

fare of agricultural workers, be taken into consideration."

The motion was negatived.

17.20hrs.

[English]

MR. CHAIRMAN: Now we shall take up the next item constitution (Amendment) Bill. Dr. Laxminarayan Pandeya to speak.

CONSTITUTION (AMENDMENT) BILL

(Amendment of Article 167 Etc.)

DR. LAXMINARAYAN PANDEYA (Mandsaur): Sir, I beg to Move:

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

[Translation]

The bill that I am going to introduce is a Constitution Amendment Bill which seeks to safeguard the Fundamental rights of citizens. This Bill has provision for safeguarding the Fundamental Rights of the Citizens. This Bill is in accordance with the spirit of the Constitution. The amendments proposed in this Bill define the equal rights of citizens and they are in accordance with the Article of the Constitution which deals with the equal rights of citizens. This Bill is in accordance with various provisions, Article relation to equal rights in the Constitution of India. I, therefore, understand that nobody should have any objection in regard to this Bill and Government should also not have any problems in accepting this Bill. In this Amendment Bill it has been provided to dispel the confusion prevailing in the society regarding the definition of religion. In want of a proper definition of religion, the society is deviating from its proper path. It is not inculcating healthy outlook in society.

Before referring to the various provisions in the Constitution. I would like to submit in this regard that honourable President in his Budget speech had referred to secularism (Dhara Nirpekshla) and not to panth Nirpekshta. The reasons for stating this are known to himself alone. But, our society tolerates various cults but it is not a secular society.

This term secularism is used again and again. I understand that the objections were raised to the Bill introduced by Government yesterday. These objections to the bill cannot be whether those are related to elections or were raised in the context of elections. But I feel that if religion is interpreted so narrowly we are going to invite lots of troubles and the situation will complicate further. I would like to draw the attention of the hon. Minister Shri Rai who is sitting here. Sometimes we say that it is the religion of mankind. Sometimes we refer it as national religion and national duties and sometimes as social religion. Then what is the advantage of associating it to any particular form of worship or cult or creed? The Bill introduced yesterday is the outcome of their narrow outlook.

I would like to submit that religion should be dealt with in its wider sense. In order to remove this difficulty I have introduced my Constitution Amendment Bill. Revered Mahatma Gandhi had stated it very clearly that religion should be taken in its wider sense. In the statement of Objects and Reasons I have stated that religion is a private and personal affair. It has been thoroughly interpreted in the Constitution of India and a lot has been stated there about it.

But sometimes, due to different connotations of words a wrong interpretation, doubts are created. I do not think that uniform code of conduct has been referred to in our Constitution. On the contrary, the Muslim Women Protection of Rights and Divorce Act-1986 was passed which is against the Directive Principles of the State Policy. The Government provides interpretation of religion given by late Dr. S. Radhakrishnan. The places of worship Act was

[Dr. Laxminarayan Pandeya]

passed in 1991. I do not understand in what direction the Government is proceeding by introducing such Bills. I have stated a very simple thing in my amendment. In the Article 107, I have stated—

[English]

“Provided that a Bill which affects any religion, religious place of worship, religious endowment or religious institution, shall be deemed to have been passed by each House only if it is passed by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting.”

[Translation]

This should be amended. I have requested to introduce a new Article.

[English]

“After article 111 of the Constitution, the following article shall be inserted, namely:-

‘111A. (1) Notwithstanding anything in this Constitution all laws in force in the territory of India, affecting any religion, religious place of worship, religious endowment or religious institution, which have come into force after the first day of July, 1991, shall be void,’

(2) Any action taken under the provisions of any law which has been declared void under clause(1), shall not be called in question in any Court on any ground and such action shall be deemed to have been taken in good faith.”

[Translation]

Accordingly, it has been said that the Amendment should be made in the Article 368. Now, I would like to quote the Preamble of the Constitution. It reads:

“We, the PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALISTIC SECULAR DEMOCRATIC REPUBLIC and to secure of all citizens: justice, social, economic and political; liberty of thought, expression, belief, faith and worship, equality of status and of opportunity; and to promote among them all”

I would like to draw your attention to Article 19 also. It refers to the freedom of speech and expression. The Article 25 refers to Freedom of Religion. It reads—

“Subject to public order, morality and health and to the other provisions of this part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion. Nothing in this article shall affect the operation of any existing law or prevent the state from making any law— regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice.”

