

"That leave be granted to introduce a Bill to provide for the prevention of hoarding of and profiteering in essential commodities of daily use."

The motion was adopted.

PROF. MADHU DANDAVATE : Sir, I introduce the Bill.

15.43 hrs.

CONSTITUTION (AMENDMENT)

BILL—*Contd.*

(Insertion of New Part XA)

[*English*]

MR. CHAIRMAN : Now, the House will take up further consideration of the following motion moved by Shri Ananda Pathak on the 6th December, 1985, namely :—

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

Shri S. B. Chavan was on his legs.

THE MINISTER OF HOME AFFAIRS (SHRI S. B. CHAVAN) : Mr. Chairman, Sir, last time I had tried to explain as to why the Government cannot accept what the hon. Member. Shri Pathak, has stated in the Constitution (Amendment) Bill. This Constitution (Amendment) Bill contemplates introduction of new Part XA in the Constitution, amending Articles 244 and 275 with a view to grant autonomous status to Darjeeling area. I have gone through the Statement of Objects and Reasons which the hon. Member has attached to his non-official Bill. It very clearly states that somehow or the other, they have a feeling of frustration; they are not able to identify themselves with the mainstream; they have been languishing behind in matters of social, cultural and political also ; they have not been getting proper representation etc. Somehow or the other, the West Bengal Assembly seems to have passed some kind of a resolution in 1981.

SHRI AMAL DATTA (Diamond-Harbour) : Unanimously.

SHRI S. B. CHAVAN : Therefore, it becomes all the more serious. The West Bengal Assembly passed a resolution unanimously recommending to the Government of India that they should set up some kind of a committee which should go deep into the matter and find out as to how the autonomous status could be given to the Darjeeling and other areas which are predominantly Nepali speaking.

First of all, if I have understood correctly, they are not saying that they are tribals, or they are scheduled castes, only on the basis of language they are saying that since they are a Nepali speaking people, they would like to have an autonomous character.

First of all, the Bengal Government will have to explain to us because it is the West Bengal Government which will have the special responsibility for the development of the backward areas in their own State. Not only in West Bengal, for that matter, in every State, there are backward areas and backward areas are the special responsibility of the State Government ; by the mechanism of planning, they have to plan in such a manner that the internal and regional imbalances are removed and they are given fair treatment. They have not succeeded in doing themselves. I do not know, whether they have, but they have not because of the very fact that this kind of a suggestion has come from the Assembly itself. I am at a loss to understand as to how it is that being fully incharge of the development of this region, they themselves thought it advisable to pass a resolution and pass on the buck to the Central Government.

SHRI AMAL DATTA : You have only to set up a Committee only. You can then consider their recommendations.

SHRI S.B. CHAVAN : I understand the implications of this. But we are opposed to the principle of it. I have to put before this august House the implication of such a kind of step. Are we prepared to accept the responsibility of having such backward areas in different States to be developed by some kind of a mechanism ? So far as Darjeeling is concerned, they are not only to get the normal

funds, they should also be entitled to get the hill areas development fund.

SHRI AMAL DATTA : They are not getting.

SHRI S.B. CHAVAN : That is a different matter. But the development of this region and such other regions is the primary responsibility of the State Government concerned.

If we have to accept this principle, then we will have to accept this responsibility that in all the States wherever there are backward areas, we grant them special status and autonomous character.

SHRI AMAL DATTA : Here we are talking about ethnic groups with separate cultural and linguistic aspects.

SHRI S.B. CHAVAN : I think that the hon. members will appreciate the fact that this cultural development is not being restricted by the status which they have now been enjoying. What is the additional factor that you are going to contribute by having autonomous character? The Statement of Objects and Reasons makes it absolutely clear that they will have the right to pass certain laws and by-laws and they will be a special entity within the State of West Bengal. If I have understood the hon. member's Bill correctly, I think that this is their objective. For development of backward regions and in matters cultural, special emphasis need to be given and there is no objection to it. The efforts that have been made by the Government of West Bengal and the West Bengal Assembly will be a very relevant factor in that. Having asked by the State Government concerned, have the Central Government ever opposed any cultural development in that area? This is also a point which becomes very relevant. At least, so far as my information goes, there was nothing of that type. In fact it has been our policy and we try to encourage and show special consideration for the development of cultural heritage of that particular area. Certainly, we are not opposed to the special cultural heritage of not only the tribal areas, but any other areas.

