

Mr. Speaker: They can be discussed.

Shri M. L. Dwivedi: The discussion in the Zonal Council is a matter with respect to which this House has the right to ask questions.

Mr. Speaker: This House has no right unless it relates to a component part over which this House has jurisdiction as, for instance, Himachal Pradesh.

So far as Himachal Pradesh is concerned, I can understand. But, take for instance, other Zonal Councils, say, the Southern Zonal Council. This matter may be raised in each of the legislatures of the component States. Merely because an hon. Minister goes from here, we are not clothed with jurisdiction over these matters.

Shri Harish Chandra Mathur: These are questions of inter-State importance.

Mr. Speaker: But not connected with the Centre. Rajasthan and Punjab are not the Centre's concern in this matter.

Shri Harish Chandra Mathur: The question is concerned with inter-State affairs. Inter-State affairs can only be discussed here. They cannot be discussed in a particular State.

Mr. Speaker: All right. I will consider this anyhow.

श्री पद्म देव : : अध्यक्ष महोदय,
हिमाचल प्रदेश मंत्र के अधीन है ।

अध्यक्ष महोदय : वह ठीक है लेकिन
अब यह प्रश्न समाप्त होना चाहिये । मे
और अधिक स्पष्टीकरण की आवश्यकता नहीं करूंगा ।

I will consider this question of inter-State affairs and how far we shall exercise jurisdiction over that matter.

Kerala Education Bill

Shri Vasudevan Nair:
Shri V. C. Shukla:
Shri N. R. Munisamy:
Shri Mohan Swarup:
Shri D. C. Sharma:
*998. Shri Heda:
Shri Warrior:
Shri A. K. Gopalan:
Shri Punnoose:
Shri Vajpayee:
Shri Wodeyar:

Will the Minister of Home Affairs be pleased to state:

(a) when the Central Government received the Kerala Education Bill, 1957 for obtaining the Assent of the President; and

(b) at what stage the matter is at present?

The Minister of State in the Ministry of Home Affairs (Shri Datar):

(a) The Bill was received on the 4th October 1957.

(b) A reference is being made to the Supreme Court.

Shri Vasudevan Nair: Which are the specific points of fact or law that are being referred to the Supreme Court?

The Minister of Home Affairs (Pandit G. B. Pant): There are certain matters which seem to impinge on the Constitution and with regard to which the Ministry of Law and the Attorney-General are agreed that certain clauses offend certain other clauses of the Constitution. So it was considered desirable to refer the matter to the Supreme Court instead of withholding the assent of the President.

Shri Vasudevan Nair: Some months back the Prime Minister stated in a press conference that the Bill was being referred to the Supreme Court in order to avoid litigation by private parties in the future. Is it not a fact that private parties still can contest the Bill in the Supreme Court after this?

Pandit G. B. Pant: Whether private parties could do so or not, the question

that had to be considered was, whether the Bill which according to expert legal advice, offended the provisions of the Constitution, should be assented to by the President. He cannot, knowing that a Bill offends the provisions of the Constitution, give his assent to it. But it was considered advisable to consult the Supreme Court before reaching any final decision on the matter. It serves as a safeguard to the State concerned.

Shri Easwara Iyer: I want to know the reason why the Andhra State Education Bill, which also contained similar provisions, was not submitted to the Supreme Court for their expert opinion, as in this case.

Pandit G. B. Pant: I do not know if the Andhra Bill and this Bill are exactly alike. Perhaps they are not.

Shri V. P. Nayar: Is it a fact that the draft Bill was discussed by the Kerala Government with the Central Education Ministry in all its details and that the Bill, as it has been passed by the Legislature of Kerala, is not different from the draft which was discussed and approved by the Central Government? If so, what is the reason why this belated wisdom has come to the Government to refer it to the Supreme Court?

Pandit G. B. Pant: There were perhaps discussions in the Education Ministry, and there was also correspondence between the Central Government and the Kerala Government. But certain points which were raised in the course of the discussions or correspondence were not met. It was considered necessary and appropriate, when the Bill was received and examined by the Education Ministry, the Law Ministry and the Attorney-General, that the matter should be referred to the Supreme Court. The President has the authority to withhold assent altogether. But it was felt that in this particular case, it would be advisable to obtain the views of the Supreme

Court instead of treating the advice received from other quarters as final and withholding assent completely.

