

If elected representatives commit any offence, they must be removed from membership and their citizenship should be scrapped.

**SHRI CHINTAMANI PANIGRAHI :** I am happy that Shri H. N. Nanje Gowda brought forward one more remark that the other Members have not mentioned. During the last six months, under this Act, seven persons were arrested and charge-sheeted and in nine states, we wanted to collect information but, nine states have reported that no such incidents have taken place. From this, it is very much visible and I can also inform you that we are taking serious action in this matter and wherever such violations have taken place, serious action is being taken.

**SHRI H. N. NANJE GOWDA :** What about removal of membership of elected representatives if they commit this offence ?

**SHRI CHINTAMANI PANIGRAHI :** You must be aware that, of late, the entire nation is rising up against this kind of offence. Somebody wanted that we should boycott the Republic Day but the whole nation came up against it and the man who wanted to boycott gave up his slogans. Our people in large majority are coming forward to defend the integrity and Honour of the country. This is a unique thing. Mass awakening is coming up. Once this mass awakening is there, it is reflected in the House. And once it is reflected in the House, then any member who violates this kind of thing, you can understand the House will decide something and it will be done. If the House decides to do something, it will be done. There is nothing to prevent this.

**SHRI H. N. NANJE GOWDA :** I beg to move for leave to withdraw the Bill to amend the Prevention of Insults to National Honour Act, 1971.

**MR. CHAIRMAN :** The question is :

“That leave be granted to withdraw the Bill to amend the Prevention of Insults to National Honour Act, 1971.”

*The motion was adopted*

**SHRI H. N. NANJE GOWDA :** I withdraw the Bill.

17 36 hrs.

CONSTITUTION (AMENDMENT)  
BILL, 1986

(Amendment of article 315)

**MR. CHAIRMAN :** Now, we take up the next item. Mr. Shantaram, Naik.

**SHRI SHANTARAM NAIK (Panaji) :** I beg to move\* :

“That the Bill further to amend the Constitution of India, be taken into consideration”.

We have now 24 States and seven Union Territories. When we enacted the Constitution, subsequently we have carried out amendments to the Constitution and we have this sort of two-tier structure whereby we have States and Union Territories. Now, two of the Union Territories out of the 9 Union Territories have been granted Statehood. It is a very welcome measure. But these Union Territories were created with the aim that they should be looked after better. The Central Government, in a way, wanted to give them a better status and better financing. But in practice, in some aspects, the Union Territories stand relegated to a backward position. If we see the Constitution itself, we find that Article 1 of the Constitution says—I may draw the attention of the Hon. Law Minister who is also present here now to this Clause—Article 1, Sub-Clause (1) says :

“India, that is Bharat, shall be a Union of States”.

There are definitions which say that the ‘States’ include the Union Territories. Somehow, we get an impression that Union Territories are treated apart from the States. Even in the very first Clause of the Constitution of India which says: “India, that is Bharat, shall be a Union of States”. What

\*Moved with the recommendation of the President.

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about the Union Territories ? One may say 'States' include Union Territories. But this is not very fair. I am coming to the amendment of my Bill. Before that, I explained the background. Another aspect is that Union Territories are not directly ruled under the Constitution in the sense that under the Constitution a law was enacted, which is known as Union Territories Act, 1963, and under that Act, Union Territories are regulated or ruled. Whereas, all other people who are residing in the States, are ruled under the Constitution directly.

The House may recollect that when the Anti-Defection Bill was brought forward in this house, it was passed overwhelmingly. Everybody enjoyed. This Act which was passed by the Parliament was not enforced in the Union Territories because as I said, the Constitution is not applicable directly to Union Territories. Subsequently, the then Home Minister Shri S. B. Chavan had to bring an amendment to Union Territories Act to make it applicable to Union Territories. Therefore, I am asking : Why this discrimination ? Why the Union Territories also should not be ruled directly under the Constitution ? Whatever provisions one may like to make with respect to Union Territories must be incorporated in the Constitution by adding a different Chapter, the Chapter known as the Union Territories.

In the same way it happens with respect to the State Public Service Commission, with respect to which this Bill is related. Under the Constitution there is a Union Public Service Commission for the Central Government and there are Public Service Commissions for States. But what about Union Territories ? There is no public services commission. Only Union Public Service Commission governs the Union Territories. They look after the service needs of the Union Territories.

Here, I am asking why there should be a difference between a State and a Union Territory ? Even if it is a small union territory that union territory must have its own public service commission known as 'Union Territory Public Service Commission'. For each union territory there should be one public service commission of its own. Why should all

the union territories be governed by Union Public Service Commission ? It is most unfair because with respect to the service matters, it creates discrimination which I would like to do away with by my proposed Bill.