SHRI SAIFUDDIN CHOWDHARY (Katwa) : They have been demanding that their language 'Nepali' should be included in the Eighth Schedule of our Constitution. It has not been accepted.

SHRI S.B. CHAVAN : That is what you mean by cultural development!

SHRI SAIFUDDIN CHOWDHARY : Anything. This is also part of culture.

SHRI S.B. CHAVAN : As regards the aspect of including their language in the Eighth Schedule, I am coming to it.

First, there is a feeling of frustration because of neglect. It is rather too much for your representatives, who are supposed to be responsible for development, to come and complain that they are neglected. For so many years, Darjeeling has been there and Darjeeling has been saying that they are backward. The economic development of that area is the special responsibility of the Government of West Bengal. Certainly, we would like to understand from you as to what you have done. The Government of West Bengal give an explanation to us as to why they have not succeeded in the economic development of that area.

SHRI G.M. BANATWALLA (Ponna-ni) : They are fed up with the West Bengal Government.

SHRI S.B. CHAVAN : In fact, the argument will go against those who have passed the Resolution in 1981.

SHRI AMAL DATTA : We came to power only four years back. You were there for a longer time.

SHRI G.M. BANATWALLA : Within four years, they cannot be fed up!

SHRI AMAL DATTA : They were fed up before we came to power. Now, they had an opportunity to pass that Resolution.

SHRI S.B. CHAVAN : I have another point. Last time also, I said that the implications would be far more dangerous than what on the surface of it, seems to be the objective of this Bill. This is a very clever way of creating conflict, instead of concentrating on the economic development of the area. By diverting their attention

[Shri S.B. Chavan]

from the economic development, you are very cleverly trying to create a conflict between the Central Government and Darjeeling thereby inciting other people also in other States and similar kinds of movements may start in different areas, so that you may succeed in creating a feeling of unrest.

SHRI SAIFUDDIN CHOWDHARY : You know that there is one secessionist movement going on in Darjeeling by name 'Gorkha Land Movement' and these people who have passed the Resolution are opposing that movement. They are not secessionists. Do not attribute motives. Since the hon. Member has mentioned about Uttar Khand demand...*(Interruptions)*

SOME HON. MEMBERS : Gorkha Land.

SHRI S.B. CHAVAN : One and the same thing which will include Sikkim, parts of this Darjeeling area and also Cooch Behar and other areas and form into a Nepali speaking State. The hon. Member may be having his own ideas, but ultimately this is a step in that direction. If say this. That is a very clever way of saying the same thing in a different manner that ultimately we will have to go to a Uttar Khand State. If in the autonomous district also some of the aspirations, if they are not, then the second demand would be to ask for a Statehood. Thereafter since, it becomes a very small State going in for a Uttar Khand State or a Gorkha Land, I do not think that Government does not understand the implication of different kinds of proposals which are being put forth into the House. And that is why, I said last time that there are very dangerous implications, if we accept the proposal of this nature.

Another aspect which I have do deal with is about the inclusion of Nepali language in the Eighth Schedule. This aspect has been dealt with so many times. There have been demands for inclusion in the Eighth Schedule from so many languages. Hundreds of applications are pending with the Government and there seems to be some kind of misunderstanding that once the language is included in the Eighth Schedule, automatically development of the language is going to take place or it is

going to acquire some kind of a special status.

So far as the development of the Nepali language is concerned, certainly we are not opposed to it. They can develop Nepali language. We are prepared to give them all the help and assistance which are required for the development of Nepali language. But for development of Nepali language or constituting an academy for this purpose, I do not think that its inclusion in the Eighth Schedule is necessary.

SHRI BHADRESWER TANTI (Kaliabor) : We do not have any alternate enactment for minor languages. It is only a national academy for the major Indian languages. There is no such organisation for minor languages. That is why minor language group should be included in the Eighth Schedule. I demand inclusion of the Nepali language into the Eighth Schedule of the Constitution of India immediately.

SHRI S.B. CHAVAN : If the hon. Members are interested in the development of the Nepali language, I will request him to approach the Ministry for Human Resources Development and they will tell you as to what are the lines on which you can develop Nepali language. There is no difference of opinion about the development of a language. All languages need to be developed and Nepali happens to be one of the languages which certainly we are also equally interested to develop...*(Interruptions)* Please don't interrupt me. I have to go now.