But our Government restricts it and States that you want to spread communalism and this will spread communal malice and a very grave situation will emerge.

This Amendment is different to all the previous Amendments introduced or passed by you. I had requested to repeat it because it is against the spirit of the Constitution. Above the Chair of the hon. Speaker these words are inscribed “dharmachakra Pravartanay”. Now,

I would like to refer to the section 40 of the Constitution- in which there is provision of freedom to organise and practice religion. Every religion or may of its section will have the right to establish and maintain institutions for religious and charitable purpose and to manage its won religious affaris while following the ethics of public life, morality and health. When there is such a clarity, I do not think it proper on the part of the Government to being something that is against out conscience or which creates hurdle in our way. Therefore, through this Constitution amendment, I have put forth this thing. Anything of this sort should not be considered proper and should be done away with.

I would like to submit one more thing in this regard. I am quoting Article 44 of the Constitution. This article refers to uniform code of conduct. I would like to quite it to make clear as to how this thing has been specifically stated in the constitution that all the citizens would have this right and there will be a uniform code of conduct.

44 uniform Civil Code for citizens

"The State shall endeavour to secure for the citizens a uniform civil code through the territory of India."

When this is the position. I think Muslim Personal Law or Protection Act for Muslim women or any Bill for Hindus is not in accordance with the prvision of Constitution. I consider it against the constitution. I would like to quote some interpretations..

SHRI SYED MASUSAL HOSSAIN (Murshidabad): The provision in the constitution is for Uniform Civil Code and not for common civil code. There is a difference between common code and uniform civil code. .

DR. LAXMI NARAYAN PANDEYA: I have read out from the Constitution. 'The State shall endeavour to seculre for the citizens a uniform

cil code throughtout the territory of India what I have spoken in Hindu is the authoritative translation of Government of India. This is not my language. I have quoted the authoritative translation. I think that the hon. Member would understand that I have expressed my opinion in accordance with the spirit of this law. I have talked of civil code only. Why is the Government so nervous over the matter of religion? I am quoting from Report of AIR on page 459 on Article 25.

[English]

The article says that:

".....all persons are equally entitled to freedom of conscience and the right to freely profess, practice and propagate religion."

[Translation]

I think that we have got the right, but the Government wants to create a hurdle in the way. When Constitution gives this right, then why can't enjoy it? If it has been guaranteed by the Constitution, then I do not think it will be proper on the part of Government to create hurdles in its way or to enact a law in this regard. So through the constitutional amend,ent, I have emphasised upon the Government to retraint itslef and withdrqw the step, if it has taken any, in this direction and do not take any action in future. I war: :nd to say this thing so i have introduced this con: itutional amendment Bill.

I would like to say something more in this regard. On page 473 it has been stated further.

[English]

"Every religious sect, under the article, has the right to establish and maintain institutions for religious and charitable purposes and to manage its won affairs in the matters of religions."

[Dr. Laxminarayan Pandeya]

[Translation]

I do not think that the Government should have any problem in it. It should also not have any objection and nor it should create any hurdle in it. Today, Government is creating hurdles and imposing checks which in turn in creating confusion in the minds of people. Government should not create any hindrances, if we behave ourselves and according to the provisions of Constitutions. The present atmosphere of religious intolerance and religious fanaticism, is the creation of Government and not ours. So Government should not indulging in such acts, I would again like to quote the article 44 of the Constitution.

[English]

"The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India."

[Translation]

What objection does the Government have? Shri Hossain is one of my close friends and he is stressing upon the need to have uniform civil code again and again and why does the Government want to divide the people on this line? Why does the Government want to interpret it in a different way to divide the people on religious lines? All the citizens of the country are equal and it is not correct to divide them to these lines. As I have already submitted that the Government is interpreting religion in a very narrow sense, the Government interprets the religion in a right perspective as our Constitution framers had done then there is no difficulty. I would like the hon. Members of this House to express their opinions. I want to know their views. I would like to request hon. Members of the House to support this constitution amendment Bill wholeheartedly. In my opinion, if this Bill is passed, it would create an atmosphere of religious harmony and amity and put an end to atmosphere of confusion

and misunderstanding. It will mark a beginning of a few era. We would march ahead together in this direction. Therefore, I request all the Members to support this Bill.

