

Clause 5

MR. SPEAKER : The question is :

"That clause 5 stand part of the Bill."

*The motion was adopted.**Clause 5 was added to the Bill.***Clauses 6 and 7**

MR. SPEAKER : The question is :

"That clauses 6 and 7 stand part of the Bill."

*The motion was adopted.**Clauses 6 and 7 were added to the Bill.**Clause 8 Substitution of new schedule-III*

MR. SPEAKER : In Clause 8, there are amendments by Shri Ajay Mukhopadhyay and Shri Badal Choudhury. Shri Badal Choudhury is not here. Shri Ajay Mukhopadhyay are you moving?

SHRI AJAY MUKHOPADHYAY : I beg to move :

Page 4, line 3, -

after "employers" insert "and employees", (4)

Page 4, line 3-

omit "to the Provident Fund" (5)

Page 4, line 14 -

*for "Central Government." substitute -**"Central Board for Provident Fund Trustees"
(6)*

MR. SPEAKER : I shall put amendment Nos 4, 5 and 6 moved by Shri Ajoy Mukhopadhyay to the vote of the House.

The amendments were put and negatived.

MR. SPEAKER : The question is :

"That clause 8 stand part of the Bill."

*The motion was adopted.**Clauses 8 was added to the Bill***Clause 9**

MR. SPEAKER : The question is :

"That clause 9 stand part of the Bill."

*The motion was adopted.**Clauses 9 was added to the Bill.*

MR. SPEAKER : The question is :

"That clause 1 the Enacting Formula, and the Long Title Stand part of the Bill."

*The motion was adopted.**Clause 1, the Enacting Formula and the Long Title
were added to the Bill.*

SHRI M. ARUNACHALAM : I beg to move :

"That the Bill be passed."

MR. SPEAKER : The question is :

"That the Bill be passed."

*The motion was adopted**(Interruptions)*

21.34 hrs.

*At this stage, Shri Nirmal Kanti Chatterjee and some
other hon. Members left the House.*

21.34 hrs.

*[English]*STATUTORY RESOLUTION RE : DISAPPROVAL
OF THE CONSTITUTION (SCHEDULED TRIBES)
ORDER (AMENDMENT) THIRD ORDINANCE,
1996

AND

CONSTITUTION (SCHEDULED TRIBES) ORDER
(AMENDMENT) BILLMR. SPEAKER : The House will now take up items
24 and 25 together. Shri Lodha not here. Shri Girdhari
Lal Bhargava. Are you moving?*[Translation]*

SHRI GIRDHARI LAL BHARGAVA (Jaipur) : I move:

"That the House disapproved of the
Constitution (Scheduled Tribes) Order
(Amendment) Third Ordinance, 1996 (No.30
of 1996) promulgated by the President on 27
June, 1996."I agree with the suggestion made in the House that
the Bill be referred to a select committee. I have risen
to oppose the frequent promulgation of ordinances. This
Bill seeks to add to the list of Scheduled Tribes certain
communities.

Sir, I, therefore, move

"that the Bill be referred to Select Committee."

*[English]*SHRI RAMESH CHENNITHALA (Kottayam) : Sir, we
have constituted the Standing Committees. The functions
and the duty of the Standing Committee are to scrutinise
the Bills. So my request to the hon. Chair is to kindly
refer this Bill to the Standing Committee.MR. SPEAKER : There is a difference between a
Standing Committee and a Select Committee. This is a
Bill which is important in the sense that there have

been lot of demands for inclusion of many communities into this List. Therefore, this Committee may have to go to different parts. There is some restriction on the Standing Committee to hold the meetings. I do not know but it is for the Government to decide.

SHRI RAM NAIK (Mumbai North) : Sir, ultimately, the Standing Committee would immediately be seized of the Budget scrutiny. Now when the Standing Committee is seized of the Budget scrutiny it will not be possible for it to look into this Bill. It will be desirable and it is better that a separate Select Committee is appointed. That would serve the purpose.