I have to finish it by 4 o'clock. So, I don't think that even on this core also, there is any point in saying that we should go in for some kind of autonomous being granted to the Darjeeling area and that is why I fully appreciate the sentiments of the hon. Member that the backward area needs to be given special attention. It should be done by the Government concerned.

If you approach the Human Resources Development Ministry, whatever help and assistance is necessary for the development of that language, it will certainly try to help. So on both these

counts, I don't think that there is any scope for giving support to this kind of a Bill and that is why I will request the House and particularly—first the Member—that he should withdraw the Bill. And if he does not do it, then I will request the House that the Bill should be opposed.

16:00 hrs.

SHRI ANANDA PATHAK (Darjeeling) : Sir, for the last few weeks, discussion has been going on this particular Bill. I thank all the hon. Members who have participated in the discussion on my Bill, viz. the Constitution (Amendment) Bill, 1985 (Bill No. 122 of 1985).

I also thank some of my colleagues who have offered valuable suggestions for the advancement and development of the backward areas. I particularly thank hon. Members Shri Narayan Chaubey and Shri Piyus Tiraky for lending their wholehearted support to the Bill.

But on the whole, I am surprised to note that the principle and concept of autonomy have not properly been understood. I will answer the remarks of the Home Minister during the last part of my reply. I have already pointed out in my speech, while moving the Bill on 6th December 1985 that the demand for autonomy is not a separatist or secessionist demand. Rather, it is a demand for strengthening the unity and integrity of the country and for cementing the bond of brotherhood and friendship between the people of an isolated hill area situated on the extreme border and the people of the rest of India.

This is not a demand outside the purview of the Constitution of India. As a matter of fact, the concept and principle of autonomy has already been accepted in the Constitution of India under Articles 244, 244(1), 275, and Fifth and Sixth Schedules of the Constitution of India.

There are a number of autonomous districts and regions with elected Councils in Assam, Tripura, Meghalaya, Mizoram etc. And these have been prescribed in the Constitution. All these provisions are made for the people belonging to Scheduled Tribes and tribal areas.

In my last speech I have pointed out that the problem of the people of three hill sub-divisions of the district of Darjeeling is also not different from the people of the above areas, i.e. economically, culturally, educationally and in all aspects they are so backward like people in Assam and other areas in the north-eastern region.

It has been argued that this Bill tries to create another State within a State. It is not. But the definitions of State, and of Autonomous Area are quite different; and I have not pleaded for a State within the State of West Bengal. I have pleaded for autonomy for the people of compact areas of three hill sub-divisions of the district of Darjeeling and contiguous areas of the neighbouring district where the Nepali-speaking people are in a majority; within the State of West Bengal.

You must know that even the Pataskar Commission which had gone into the problem of different ethnic groups of people in the north eastern region had recommended the constitution of a State within the State, and Pandit Jawaharlal Nehru had suggested the Scottish pattern of autonomy for the people of these regions. i.e. some sort of a Statehood. Why all these exercises? Because it was realized that the people of these areas had not been able to come up on par with others, and that these people wanted to participate in the task of national reconstruction in their own way, with their own identities and distinctions as they were linguistically, culturally, socially, economically, educationally and mentally different from the majority nationalities of these States.

In the course of the discussion, some of the hon. friends also attacked the principle of reorganization of States on linguistic basis, which was one of the most vital demands of our Independence movement. But now it seems that they are discarding this principle, they are discarding all the values of national movement.

They spoke about the need of rapid development of the people of hill areas everywhere and some of my colleagues also conceded that even after the independence no desired development and progress has

[Shri Ananda Pathak]

been achieved in these areas and hence they are also not satisfied. It is not my contention ; it is the contention of our friends on the other side also.

Here is the point. Unless you involve them in the development activities, unless you allow them to participate in the administration and unless you give them the responsibility, they always feel isolated and neglected and their real urge and aspirations to participate in the nation building activities as a real partner would never be fulfilled. That is our thinking.

Only financial allocations would not solve the problem, would not fulfil their urges and aspirations. You have to draw them in the process of national integration and development of the country and also allow them to play their role in this process of development and integration according to their own aptitude and characteristics.

