

12.54 1/2 hrs

CONSTITUTION (SEVENTY-FIRST AMENDMENT) BILL

As passed by Rajya Sabha and as reported by the Select Committee

[English]

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H.R. BHARDWAJ): I beg to move for leave to withdraw the Bill further to amend the Constitution of India, which was passed by Rajya Sabha on the 29th April, 1992, laid on the Table of Lok Sabha on the 4th May, 1992 and as reported by Select Committee on the 18th December, 1992.

MR. SPEAKER: Motion moved:

"That leave be granted to withdraw the Bill further to amend the Constitution of India, which was passed by Rajya Sabha on the 29th April, 1992, laid on the Table of Lok Sabha on the 4th May, 1992 and as reported by Select Committee on the 18th December, 1992."

SHRI GUMAN MAL LODHA (Pali): Mr. Speaker, Sir, I stand to vehemently oppose the permission for withdrawal of the Constitution (Seventy-first Amendment) Bill, 1990. Sir, the Bill relates to Articles 81, 82, 270 and 327 of the Constitution which are in respect of delimitation of the constituencies about the Scheduled Castes and Scheduled Tribes and it has got a chequered career. It was introduced by Shri Dinesh Goswami, the then Law Minister on 30th May, 1990 and passed by the Rajya Sabha on 29th April, 1992.

Sir, after it came to Lok Sabha it was referred to Select Committee on 7th May, 1992 and the Report of the Select Committee was presented to Lok Sabha on 18th of December, 1992. Sir, we are in 1994. It was expected that the Bill would be passed because a number of Sessions have intervened in between. But it is unfortunate that the Treasury Benches have not taken care to get it passed so far. Sir, this Bill relates to delimitation and there is no controversy in the House. All the Hon. Members of this House are agreed on this point. But what is sought to be done now is that after withdrawal of this Bill, these provisions are also sought to be included in a very controversial Bill which is going to be introduced or an effort is being made to introduce it just now after this. That is a very controversial matter in which the powers, the authority of the Chief Election Commissioner is sought to be curtailed by introducing a majority clause against the constitutional provisions and the basic features of the Constitution. Sir, that is going to be a very controversial matter on account of that. We are going to oppose and most of the Members of this House are going to vehemently oppose any invasion on the authority of the Election Commission to ensure that the country can have free and fair elections without the interference of the executive as thought by the founding fathers who wanted these provisions to be included in the Fundamental Rights as per the first Committee which was framed for the purposes of having the Fundamental Rights earmarked. Sir, therefore, it is of great importance. And now clubbing together these two what is going to happen, Sir, is that these delimitation provisions which are innocuous and which are appreciated, vetted and are to be confirmed and affirmed and supported by all are tagged with the provisions of Article 324 and the curtailment of powers

[Shri Guman Mal Lodha]

of the Chief Election Commissioner. That being so, the whole matter would become a controversial issue and by that process we would be jeopardising even these provisions which are already there. So, Sir, it is difficult to understand whether there is any logic, whether there is any rationale, where there is any reason for withdrawing this Bill which is non-controversial and which has been passed there and which we are all prepared to pass it by one voice. Therefore, Sir, I would request you not to grant the leave to withdraw this Bill and I would also request that the Hon. House and the Hon. Members to kindly understand the complications which are going to take place on account of clubbing of the two.

MR SPEAKER: The leave is granted or refused by the House.

SHRI GUMAN MAL LODHA: Therefore, I would request that this Bill may not be withdrawn and I oppose it vehemently and would like that the Hon. Minister should give a second thought on it and not make non-controversial issues controversial. Thank you very much.

SHRI H.R. BHARDWAJ: I assure the Hon. Member that I am not going to create any controversy. If you allow me to withdraw, you will be happy.