I conclude with the request to members to support the bill.

SHRI RAMESHWAR PATIDAR (Khargone): Mr. Chairman, Sir, I rise to support the Constitution Amendment Bill introduced by DR. Laxmi Narayan Pandeya.

According to this Bill, if any Bill is introduced in future or law is enacted to put a ban on or to limit or to contain the religious sentiments of an individual or independence of religions institutions, then it would have to be passed by 2/3 majority of the House. In his Bill Dr. Pandeya has also demanded to declare the law providing for status quo of religious places as on 15th August, 1947 as null and void. This demand has been raised because the earlier Bill was not passed by Majority of the House or the 2/3 majority of the Members present in the House. That is why a demand has been made to declare that bill as null and void. Shri Pandeya while referring to the various articles and provisions of Constitution has demanded that one should have the right to practice and propagate one's religion. But through that act an attempt has been made to curb and interfere into the independence of one's religion. It has created apprehension in the minds of the people that Government may not make and include such laws in the Constitution in future. Therefore, the this amendment should be passed by the majority of the total members of Parliament. For this reason this Bill has been introduced and I welcome it.

Today, religion is being discussed very hotly and our Prime Minister is propagating in the whole country that religion should be delinked from politics. This is why Government has introduced a bill to check the interference of religion into politics. It has also introduced a separate bill in this regard. It has been done so, because we do not know the real meaning of

religion. The main Objective of religion is to create a sense of service in the heart of people for the others.

Explaining "Dharma" (religion), it has been said in the Manu Smriti—patience, forgiveness, endurance, abstention from wrong doings, sanctity, self-control, wisdom, discretion, knowledge, truth and absence of anger are ten Characteristics of religion. It has been said that these characteristics of religion should be observed. If religion is practised in the country as to how it huts the political system of the country and for this very reason, the essence of all our religion is one and the same:

"Char ved shat shastra mein bai mili hai
day-dukhdene dukh hot hai

Sukhdene sukh hoy'.

Granth Panth sab jagat ke bat batawat
teen,
Ram hriday, man men daya, tan sewa
men leen."

If our body is dedicated to the service of other people or our religion teaches us that we should be always be in service of the people and if service to people or service to poor people is the greatest religion, then why there shall be any objection or displeasure over the entry of the religion in the politics. Do we want that service to people be delinked from politics? It means that we are making efforts to prevent politicians from serving people. Today, great efforts are being made to delink religion from politics but whether the Government will make efforts to remove corruption from politics. Now efforts are being made to delink religion from politics but whether the Government is proposing to enact a law to delink corruption from politics? is any attempt being made in this regard? Politicians and intellectuals are enjoying power in the name of Gandhiji but they are silent on this subject. Do they not remember that according to Gandhiji religion is the soul of politics; without that politics will merely be a dirty game of corruption and

selfishness? Therefore, to delink religion from politics in neither possible nor desirable. So I would like to request the persons, who are admirers of Mahatma Gandhi to look into it. It was also discussed in the Constituent Assembly whether the word 'Secular' should be included in the Constitution or not. So, at that time the word 'secular' was deliberately not included in the Constitution and framers of the Constitution were also agreed with Gandhiji that religion is the soul of politics, without which politics becomes merely a dirty game of corruption and selfishness. Throwing light on the wheel of religion (Dharma Chakra) of Ashoka on the national flag, the Muslim Member Shri Sadikulla said in the Constituent Assembly that this wheel of religion will always remind the rulers of India that their presence in the Government buildings and the parliament House is not merely for self attainment but for the service to the people. Similarly Sarvapalli Dr. Radhakrishnan said that this Dharma Chakra (wheel of religion) will always remind us that truth can be attained only by following religion. If Dr. Radhakrishnan and Shri Sadikulla can define religion in these words in the Constituent Assembly then I think that is is for this very reason that "Dharma Chakra pravartanay" is engraved above the seat of Mr. Speaker. This "Dharma Chakra Pravartanay" also says that we should not have narrow feelings and views about the religion so an attempt should be made to ban or restrict it.