You should realise that they have got their distinct language, distinct culture, distinct manner and aptitude distinguished from others. But the hon. Minister has stated that this is an absurd demand of the people of hill areas. The thing is this that. The demand for autonomy was being raised for the last several years, from the very time of Morley-Minto Reforms. They represented their case before the Simon Commission and other commissions that were set up. Before these Commissions and Committees, the people of Darjeeling had repeatedly presented their case and demanded some sort of special arrangement for them because they have contributed a lot ; they have defended the country ; their contribution is not less than the contribution of other people. At the time of Britishers, they felt that they were neglected ; they were not given an opportunity to advance ; they were kept educationally, politically and socially backward ; they were in all respects isolated and their area was declared as partially excluded area, that means they were cut off from the main stream of national movement of the country ; that this "partially excluded area" was introduced according to the Government of India Act, 1935. After independence also, they are feeling that

they are isolated ; they are neglected and they are not being allowed to play their role in the development of the country and the national re-building. That is why, this demand for some responsibility, some autonomy, some sort of special arrangement was raised so that they can participate in the administration and they can have their say in the day-to-day sphere of development ; for all this, they wanted to have some sort of statutory arrangement. This is not the separatist demand, not the secessionist demand. If their reasonable demand, justified demand, democratic demand is not conceded to, then a sense of frustration will come among them and out of this frustration, different types of separatist, secessionist demands will come.

What is happening now is that this demand for the autonomy is being rejected again and again. They think that if this is so, then nothing will come up,

Therefore, we must have some other way to find out some way and means to accede to their demand. Some persons are demanding a separate State or Gurkhaland. All these are coming up out of frustration.

I am surprised to note that our hon. Minister—he is not here—from the very beginning, was attacking the West Bengal Government for its audacity passing a resolution in the West Bengal Legislative Assembly. Now, Sir, you must know that this legislation to which I am referring to was unanimously passed in the State Assembly. The Central Government has opposed the move. It is not a question that a few member here only we talking about this demand but the entire people of West Bengal is supporting this demand. Therefore, the demands of the people of Darjeeling should be given thought to, and they should be given regional autonomy and that is a reasonable demand.

Second point is regarding development. Our Minister said that it is the responsibility of the State Government. I may just inform the House, that as far as the West Bengal Government is concerned, they have tried to help all the people, the down-trodden or the backward people including the people of Darjeeling. They have also helped the Nepali speaking people, they have set up a Nepali Academy. Similarly,

they are awarding price and helping the Nepali poets, artists, writers and encouraging them. Apart from that, economic development is given due importance by the West Bengal Government, they are trying their level best to uplift the people of the backward regions. Our Home Minister, started, from the very beginning, to take the West Bengal Government, as we see everyday, to task. Not a single day passes without their making any accusations and derogatory remarks on the Left Front Government. They are picking up this habit. I do not know whether this should be allowed. I would like to reiterate that the West Bengal Government has secured an overwhelming majority. They have come to power for two terms, in succession and they will come to power again for the next term. Therefore even now, the Government should not deny this legitimate demand of the people of the hilly regions. Otherwise, it will lead to a very dangerous direction. Under the Constitution, the power to concede to the demand lies with the Central Government. I cannot but request the Government and hon. Members to ponder over this matter and to accede to their legitimate demand. What we are asking here is something within the Constitution. The concept is there in the Constitution and it is not anything against the Constitution. Therefore, I think our hon. Members should ponder over this matter and I request the hon. Members and the House to agree to the demand of these people and level their support to pass this Bill.

MR. CHAIRMAN : Before I put the Motion to the vote of the Houses, this being a Constitution (Amendment) Bill, the voting has to be by Division. Let the lobbies be cleared.

MR. CHAIRMAN : Now the lobbies have been cleared. The Question is :

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

The Lok Sabha divided.

AYES

Abdul Hamid, Shri
Acharia, Shri Basudeb
Banatwalla, Shri. G.M.