As it is, Madam Chairman, I am not pleading for Goa, Daman and Diu for one reason. We are likely to get the status of statehood soon. I am confident the Prime Minister will grant it. I am pleading the case of those union territories which are still governed the way I have said earlier,

I have said sometimes that this type of discrimination is being made between a state and a union territory. It is there even between Members. I may just casually mention that when I came here as a new Member in this House, we were asked to take oath one by one. The oath was administered alphabetically statewise. When 'G' came, Gujarat MPs took oath; but not Goa, Daman and Diu MP. After all alphabets of the States were exhausted, then we were taken up as union territories. I said why this discrimination? This is a very minor thing, I don't mind. But as far as possible, these things should be avoided.

THE MINISTER OF STATE IN THE  
MINISTRY OF HOME AFFAIRS (SHRI  
CHINTAMANI PANIGRAHI : When you  
get the statehood, then?

SHRI SHANTARAM NAIK : Then the  
question is different ?

I must point out one thing. Whatever may be the Constitution or the laws in practice, I must thank our Prime Minister. The Prime Minister has taken special interest in the development of all union territories. See the time he has devoted in Andaman and Nicobar Islands; see the time he has devoted in Lakshadweep Islands and Goa and everywhere. For the development of all these union territories, the Prime Minister has taken very keen interest. Even otherwise in the body of the Constitution and elsewhere also in practice we should have this recognition.

I will just point out about Article-3 to show how this discrimination stands. With

respect to States, supposing the Parliament wants to pass a legislation to change the name of any State or to change the name of any Union Territory, then the Bill has to be sent to that State whose name is to be changed or whose boundary is to be changed. It is in the Constitution, under Article-3 that such a legislation has to be sent to be Assembly concerned. But as far as an Union Territory is concerned, this provision is not there. Article-3 very mischievously makes this exemption I may point out the explanation 1 of Article 3. it says :

“In this Article, under Clauses (a) to (e) State includes Union Territory.”

But in the proviso “State” does not include a Union territory. This proviso refers to the sending of the legislation to the Assembly. So, where a consultation is required, Union territories are taken away. There are union territories which don't have assemblies. But there are union territories where assemblies are there. So, if union territories are there where assemblies are there, why, when a name of the union territory is to be changed or a boundary of a union territory is to be changed, the Bill should not be sent. This is altogether a different aspect I have moved an independent Bill with respect to this Article 3. But I was just pointing out to this Article. Again the same law which I have referred as far as Union Territories Act, 1963, is concerned.

Under the Indian Union Territories Act, 1963 whatever advice a council of ministers gives to the administrator, that is, Lt. Governor is not binding on the Governor or the Administrator. What happens in state? The council of ministers is fully powerful in the sense the advice tendered is binding on the Government. That means in a state, we give due respect or weightage to the council of ministers. But in a union territory, we don't give same respect or same weightage to a council of ministers although the process of election of all is the same. Therefore under the Union Territories Act, what happens? The council of ministers tenders advice to the administrator or the Lt.-Governor, as we call him, and he has got a power to disagree with the decision of the council of ministers and refer the matter to the President of India. A decision taken by the council of ministers in an elected body

is referred to the administrator. He has got power to disagree and the matter is referred to the President of India. And what happens during the pendency of the decision of the President of India? The Union Territories Act says :

‘During the pendency, the decision of the administrator prevails, not of council of ministers.’

Therefore, this is the sort of discrimination which is sought to be made between a state and a union territory.

Now as far as the Bill is concerned, why we want a separate Public Service Commission? As I have said, it is our constitutional right. We should not be discriminated against. But even otherwise our service matters are vested with the Union Public Service Commission. Has the UPSC given justice to the union territories? I would say : no, because when they recruit people for services in Goa or Pondicherry or anywhere else, they are not concerned with the local requirements. They don't bother. They don't take into consideration the aspects of local needs. They will say ‘merit’. Even strictly speaking if it were really a merit, I would say : forget about it; let us have it. But things are not as clear as that and all things are not taken into consideration. For instance, if in a village of Goa, a doctor is to be recruited, the Union Public Service Commission will take the interview and send somebody from anywhere, any part of India, even dismissing or in the interview failing those person coming from the nearby village or anywhere.

When we have got talent, he will not be allowed and somebody else will be sent. But when the doctor goes to a village, he does not know the language of the villagers. When villagers complain what is happening in the stomach or here or there, they don't understand. But this is the selection of the Union Public Service Commission on ‘merit’ of a doctor in a union territory. Now where does this stand? They may say : no, we treat everybody on par and like that and like that. But this is the state of affairs.