MR. SPEAKER : All right.

DR. PRABIN CHANDRA SARMA (Guwahati) : Sir, why has this Bill been sent to the Select Committee?

MR. SPEAKER : It has not been sent.

DR. PRABIN CHANDRA SARMA : Sir, why has it been so decided to refer it to the Select Committee? What are the reasons for this? Why is this Bill not passed here?

DR. ARUN KUMAR SARMA (Lakhimpur) : Sir, the Ordinance was brought when the Congress Party was in power. Several times this Ordinance has been repromulgated. Now, in my constituency, one of the member has become the Member of the Legislative Assembly. I would like to what will be the status of that person.

THE MINISTER OF WELFARE (SHRI BALWANT SINGH RAMOOWALIA) : Sir, the Government is quite aware that a lot of opposition is there to this Bill because many people want more communities to be included in the list. There are aspirations also that some comprehensive effort should be made. The point is, as quite rightly raised by my friends from Asom Gana Parishad, what will be the fate of those who are elected MLAs or who have been benefited during this period?

The Government has consulted the Ministry of Law and everything has been discussed. Upto 21st of August, from the promulgation of the Ordinance, anybody who has been benefited, his benefit will be protected. It is limited to the State of Assam and only to one community. This is the position.

In deference to the sentiments expressed by hon. Members or the House with regard to referring this Bill to a Select Committee, I bow to their wishes. Accordingly, I beg to move :

"That the Bill to provide for the inclusion of Koch-Rajbhongshi in the List of Scheduled Tribes specified in relation to the State of Assam, be referred to a Select Committee consisting of following 15 Members :

Shri Amar Roy Pradhan
Shri Dwaraka Nath Das
Shri Lalit Oraon

Shri Faggan Singh Kuleste
Shri Paban Singh Ghatowar
Shri P.R. Dasmunsi
Shri Pinaki Misra
Shri Uddhab Barman
Shri P. Kodandaramaiah
Shri S.S. Palanimanickam
Dr. Jayanta Rongpi
Dr. Arun Kumar Sarma
Dr. Prabin Chandra Sarma
Shri M. Selvarasu
Shri S.K. Karvendhan

with instructions to report by the last day of the first week of the Winter Session, 1996.

MR. SPEAKER : Motions moved :

"That this House disapproves of the Constitution (Scheduled Tribes) Order (Amendment) Third Ordinance, 1996 (No.30 of 1996) promulgated by the President on 27 June, 1996."

"That the Bill to provide for the inclusion of Koch-Rajbhongshi in the List of Scheduled Tribes specified in relation to the State of Assam, be referred to a Select Committee consisting of following 15 Members :

Shri Amar Roy Pradhan
Shri Dwaraka Nath Das
Shri Lalit Oraon
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Dr. Jayanta Rongpi
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Dr. Prabin Chandra Sarma
Shri M. Selvarasu
Shri S.K. Karvendhan

with instructions to report by the last day of the first week of the Winter Session, 1996."

SHRI P. UPENDRA (Vijayawada) : Will they also consider the other demands pending with your Ministry like fishermen, etc?

SHRI BALWANT SINGH RAMOOWALIA : No.

MR. SPEAKER : It will automatically come.

SHRI RAM NAIK : It is only limited to the tribes in the State of Assam. That is the only purview under which this will go. It will look no other things.

MR. SPEAKER : Is it only Assam?

SHRI BALWANT SINGH RAMOOWALIA : It is this subject only.

SHRI P.C. CHACKO (Mukundapuram) : A comprehensive statement - what is called for - is the explanation of the Minister. In lieu of that...*(Interruptions)* Otherwise, it will not serve the purpose.

MR. SPEAKER : Yes.

SHRI P. UPENDRA : Why can you not withdraw the Bill?

