garibi* Hatao. These voters would look for evidence of concrete improvement of their miserable lot, before they vote in 1976.

But what do the anti-concentration policies do? They place curbs on production of goods by the large organised producers, and try to encourage the small-scale and medium sector. Under present regulations, small-scale industry is one in which investment in plant, machinery, eic. does not exceed Rs. 7.5 lakhs. Any entrepreneur who can start and run an industry with an investment of upto Rs. 7½ lakhs, which usually means with own funds (equity) of about Rs. 2½ to 3 lakhs, cannot by any stretch of argument be called a poor man in India. Actually, often complaints are heard that a lot of wealthy men arc masquerading as small-scale industrialists and getting away with the cream of Government's concessions to the small-scale sector. Indeed, since in the small-scale sector, equity capital is usually held closely among families and relatives, the capital base of many small-scale enterprises represents the wealth of the families of the promoters. As against this, in the large corporate sector shares are held by hundreds and thousands of shareholders, not excluding the Government's own financial institutions which hold large chunks

of equity. The anti-concentration policies, in so far as they seek to impoverish the large Houses and companies and to see this small-scale sector flourish, thus amount only to a reshuffling of wealth among the wealthy; and being totally irrelevant to almost 98 per cent of the Indian population. they do not tackle even the fringe of the problem of poverty.

Economists have rightly pointed out that what matters to the poor man is the price which he has to pay for his goods, and the quality of these goods. The poor are consumers and not producers of industrial goods, they are the users of implements and tools, and not their manufacturers.

But products of the small-scale sector often compare unfavourably with those of the large-scale organised sector, both as regards price and quality. This is implicit, e.g. in Government's own practice of accepting tenders of several items of stores produced in the small-scale sector, even if the prices quoted by them are higher by as much as 15 per cent. It is, therefore, legitimate to argue that Government's anti-concentration policies, by keeping away the most efficient producers, of mass consumption goods, may deny the poor the opportunity of getting cheap and high quality goods for their very limited incomes. The poor are the losers in the bargain, thus underlining how divorced have become the policies to curb concentration, from the realities of the poverty of the people.

This is not to suggest that the small-scale and the medium sectors should not be allowed to grow. Far from it. The diffusion of entrepreneurship is a laudable objective in itself; but when there are acute scarcities of essential goods all around, it is wrong to prevent any producer, much more so the efficient producer, from producing these goods. The very fact that scarcities are acute and will become more so in the immediate future, should ensure that expansion of any one sector will not be to the detriment of other sectors. There is thus more than room for all.

As regards our defence, its urgency cannot be underestimated. In times of an emergency, a plentiful supply of products of several industries is necessary to meet possible, defence requirements. Particular mention needs to be made of steel, of commercial vehicles like jeeps and trucks, of sophisticated engineering goods, basic chemicals, and a host of consumer goods. Several factories have to be converted to produce defence-oriented goods; (e.g. textile mills having to produce cloth required by the defence forces). Unfortunately, it is precisely these industries where expansion of productive capacities is being delayed or curbed due to Government's anti-concentration policies. For example, while Telco's trucks served a notable role in defence supplies in 1965, its plan to expand annual capacity from 24,000 to 36,000 trucks was pending clearance for over a year, out of which for over six months it was with the Monopolies Commission, which was presumably examining whether or not such an expansion will lead to further concentration of economic power to the common detriment.

In the case of steel, we already have an acute shortage. But in the name of the Industrial Policy Resolution (IPR), the capacity of the private sector to increase supplies is sealed, by the inclusion of 'Iron and Steel' under Schedule **A** of the Industrial Policy Resolution, which means that all new units in these industries will be set up by the State. But even in case of Schedule A industries, the IPR clearly says: "... This does not preclude the expansion of the existing privately-owned units, or the possibility of the State securing the co-operation of private enterprise in the establishment of new units when national interests so require". In practice also there have been in the past, cases where such expansion was allowed in the national interests. But now policies to curb concentration come in the way of private sector units even trying to maintain production by their replacement and modernisation programmes.