Choudhury, Shri Samar Brahma
Chowdhary, Shri Saifuddin
Das, Shri Sudarsan
Datta, Shri Amal
Ghosh Goswami, Shrimati Bibha
Hansda, Shri Matilal
Iyer, Shri V. S. Krishna
Mandal, Shri Sanat Kumar
Masudal Hossain, Shri Syed
* Peruman, Dr. P. Vallal
Rao, Shri Shrihari
Reddi, Shri C. Madhav
Roy, Dr. Sudhir
Zainal Abedin, Shri

NOES

Ansari, Shri Abdul Hannan
Antony, Shri P.A.
Basheer, Shri T.
Bhagat, Shri H.K.L.
Bharat Singh, Shri
Birbal, Shri
Chaudhary, Shri Manphool Singh
Dalbir Singh, Shri
Dennis, Shri N.
Dighe, Shri Sharad
Dogra, Shri G. L.
Gavit, Shri Manikrao Hodlya
Gomango, Shri Giridhar
Jadeja, Shri D.P.
Jitendra Prasada, Shri
Kamble, Shri Arvind Tulshiram
Kaul, Shrimati Sheila
Khan, Shri Mohd. Ayub
Kidwai, Shrimati Mohsina
Mahajan, Shri, Y. S.
Mahendra Singh, Shri
Neekhara, Shri Rameshwar
Panika, Shri Ram Pyare
Panja, Shri A. K.
Pathak, Shri Chandra Kishore
Patil, Shri Balasaheb Vikhe
Patil, Shri Shivraj V.

*Wrongly voted for Ayes

Patil, Shri Uttamrao
 Pushpa Devi, Kumari
 Rajhans, Dr. G. S.
 Rath, Shri Somnath
 Sahi, Shrimati Krishna
 Saikia, Shri Muhiram
 Sankata Prasad, Dr.
 Sathe, Shri Vasant
 Shah, Shri Anoopchand
 Sankaranand, Shri B.
 Shastri, Shri Hari Krishna
 Singh, Shri Lal Vijay Pratap
 Sukhbuns Kaur, Shrimati
 Sultanpuri, Shri K. D.
 Suman, Shri R. P.
 Suryawanshi, Narsing
 Tewary, Prof. K K.
 Variale, Shri Madhusudan
 Vyas, Shri Girdhari Lal
 Yadav, Shri R.N.

MR. CHAIRMAN : Subject to correction, the result* of the division is : Ayes : 17, Noes : 47.

The motion was negatived

*The following Members also recorded their votes :

AYES : Shir Anand Pathak, Shri Satyagopal Mishra, Shri Balwant Singh Ramoowalia Shri Bhadreswar Tanti.

NOES : Shri Abdul Ghafoor, Shri Bhola Raut, Shri Janak Raj Gupta, Shri Keyur Bhushan, Shri Digvijay Singh, Shri L. Balaraman, Shri I. Rama Rai, Shri Lachhi Ram, Shri Satyendra Chandra Guna, Shri Jagannath Patnaik, Shri Radhakanta Digal, Smt. Sunderwati Naval Prabhakar, Dr. P. Vallal Peruman. Ch. Sunder Singh, Shri K. H. Ranganath, Shri Sirpati Mishra, Shri Ram Singh Yadav, Shri J. Chaudhary. Shri M.A. Sodi, Shri P. Shanmugam, Smt. Sumati Oraon, Smt. Sheila Dixit, Shri Mohan Lal, Shri A.P. Sethi.

16.20 hrs.

CONSTITUTION (AMENDMENT) BILL

(Insertion of new article 16A, etc.)

[English]

MR. CHAIRMAN : Now we shall go to the next item. Shri G.M. Banatwalla.

SHRI G. M. BANATWALLA (Ponnani)
 Mr. Chairman, Sir, I beg to move :

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

Sir, Article 41 of the Constitution says :

“The State 1, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement, and in other cases of undeserved want.”

This Article appears among the Directive Principles...*(Interruptions)*

SHRI SAIFUDDIN CHOWDHARY ;
 He has now moved a very good Bill.

SHRI G.M. BANATWALLA : I always move very good Bills. Only your thinking is to be adjusted accordingly.

Sir, this Article 41 is among the Directive Principles enshrined in our Constitution. As such, the article is not mandatory in the sense that there cannot be its enforcement at law. No individual can have a recourse to the court for the enforcement of his right to work as also the right to public assistance in case of old age sickness, disability and undeserved want. The present Amendment Bill which I have moved before this House seeks to move this right from among the Directive Principles, to the Chapter under the Fundamental Rights. In other words, the Bill that I have moved today seeks to make the right to worke a Fundamental Right of each and every citizen of our conutry, a right which can be enforceable at law. I need hardly add at this juncture that many countries of the world have already accepted the right to work as a fundamental right. Not only