Recently, some interviews were held for revenue officials known as ‘mamlardars’ in

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my territory of Goa, Daman and Diu I have found that hardly there are any people from Goa who appeared for the test. They were found to be unfit and some people from some other places were found to be very fit. What is the role of the revenue officials? The revenue officials are those people who have to go to the masses, explain to them our plans, see their difficulties and understand them. All the schemes of the Government are basically implemented through them. Whenever the cases of land reforms come, it is these people who have to give justice to the masses. But the people who come from the same place and who appear for interviews are considered unfit by the Union Public Service Commission and people from elsewhere who do not know the language and have nothing to do with the grassroot they are selected for such posts. I can understand that this aspect may not be considered for certain posts, but these aspects have to be considered for posts like those of revenue officials. After all, what does merit mean? Merit also means that the selected person must be able to give service to the village or the people from where he comes. If he does not understand the language or cannot understand the feelings of the people, where lies the question of any merit. And there is no regionalism involved in this. There is nothing like regionalism if people from a State or that area get jobs in those areas in preference to others. Even Indiraji was against the theory of sons of the soil and I am also against that, but she used to say that people should get jobs nearer their homes. This is the theory. There is no regionalism involved. I must get a job near my place. That is why each person should get a job nearer his place. If we consider this aspect, there will not any turmoil or problems.

As far as the general trend in the recruitment by UPSC is concerned, it is a known fact that UPSC has got some sort of a urban bias. In 1982, the then Minister of Personnel, Shri K. P. Singh Deo, had said that in 1982, fifty per cent of the people recruited in the Central Services were from the rural areas. Our country is basically rural, but the Minister made a statement at that time that only fifty per

cent were from the rural areas. You can imagine that while our entire country is basically rural, how can we take pride in the fact that only fifty per cent were recruited from the rural areas. This shows that there is something very much wrong in this.

I would, therefore, like that Article 315 of the Constitution of India should be amended. Article 315 of the Constitution reads as under :

- “(1) Subject to the provisions of this article, there shall be a Public Service Commission for the Union and a Public Service Commission for each State.
- (2) Two or more States may agree that there shall be one Public Service Commission for that group of States, and if a resolution to that effect is passed by the House, or where there are two Houses, by each House of the Legislature of each of those States, Parliament may by law provide for the appointment of a Joint State Public Service Commission to serve the needs of those States
- (3) Any such law as aforesaid may contain such incidental and consequential provisions as may be necessary or desirable for giving effect to the purposes of the law.
- (4) The Public Service Commission for the Union, if requested so to do by the Governor of a State, may, with the approval of the President, agree to serve all or any of the needs of the State.
- (5) References in this Constitution to the Union Public Commission or a State Public Service Commission shall, unless the context otherwise requires, be construed as references to the Commission

...serving the needs of the Union or, as the case may be, the State as respects the particular matter in question."

This is the Article, Madam Chairman, which requires to be amended. Therefore, my amendment is as follows :

'In article 315 of the Constitution, the following explanation shall be added at the end, namely :

"Explanation—For the purposes of this Chapter, the expression 'State' shall include a 'Union Territory' and the expression 'Governor' shall include a 'Lieutenant Governor' or an 'Administrator', as the case may be".

If this amendment is carried, all the Union Territories which are there now, shall have, or the Government shall be expected to establish, Public Service Commissions—i.e. in each of those Union Territories. I suppose the Bill which has been introduced by me, will be taken in its right spirit by Government, because if we want to give equal status to a Union Territory along with the States, then in the Constitution of India and in all other laws wherever such a discrimination exists, it has to be removed. If the intention of the Government is that the Union Territories have to be treated separately in some respects, I have nothing to say; but I still sincerely feel that Government does not have any idea in its mind to discriminate between States and the Union Territories. Somehow, these things have remained, and much attention has not been paid to this aspect.

Apart from this amendment, one thing that has to be done—which I had stated at the outset—is that we have to do away with the Union Territories Act, 1963. We have to govern the Union Territories, under the Constitution. Whatever provisions are there in the Union Territories Act, 1963 must be incorporated in the Constitution

of India, so that they become fully a part and parcel of the Constitution.

MR. CHAIRMAN : Since there are no names, if anybody wants to speak now, he can do so, but only for two more minutes.

Motion moved :

"That the Bill further to amend the Constitution of India, be taken into consideration."

[Translation]

DR. G. S. RAJHANS (Jhunjharpur) : Madam Chairman, the Bill which has been brought by our friend Shri Shantaram Naik is very important in many respects. It is a fact that "the people living in the union territories are, unfortunately considered as second class citizens. For recruitment for petty jobs, they have to depend on Delhi and if some person working in Delhi gets transferred to any other union territory he feels that he has been awarded a punishment. It is in itself a big anomaly, a very peculiar thing. As has been pointed out by my friend, if a person is appointed in a union territory—be he a teacher, a doctor or engineer—he has to contact people in Delhi oftenly; say from Goa. How much he will have to spend and how much difficulties he will have to face? Is it not then proper that a separate Public Service Commission may be constituted in Goa itself. In this connection our Government...

[English]

MR. CHAIRMAN : You can continue on the next occasion. Now the House stands adjourned to re-assemble on wednesday, the 18th March, 1987 at 11 A.M.

18.00 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, March 18, 1987/Phalguna 27, 1908 (Saka).