I remember those old days. There was a time when only religious feelings were prevailing all around. 30 years ago when we used to go to a shop to buy ghee and used to ask the shopkeeper whether there is any adulteration in the ghee, the shopkeeper used to reply that he does not want to spoil his other word prospects and future of his children by making adulteration in the ghee. If we ask the same thing to a shopkeeper today, he will say as to what he can do, he has not to spoil future of his children. If he will not make adulteration in the ghee as to how he will make fortune for his children. This difference in the feeling has been created during these years because either we have not prevented or

[Sh. Rameshwar Patidar]

explained religious feelings properly. All the persons in power and all the political leaders have been presenting a wrong definition of the religion and making of religious feelings or levelling charges and counter charges on each other, as a result of which the situation has reached this extent. Now, religion teaches us and inspires us for beneficence. It strengthens the feeling of amity and nation becomes strong. Protection of man of following religion (Dharmo rakshati rakshita) has been mentioned for strengthening a country by following religion, therefore, flame or religious amity has been extinguished by cyclone of malice. The religion or the constitution are not responsible for it but some steps taken by the Government are responsible for it.

Therefore, religion can't be held responsible for it. Today, there is a feeling among the Hindus that the Government is doing injustice, partiality and hurting their religious sentiments. So people can't be held responsible for it. If the people of India can vote on the slogans of "eradicate poverty" and "That works" then their attitude is very wide. They can't be charged for narrow religious sentiments. Now, the people of India want to construct a temple of Lord Ram. The issue of construction of temple of Lord Ram is not a religious one but it has become a national issue, and figures in the national agenda. An issue can't be called narrow or communal which is favoured by 80 percent people of the country. A few days back the hon. Prime Minister said in Gorakhpur that the temple of Lord Ram would be constructed. Now this issue has become a national issue.

A movement had been launched to stop cow slaughter in 1967 in which firing was ordered and saints were killed. After that cow slaughter has not been banned and this issue has been closed and is treated as a religious issue. But the Congress party itself says that it will construct the temple of Lord Ram at his birth place. So, I say that this is not a religious issue, it has become

a national issue. The need of the hour is to understand true spirit of religion and sentiments of any person should not be hurt only then this country can move on the path of progress, and feeling of amity and communal harmony can be created among the people. Therefore, I hope that the Government should accept the amendment presented by Dr. Pandeya for creating a feeling of amity, social prestige and social harmony.

Mr. Chairman, Sir, if Ram is separated from the culture of India then it will also lose its dignity. Then the modesty of democracy like Draupadi will be outraged daily and will be kidnapped forever as was done in the case of Sita. Therefore, if anyone crosses the limit such as Laxman Rekha, he will not be doing justice with the country and will be in the dire straits as Mother Sita faced the hardships.

Therefore, I support the amendment method by Dr. Zaxminarayan Pandeya. I would like to thank you for giving me an opportunity to speak.

SHRI SYED MASUDAL HOSSAIN (Murshidabad): Mr. Chairman, Sir, the Bill that has been introduced here by our colleague Pandeyaji represents his feeling. The Government has its own feeling. We the man of Left party, have our own feeling. We deliver lecture in favour of delinking religion from politics. The Bill that has been introduced in this regard seeking amendment to the Constitution has been sent to Select Committee on some points mentioned in the Bill. I, would not refer to that, nevertheless, I would say that even the said Bill emphasises the dogma of having equal regard for all religions.

We hold that every religion occupies its own place. Everyone is free to follow his religion in his own way. It has nothing to do with country and politics.

You can understand the motive of our colleague sitting this day. They often speak a lot in favour of construction of a Ram Mandir. What I would like to say is that religion may be followed

but not by blood-shed. Mandirs and masjids may be built in thousands but that should not cost the life of a single person. I do not object to the construction of mandir at any place. I can cite examples to support the fact that name of God is taken by everyone but they have no faith in God. There is a Masjid in Delhi while there is a Vishwanath temple in Kashi, Lightning conductors have been put up on the top of the building of this Parliament House lest the lightning should strike and the building should come down. Wherever a temple is built, lightning conductors are put up. Lord Rama does not want that lightning may strike and the temple may come down. The same system is provided to a masjid as well and devout Muslim never thinks that God does wish that a damage is done to the Masjid. If the will of God is to destroy, who is there to prevent it. I can say it openly that you do not have full faith in God, but you say something else. Whether people understand it or not or you make them understand or not.