SHRI LAL K. ADVANI (Gandhi Nagar): If suppose by bracketing it with the other provisions relating to Election Commission for whatever reason that Bill is not passed, what happens? Unnecessarily and needlessly you are jeopardising a very important process related to elections. I am not saying you do not bring the Election Commission Bill. You are fully entitled to bring the Election Commission Bill. We will consider it

separately. But why are you jeopardising this, that is the simple question. You did not answer it yesterday, please answer it today. If you pass this Bill and then come forth with the Constitution (Eighty Third amendment) Bill, we will consider it on merits. Some of us will oppose it, some of us will support it; whether it passes or does not pass, at least the delimitation process is not halted. After all, you should realise even after passing this Bill amending the Constitution, you have to move another Delimitation Commission Bill. That has to be done. Delimitation Commission is to be set up. It is a very elaborate process. I really fail to understand why the Government does not take cognizance of this very elementary thing. I am requesting you again for a constructive purpose please reconsider this. We can pass it in half an hour. I will appeal to my colleagues in the Rajya Sabha also to see that it is not delayed. We are agreed even to extend the Session if it is necessary for that purpose.

13.00 hrs.

But please do not stop this process of delimitation on this account. Therefore I would, through you, request the Government to reconsider the matter.

SHRI H.R. BHARDWAJ: I have already submitted that we want on the matters of electoral rule the widest consensus of this House and the Parliament as a whole. You will appreciate that we have been trying till this morning to achieve that. You will be happy to note when I make my statement that some direction we have been able to achieve and we will continue to go in that direction because this electoral rule is not a partisan issue. I agree with the Hon. Member. You kindly allow me to perform my duty to withdraw this and then my statement will come. *(Interruptions)*

SHRI ANNA JOSHI (Pune): That is not your duty. Your duty is to get it passed unanimously by the whole House.

SHRI H.R. BHARDWAJ: My duty is, as far as possible, to satisfy you also.

MR. SPEAKER: The question is:

"That leave be granted to withdraw the Bill further to amend the Constitution of India, which was passed by Rajya Sabha on the 29th April, 1992, laid on the Table of Lok Sabha on the 4th May, 1992 and as reported by Select Committee on the 18th December, 1992."

The motion was adopted.

SHRI H.R. BHARDWAJ: I withdraw the Bill.

13.01 hrs.

RE: CONSTITUTION (EIGHTY-THIRD AMENDMENT) BILL
(Amendment of Articles 81, 82, 170 and 324 and Insertion of New Article 324A)

[English]

MR SPEAKER: The House shall now take up Item No. 10 of the Agenda.

SHRI NIRMAL KANTI CHATTERJEE (Dum Dum): As stated in today's order of business, it is mentioned that Shri Bhardwaj would move for leave to introduce a Bill further to amend the Constitution of India. The purpose seems to be also to withdraw the Bill. Why introduce and then withdraw? This is the business that is mentioned and no correction has come to us.

SHRI LAL K. ADVANI (Gandhi Nagar): Obviously this Government in this session has withdrawn perhaps half a dozen or more Bills which they had earlier introduced. Earlier Ministers could not envisage that one day they will withdraw it. The present Minister of State for Law contemplated it even in advance. So, while seeking leave to introduce the Constitution 83rd Amendment Bill, he has added 'also to withdraw the Bill'.

SHRI NIRMAL KANTI CHATTERJEE: You should give a ruling Sir. I have raised a point of order.

MR SPEAKER: My ruling is that your point of order is upheld. And it is a mistake committed and I think they have corrected it.

SHRI LAL K. ADVANI: It is a very meaningful mistake. Has the Secretariat anticipated it.

(Interruptions)

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H.R. BHARDWAJ): As Hon. Members of this House are aware, the Government have circulated copies of the Constitution (Eighty-third Amendment) Bill, 1994 and notice of Intention to introduce the said Bill has also been given.

The Bill is in two parts, the first part dealing with delimitation of constituencies on the basis of the 1991 census and the second with certain aspects arising out of constitution of multi-member Election Commission. Some have expressed certain misgivings about the clauses in the Bill with regard to the Election Commission.