SHRI SONTOSH MOHAN DEV (Silchar) : Nobody is against inclusion of Koch-Rajbongshi. That is accepted by all the Parties, except one or two. I do not know which are these one or two Parties. Our party has accepted it. We have passed it. The question comes from Himachal Pradesh. Some people's representatives have gone by that. I am coming to them one by one. It came from Kerala. It came from other States also. The demand was that some more communities should be accommodated. Then the Central Government decided to give it immediately to Koch-Rajbongshi. An assurance was given to all these delegations, including the Chief Ministers. Some of whom met me, told me that when this Bill would be brought, a comprehensive Bill would be brought because at that time, the time was very short. Now if you say, it is only confined to Assam, it will not be correct. It has also been told that the number of people, these small tribes in other areas, involved is not much. So you should consult the ST community and then you consider it. You may reject it or accept it. Let the Select Committee consider this and then give its reports.

SHRI P. UPENDRA : From Andhra Pradesh also, there are a number of requests from communities like Rajaka, Vaddera etc. And this matter has been pending in the Ministry for a long time and all these demands may be considered. Either he should withdraw the Bill and bring a comprehensive Bill or let the Select Committee go into all these demands and come out with its reports.

SHRI RAM NAIK : There is one more important point.

SHRI P.M. SAYEED (Lakshadweep) : There is a minor community in Lakshadweep also. He should also assure that when the comprehensive Bill is brought, it will be included. Therefore, in the Select Committee, it would be the wisdom of the Select Committee to accept or reject. But it should not be confined only to Assam in which case all these communities will not be there.

SHRI SONTOSH MOHAN DEV : In Assam, Tee Tribes are considered not as SC and ST but in other parts of the country, like in Orissa, they are considered. For example, the Garos community is considered as ST in

Meghalaya and not in Assam. Like that, this disparity is there.

MR. SPEAKER : I have understood it.

SHRI RAM NAIK : That is why a new point emerges because some communities belonging to some other States will have to be considered. Now when we are considering this, then I personally feel that the names of the hon. Members who are suggested on that Committee would need some review. I would only suggest that we would leave it to you to name the Members so that it will be a broad based. This is my suggestion.

MR. SPEAKER : Okay. I think the Motion which has been just moved cannot be interpreted that the Select Committee will go strictly only with relation to the State of Assam because the Constitution Amendment Bill is to provide for the inclusion of Koch-Rajbongshi in the List of Scheduled Tribes specified in relation to the State of Assam. That is the name of the Bill. Therefore, when Assam is coming, I think the Committee will have the scope to go into the other States also. I think that is understood. And in view of the acceptance by the Government...*(Interruptions)*

MR. SPEAKER : Okay. The Members have said that the Speaker will decide.

[Translation]

SHRI GIRDHARI LAL BHARGAVA : Mr. Speaker, Sir, you have made a good suggestion. If the hon. Minister gives an assurance that all the eligible communities in the various states would be included in the list, I will have no hesitation in withdrawing the Resolution.

The Bhargavas are considered dhobi's by some and barbers by others with the implementation of your suggestion, Sir, this issue would be decided once for all.

[English]

DR. ARUN KUMAR SARMA : Sir, I want the hon. Minister to clarify whether the Congress Government, which was in power during the month of January, 1996, had decided to bring this Ordinance in the month of January because there was no consensus in the House. This should be clarified because otherwise it will carry a wrong signal and will create a lot of misunderstanding in the State of Assam, so far as the Koch-Rajbongshi community is concerned...*(Interruptions)*

[Translation]

SHRI GIRDHARI LAL BHARGAVA : Mr. Speaker Sir, I seek the leave of the House to withdraw my Resolution.

MR. SPEAKER : Okay, Has the hon. Member, Shri Girdhari Lal Bhargava, leave of the House to withdraw his Statutory Resolution?

SEVERAL HON. MEMBERS : Yes.

The Statutory Resolution was, by leave, withdrawn.