Ideology came in the way even in case of setting up the wrongly-so-called "mini-steel plants". These are really

electric furnaces processing steel scrap and/or sponge iron into billets, bars etc.; the annual capacity being not more than a mere 50,000 tonnes on an average, as against Bhilai's 2.5 million tonnes and Tisco's two million tonnes. Reportedly, at least 25 to 30 entrepreneurs applied to set up these electric furnaces; but the wrong use of the phrase "mini-steel plants" was enough to raise a storm on the propriety of allowing the private sector to enter a 'Schedule A' industry, and perhaps to compel the Government to drop the idea of permitting any more of such electric furnaces.

Many more such instances can be added. But the point is clear. If we must improve our capabilities to meet the challenge of defence—and on this score there can hardly be two opinions—we must also step up industrial production and capacities. This brings us to the problem of industrial stagnation and the spiralling prices, which will be referred to very briefly, only in relation to problems of poverty and defence.

The country suffers from scarcities all round, and the shortages are felt all the more acutely in the present emergency conditions. Of course, there may be some industries producing, what the Government, as the custodian of the public interest, may brand as luxury goods or inessential goods. If any of these industries also have only a limited potential convertibility for defence-oriented production. Government would probably be justified in imposing certain restrictions on the production of these industries, because it may otherwise make serious inroads into the country's limited physical or financial resources.

But once we exclude any such industries, the obvious answer would be to encourage or even compel a step-up of industrial production across the board. What is needed is a penalty, a fine or a prosecution for not expanding production and capacity at a minimum specified rate.

Moreover, industrial production, being excisable, generates vast financial resources to the Exchequer. If we undertake an analysis of the correlation of industrial production and Government's tax resources, and of other relevant factors, we would find that if industrial production were to increase at the rate of 9 per cent per year, Government's tax revenues, at current rates of taxation, would— with an inevitable small time-lag — increase by about Rs. 630 crores per year. This rate of 9 per cent is nothing extraordinary. It is simply the 4th Plan target and we achieved it ourselves, say, during 1961-65, before the economic horizon got clouded first with recession and then with anti-concentration policies.

Six hundred and thirty crores of rupees every year is not a small amount. It can meet the bulk of the quit-poverty programme (of Rs. *750* crores) advocated by Prof Dandekar; it could have met all the cost of 9 million refugees or it could have given nearly twenty rupees per month to every one of the 27 million Central Government employees as an increased dearness allowance!

Again, it is the production of industrial goods which augments supplies and has a sobering influence on prices. It is wellknown that as the incomes of the poor improve, they would like to, and they are apt to, spend an increasing portion of their new incomes on industrial goods. The quit-poverty programmes would be self-defeating if the poor earn a little more money, but find that there is no adequate supply of mass consumption goods on which to spend these extra incomes. Unless supplies rapidly match the increased demand, prices of these mass consumption goods will increase sharply, depriving the poor of this one chance to improve their real standard of living.

The spectacular success of Government's policies in siepping up foodgrains production, and its beneficial effects on the country's economy are too well known to need repetition. What is unfortunate is that ostensibly for the purpose of curbing concentration, the same realistic, pragmatic and plenty-oriented policies are being denied to the industrial sector.

This may sound elementary logic, but it is a fact, not widely known perhaps, that, in the name of curbing concentration, Commissions of Inquiry are appointed to enquire into the "lapses" on the part of companies belonging to the Larger Industrial Houses, producing more than their licensed capacity! One such Commission is working even today. Excess production and expansion needs to be eulogised and rewarded; not prosecuted against and penalised.

To sum up, it does seem evident that the anti-concentration policies and postures of the Government are preventing the nation from gearing up its resources to the fullest potential in order to meet the altogether difficult economic situation. One wonders whether it is still not high time for sinking ideological differences, and for mustering the cooperation of all—poor or rich; small or large—to meet the challenge of the day. That, I believe, will be the road to good economics as well as to good politics.

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Eugene Black

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