There has already been an edivision of the country in the name of religion. There is bloodshed in the country in the name of religion. It is not so significant as to what extent the blood of both Hindus and Muslims has been shed, the significant thing is that blood of the people of the country has been shed. There was a bomb blast in Bombay on a large scale, and similar events are taking place everywhere. When our colleague had introduced this bill, I enquired of him whether it is common or uniform code. There is a difference between common code and uniform code. It has been called uniform because there are separated sets of rules. You may perhaps not be knowing that Jinnah Saheb was a Vohara Muslim of Gujarat-

[English]

He was guided by Hindu Laws.

[Translation]

Even today the Memon Brothers of Bombay

are guided by Hindu Laws. There was much hue and cry over Shahbanoo case in this House for a common code. After sometimes Article 371, perhaps (h) came up, the matter relating to statehood to Nagaland also came up and we all agreed. Whatever are the laws of Nagaland

[English]

They should prevail

[Translation]

Do they tell us as to why 'die-hard' and law of the fittest prevail even today? It had been laid down in the Constitution that every caste has its own customary laws. Personal Laws of Hindus, Muslims, Christians and Parsis.

[English]

they should prevail.

[Translation]

How will you make the law now. First of all you will have to repeal those laws if you want to enact such laws. Moreover, we all have to consider as to what would be the consequences after the laws are repealed. We often hear that there is provision for four marriage in Muslim Personal Law.

[English]

According to Hindu law second marriage is bigamy but it is a noncognisable offence.

[Translation]

Leave aside what people outside the House do, I ask all those sitting here in the House to tell honestly whether they do not have two wives. Are all such Members Muslim? Is it not a cognisable offence? Where there is need to pinpoint it is not done...

DR. G. L. KANAJIA (Kheri): It is not so.

SHRI SANTOSH KUMAR GANGWAR (Bareilly): Those who keep two wives have no place in society. It is a different matter if some have kept two or four wives. Please don't make such allegation.

SHRI SYED MASUDAL HOSSAIN: I say, it is not a cognizable offence. Hindu or Muslim women do not enjoy economic freedom, in society. Hindus and Muslims both exploit such helplessness of women. Had Hindu or Muslim enjoyed economic freedom, the case of second marriage would have been cognizable offence.

DR. G.L. KANAUIA: There is no permission of second marriage in Hindu society.

SHRI SYED MASUDAL HOSSAIN: But what is the reality? Is that an enactment of laws does not serve the purpose. I have not raised my finger at any particular community. The point that I want to drive home is that there is a wrong practice in fashion. Since the poor woman does not enjoy economic freedom, her helplessness in exploited by all whether she is Hindu or Muslim.

DR. G.L. KANAUIA: The term second marriage among Hindus should be expunged. It is not allowed among Hindus.

[English]

This remark heavily maligns the Hindu Community as a whole. I object to it. (Interruptions)

MR. CHAIRMAN: This is his personal contention.

[Translation]

SHRI SYED MASUDAL HOSSAIN: I am not blaming any person. I am just trying to remove the misunderstanding. Perhaps they take me to be a Muslim because my name is Syed Masudal Hossain. You are perhaps not

aware that I said in this very House that I am a lawyer and had practised as such for some time. I hate the concept of second marriage. I was fully conversant with law and yet I married a Muslim girl as per the provisions of special Act under which none can go for second marriage nor can divorce his wife. Not only this according to the Muslim Personal Law my property would not be bequeathed after my death. Yet I went for that deliberately. Everybody, has therefore, right to raise finger at me.

[English]

MR. CHAIRMAN: Mr. Hossain, you can continue next time when we meet again. You will get more time.]

SHRI SYED MASUDAL HOSSAIN: All right.

18.01 hrs.

HIGH COURT AT ALLAHABAD.

(Establishment of a permanent Bench at Ghaziabad) Bill

[English]

DR. RAMESH CHAND TOMAR (Hapur): I beg to move for leave to introduce a Bill to provide for the establishment of a permanent Bench of the High Court at Allahabad at Ghaziabad.

MR. CHAIRMAN: The question is:

"That leave be granted to introduce a Bill to provide for the establishment of a permanent Bench of the High Court at Allahabad at Ghaziabad."

The motion was adopted.

DR. RAMESH CHAND TOMAR: I introduce the Bill.