SHRIMATI GEETA MUKHERJEE : Sir, I want a clarification. If all the States have to be covered, then probably the number of members of the Committee will have to be increased.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF TOURISM (SHRI SRIKANTA JENA): Sir, the only point is that for other areas and other communities which are also applying to be included in the list of Scheduled Tribes, if it is required, the matter can be referred to the Standing Committee so that the Standing Committee can look into it. But so far as Koch-Rajbongshi is concerned, this particular Bill can be sent to a Select Committee and the Select Committee, as proposed by the Minister, can look into this. So, as regards other communities, the Government will refer the matter to the Standing Committee of the Ministry of Welfare...*(Interruptions)*

MR. SPEAKER : Unless you bring a comprehensive Bill, it cannot be referred to the Standing Committee.

SHRI SRIKANTA JENA : Sir, if you enlarge the operation of this Bill, then a Joint Select Committee of both the Houses will have to be there. If you want to restrict it to Koch-Rajbongshi with regard to Assam, then this can be sent to the Select Committee of the Lok Sabha. Since the Rajya Sabha is not there, it will be a problem to constitute a Joint Select Committee now.

MR. SPEAKER : I do not think Joint Select Committee is strictly required.

SHRI SRIKANTA JENA : This Select Committee itself, on your direction, can look into other problems also.

MR. SPEAKER : I have already said so.

SHRI SRIKANTA JENA : Then, Sir, what is the problem now?

MR. SPEAKER : There is no problem.

SHRI P.M. SAYEED : There is no problem, Sir. This very Bill can be made into a comprehensive Bill and it can be referred to a Select Committee. That is all.

SHRI SONTOSH MOHAN DEV : Sir, I do not know the Rules. The AGP Members have raised a question. Nobody, in this House, I feel, is against the inclusion of Koch-Rajbongshi...*(Interruptions)* Let me finish. Sir, since the sentiments of the Koch-Rajbongshi community are very very high, if the Government feels, they can have another Ordinance on 21st and continue with these benefits, or, as has been said, they must pass an administrative order to this effect. All these benefits which have gone to them, should be honoured. Then there will be no dispute. If that is done, then their point will be covered.

SHRI BALWANT SINGH RAMOOWALIA : Sir, as I have already made it clear, the benefits which have been made available through this Ordinance, will not be disturbed or affected.

Again I want to put forth before the hon. House, that the Government is already separately considering various petitions and requests from various communities for inclusion into the S.Ts. or change from S.Cs to S.Ts. or from S.Ts. to S.Cs. or inclusion of both. So, this Select Committee will specifically discuss this issue. The Government is prepared to discuss separately the other requests made by the different communities.

I think this should not be linked. It should be discussed separately. I assure the House that the Government will certainly take into consideration the requests and petitions from different communities separately and after consulting all the Parties we can bring a comprehensive Bill here...*(Interruptions)*

SHRI RAMESH CHENNITHALA : Sir, In Kerala there are communities like Dheeveras, Pulluvas, Kudumbis who, for the last so many years, have been demanding inclusion in the S.Ts. They are demanding for it ...*(Interruptions)* There will be agitation.

SHRI P. UPENDRA : Sir, In Andhra Pradesh there is demand from the Vaddera community...*(Interruptions)*

MR. SPEAKER : Please wait for a moment. Mr. Minister, if you want the Select Committee to go into the question of only Koch-Rajbongshi, where is the necessity for Select Committee?

(Interruptions)

MR. SPEAKER : You said in the beginning that you are referring it to a Select Committee because there are other demands from all over.