Shri H. N. Mukerjee: May I know if it is Government's intention generally to refer to the Supreme Court social legislation of a progressive and, therefore, necessarily controversial character? If not, why in the case of the Kerala Education Bill an apparently discriminatory course which encourages vested interests has been taken?

Mr. Speaker: It is a hypothetical question. It need not be answered. The hon. Minister has just now said that according to legal advice tendered to the President or the Government, there are some provisions of the Bill which are inconsistent with other provisions of the Constitution. It is on that ground that reference has been made. There is no imputation allowed. The insinuation here is that all progressive legislation is to be put an end to and, therefore, he wants an answer from the Minister that he is not a progressive Minister.

Shri Jinachandran: May I know whether the Education Minister welcomed reference of the Bill to the Supreme Court and then withdrew, after pressure from the Communist Party?

Pandit G. B. Pant: I am not aware of that.

Shri Tangamani: May I know whether any of the Bills passed by various other Legislatures have been similarly referred to the Supreme Court during 1957?

Pandit G. B. Pant: I have received a number of Bills from the Kerala Government and have obtained the assent of the President, and often communicated that assent telegraphically to the Kerala Government.

Shri Tangamani: My question is different. I want to know whether any Bill received from other States has been referred to the Supreme Court.

Mr. Speaker: Order, order. Hon. Members may be interested in it. So I allowed opportunities. But hon. Members must address supplementaries which are relevant. Generally, unless there is a conflict of opinion regarding this matter, that particular provisions offend the Constitution, what is the need to refer?

Therefore, have you referred any other! Why did you arrest X? Because he committed theft. If others have not committed theft, why did you not arrest them, the 360 millions! How does this arise? The hon. Members are all lawyers, but unfortunately they are not applying the test of relevancy here when asking questions.

Shri H. N. Mukerjee: The relevancy arises in this way . . .

Shri Tangamani: It is perfectly relevant. During 1957, a Bill which was passed by one State Legislature has now been referred to the Supreme Court. I want to know for the sake of information whether any such Bill from any other State has similarly been referred to the Supreme Court during this period.

Mr. Speaker: It is clear that no such Bill has been referred.

Shri V. P. Nayar: How is it clear?

Mr. Speaker: Because he did not answer that question.

Shri V. P. Nayar: Now it is clear.

Shri H. N. Mukerjee: As far as we know, this is the first instance of the reference to the Supreme Court prior to the giving of assent by the President to a particular legislation, because it happens to be controversial, because it is likely to cause litigation in future. If that be so, we want to know if it is Government's intention generally in regard to controversial legislation—at least in the opinion of Government—to do this kind of thing. Otherwise, this seems rather discriminatory.

Mr. Speaker: Shri Mukerjee forgets that if the hon. Minister had given the least hint or created a suspicion that because it is of a controversial nature and because it comes from a Communist Government, he is trying to make a discrimination, I would have allowed the hon. Member to pursue this matter. But he definitely said that some provisions of the Bill offended some provisions of the Constitution, and it was on that and that ground alone that the reference was made. How does the other matter—are you opposed to progressive legislation at all?—arise?

Some Hon. Members rose—

Mr. Speaker: I have allowed sufficient supplementaries. Next question.

Photographs for Voters

*1601. **Shri Ghosal:** Will the Minister of Law be pleased to state:

(a) whether there is any proposal under consideration regarding insertion of photographs in the voters' list; and

(b) if so, whether any final decision has been taken in this regard?

The Deputy Minister of Law (Shri Hajarnavis): (a) No proposal for the insertion of photographs in the voters' list is under consideration. A suggestion has, however, been made that if identity cards with photographs are given to voters at the time of registration and required to be produced by them at the time of voting, it would effectively avoid all possibility of impersonation. This suggestion is being considered in consultation with the Election Commission.

(b) Not yet.

Some Hon. Members: We could not hear.