SHRI P. UPENDRA : We will oppose this ...*(Interruptions)*

[Translation]

SHRI THAWAR CHAND GEHLOT (Shajapur) : Mr. Speaker, Sir, your ruling is in order under Rule 77. The rule stipulates that the member in charge can move the Motion after the Joint Committee or the Select Committee presents its final report...*(Interruptions)*

SHRI GIRDHARI LAL BHARGAVA : I am prepared to withdraw the Resolution provided they concede your suggestion. I would simply go by your instructions ...*(Interruptions)*

[English]

SHRI P.M. SAYEED : He has already withdrawn his Statutory Resolution...*(Interruptions)*

SHRI ISWAR PRASANNA HAZARIKA : Sir, it will not be correct. In Assam itself there are so many tribes which are to be included in the list...*(Interruptions)*

SHRI SRIKANTA JENA : Sir, this should go to the Select Committee. The Government will bring a comprehensive Bill later...*(Interruptions)*

THE MINISTER OF FINANCE AND MINISTER OF COMPANY AFFAIRS (SHRI P.CHIDAMBARAM) : Mr. Speaker, Sir as I understand there is really no controversy about including this community. But, if you are including this community from Assam, apparently there are one or two other claims related to this community or the nearby areas from Assam which have to be considered. My humble appeal to all hon. Members is since the question has arisen about one community in Assam and there are some related claims in Assam in that tea garden area, that is why the request is to please send this Bill to the Select Committee which will report very shortly whether this one community or one or two more in that areas should be included.

We are aware that there are a number of claims from Kerala and other States which have to be considered. The Minister has given an assurance that this will be considered and another comprehensive Bill will be brought in which all other claims can be considered and that can be considered by the Standing Committee or the Select Committee or whatever. Please let us understand the sentiments of the people of Assam and let us send this Bill to the Select Committee. We will bring another Bill. Please cooperate with us ...*(Interruptions)*

SHRI SONTOSH MOHAN DEV : Sir, I made it clear at the beginning that I did not want to bring a controversy here. I met the hon. Prime Minister yesterday...*(Interruptions)* You were there. That was my specific proposal.

SHRI BALWANT SINGH RAMOOWALIA : We are accepting it.

SHRI SONTOSH MOHAN DEV : You did not accept that. Now you come to the House and say something. Your leader says something and this confusion arises. This was my specific proposal.

SHRI P. CHIDAMBARAM : We are accepting it.

SHRI SONTOSH MOHAN DEV : For people from Kerala and Andhra Pradesh and other States let there be another Committee.

Let the hon. Prime Minister come to the House and say that this will be done. We said that we shall allow this Bill to be referred to a Select Committee only about Assam. That was not accepted then. Now, if Shri Chidambaram - he has got the authority to say - says and if it is an assurance by the Government and not by Shri Chidambaram, that this particular Bill in spite of the fact that hon. Speaker has said it should be broad based and should be specifically for the Assam and should be considered in relation to tea garden workers who are considered as tribes in Orissa and other places, we have no objection. But there should be an assurance by the Government and not by Shri Chidambaram or Shri Ramoowalia. It is because the Government says something and then back tracks. Let us be very frank

and free. Even our Government had fallen back...*(Interruptions)* You give an assurance that a comprehensive Bill will be brought by a Joint Committee of both the Houses or by sending it to the Standing Committee, as you may think best. We have no objection. We are ready to cooperate with you.

[Translation]

THE MINISTER OF RAILWAYS (SHRI RAM VILAS PASWAN) : Mr. Speaker, Sir, the first issue is about Koch-Rajvanshi the second issue is about the entire Assam and the Third issue is about the entire country. As regards Koch-Rajbongshi, Members from all quarters, including Shri Chidambaram and the welfare Minister have extended their support. It is also true that some more communities of Assam are also proposed to be included. The second suggestion is about a comprehensive Bill to which government have no objection. The moot point is that the reservation quota for Scheduled Castes and Scheduled Tribes in the country is 22.5 per cent whereas their populations as per the 1991 census is 25 per cent. But the Supreme Court has ruled that the total reservation cannot exceed 50 per cent. In Tamil Nadu, the reservation quota is 69 per cent but it is included in the 9th Schedule. There are about 100 communities which can be included in the list of Scheduled Castes and Scheduled Tribes. When a caste or tribe is to be included in the list of SCs or STs, for the first time in a State it is the prerogative of the President of India to accord sanction. Bill if an amendment is to be made thereafter, Parliament is empowered to do it. There are two methods to determine whether a caste can be included in the list of scheduled castes or not. The first method is that the State Government recommends the case, or the Registrar General of India certifies that the particular caste faced discrimination or account of untouchability. The RGI also decides whether a particular Tribe has the characteristics of a Scheduled Tribe. After the recommendation by the State Government or the RGI, the Parliament takes a final decision thereon. With this criteria about 100-150 communities are eligible to be included in the list which would increase the percentage by 2-3 per cent. In that event, the per centage of SCs or STs may increase to 27-28 per cent, but their quota is stagnant at 22.5 per cent. The problem before the Government is that an increase in the percentage of Scheduled Castes and Scheduled Tribes would necessitate amendment of the constitution.

22.00 hrs.

Therefore, there is need to bring a comprehensive Bill. But the Government also wants the question of increase in the quota of reservation in proportion to the increase in population to be taken up along with the comprehensive Bill.

The immediate problem of Koch-Rajbongshi Community in Assam may be referred to a Select Committee.

[English]

SHRI P. UPENDRA (Vijayawada) : Sir, there is one point which has been left out. As far as I know, these things have to be considered and recommended by the Scheduled Castes and the Scheduled Tribes Commission also. I do not know whether that is the procedure to be followed in this case.

MR. SPEAKER : I think it is very clear. The Government says that a comprehensive Bill would be brought forward. So, this Select Committee will confine itself to the claims of different sections of the people of Assam including Koch and Rajbongshi. Now, I will put this Motion before the House with one condition that the names which have been mentioned in this are subject to changes that may be made by the Speaker.

The question is :

"That the Bill to provide for the inclusion of Koch-Rajbongshi in the List of Scheduled Tribes specified in relation to the State of Assam be referred to a Select Committee consisting of 15 Members, namely :

1. Shri Amar Roy Pradhan
2. Shri Dwaraka Nath Das
3. Shri Lalit Oraon
4. Shri Faggan Singh Kuleste
5. Shri Paban Singh Ghatowar
6. Shri P.R. Dasmunsi
7. Shri Pinaki Mishra
8. Shri Uddhab Barman
9. Shri P. Kodandaramaiah
10. Shri S.S. Palanimanickam
11. Dr. Jayanta Rongpi
12. Dr. Arun Kumar Sarma

13. Dr. Prabin Chandra Sarma

14. Shri M. Selvarasu

15. Shri S.K. Karvendhan

with instructions to report by the last day of the first week of the Winter Session 1996."

The motion was adopted.

SHRI P. UPENDRA : Sir, I am on a point of order.

MR. SPEAKER : The matter is over.

SHRI P. UPENDRA : Sir, once the House approves the names, the hon. Speaker will have no power to change them.

MR. SPEAKER : The House is obliging it, and the House is Supreme.

SHRI P. UPENDRA : Sir, it would be better if the hon. Speaker is given the full powers to constitute the Committee. But once the House approves these 15 names...

MR. SPEAKER : The House cannot approve it without the names.

SHRI P. UPENDRA : Once it is approved in the House, you cannot change any name.

MR. SPEAKER : The House is supreme.

SHRI P. UPENDRA : Sir, you may kindly see the rules. It would be better if you take the full powers.

SHRI P.M. SAYEED : While putting the Motion before the House, the hon. Speaker has stated that the names are subject to changes that may be made by him. It is all right.

MR. SPEAKER : Thank you hon. Members for your cooperation. The House stands adjourned to meet again on August 26, 1996 at 11.00 a.m.

22.02 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Monday, August 26, 1996/Bhadra 4, 1918 (Saka).