

BAN ON EXPOSURE OF WOMAN'S BODY IN ADVERTISEMENTS BILL*

SHRI MOHAN LAL PATEL (Junagadh): I beg to move for leave to introduce a Bill to provide for a ban on the exposure of woman's body for advertising purposes.

MR. DEPUTY SPEAKER: The question is:

"That leave be granted to introduce a Bill to provide for a ban on the exposure of woman's body for advertising purposes."

The motion was adopted.

SHRI MOHAN LAL PATEL: I introduce the Bill.

PROHIBITION OF CAPITATION FEE BILL*

SHRI CHITTA BASU (Barasat): I beg to move for leave to introduce a Bill to provide for banning capitation fee charged by educational institutions and for matters connected therewith.

MR. DEPUTY SPEAKER: The question is:

"That leave be granted to introduce a Bill to provide for banning capitation fee charged by educational institutions and for matters connected therewith."

The motion was adopted.

SHRI CHITTA BASU: I introduce the Bill.

CONSTITUTION (AMENDMENT) BILL*

(Amendment of Article 19)

SHRI CHITTA BASU (Barasat): I beg to move for leave to introduce a Bill further to amend the Constitution of India.

MR. DEPUTY SPEAKER: The question is:

"That leave be granted to introduce a Bill further to amend the Constitution of India."

The motion was adopted.

SHRI CHITTA BASU: I introduce the Bill.

AGRICULTURAL WORKERS BILL*

SHRI CHITTA BASU (Barasat): I beg to move for leave to introduce a Bill to provide for the welfare of agricultural workers and to regulate their employment and conditions of service and for matters connected therewith.

MR. DEPUTY-SPEAKER: The question is:

"That leave be granted to introduce a Bill to provide for the welfare of agricultural workers and to regulate their employment and conditions of service and for matters connected therewith."

The motion was adopted.

SHRI CHITTA BASU: I introduce the Bill.

SHRI G. M. BANATWALLA (Ponani): I object to this monopoly, Sir!

MR. DEPUTY-SPEAKER: Other hon. Members are absent. So, we go to the next item.

15.03 hrs.

CONSTITUTION (AMENDMENT) BILL*—Contd.

(Substitution of article 338, etc. by G. M. Banatwalla)

MR. DEPUTY-SPEAKER: The House will now take up further consideration of the following Motion moved by Shri G. M. Banatwalla on 6 August, 1982, namely:—

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

Time allotted—3 hours.

Time taken—2 hours 25 minutes.

Therefore, I think, it is time for the hon. Minister to intervene. You can intervene now, Mr. Minister. Then he will reply.

THE MINISTER OF STATE IN THE
MINISTRY OF HOME AFFAIRS (SHRI
NIHAR RANJAN LASKAR):

Sir, while this particular Bill was being discussed, I sat through the entire Debate on the Bill and listened to the points made by hon. Members.

15.04 hrs.

[Shri S. M. Krishna in the Chair]

Sir, it is unfortunate that some of the Opposition Members have tried to create an impression as if the Government was anti-minorities and anti-scheduled castes and scheduled tribes. It is totally baseless. As the whole country knows, this Government and the party to which we belong are for the minorities and we are for the down-trodden population. That is why they are supporting us all along; they have got total faith in us that we are making all efforts—both our party and our Government.—to see that these people are uplifted as soon as possible.

In the fact, the whole thrust of the Government activities and more particularly the 20-Point Programme of the Prime Minister is designed to ensure maximum benefits to the Scheduled Castes and Scheduled Tribes, the minorities and other weaker sections of the society. I would not like to list the various Government activities on this score as that would be stating the facts well-known to everybody. But we have repeatedly declared in this House on various occasions that the Central Government have impressed on the State Governments the importance of facilitating the work of the Commission by promptly providing information on matters referred to by the Commission. Some of our friends have also mentioned that various State Governments are not coming forward to help this Commission and I have also replied to the points raised by them that I had discussed with the Mem-

bers of this Commission and they explained to me the difficulties faced by them and now the things have been improving. I think there is no grudge from the Commission because they are now getting the required help and other assistance from the State Governments. The Government have also informed the Commission that if any specific case is brought to the notice of the Government where the State Government or any other authority has failed to cooperate fully with the Commission in performing its duties, the Government would take up the matter in an appropriate manner.

श्री रामानन्द शास्त्री (पटना) :

मान्यवर, मेरा प्रोटैस्ट नोट कर लिया जाय। इतना इम्पोर्टेंट बिल है और हमारी तरफ से कोई बोला नहीं। हमारा भी तो कोई स्टैंड होना चाहिये था। डिप्टी स्पीकर साहब ने अगर स्हमें इजाजत नहीं दी तो तो मैं उसको मुनासिब नहीं समझता। उनको मुझे अलाऊ करना चाहिये था। इसके बारे में तो हमारा कुछ स्टैंड है, और हम बोलना चाहते थे जब कि हर पार्टी को बोलने का मौका मिला। माइनारिटी कमीशन बनाने का सवाल है। लेकिन आपने हमको मौका नहीं दिया। डिप्टी स्पीकर साहब कह कर चले गये। मेरा नाम वहां दिया गया था और हम यहां बैठे रह गये। मुझे 5 मिनट का समय तो देते। इतने में कोई आसमान तो नहीं गिर जाता।

MR. CHAIRMAN: The Deputy-Speaker has just announced that 3 hours are allotted for this discussion. Already 2 hours and 20 minutes have been taken.

SHRI G. M. BANATWALLA: After the hon. Minister has spoken, he can be given a chance to speak. It is after all intervention by the Minister.

SHRI RAMAVATAR SHASTRI: From our party, nobody has spoken.

MR. CHAIRMAN: You should have raised this point before the hon. Minis-

[Mr. Chairman]

ter started intervening the debate. At that time you were keeping quiet.

SHRI RAMAVATAR SHASTRI: I had already given my name and I was under the impression that my name would be called. Now, on behalf of my party, nobody has taken part in the debate. Therefore I would like to speak something on this subject.

MR. CHAIRMAN: Now, the hon. Minister is on his legs and let him continue.

SHRI NIHAR RANJAN LASKAR: Sir, I would repeat what I said sometime back. We have repeatedly declared in the House that the Central Government have impressed on the State Governments the importance of facilitating the work of the Commission by promptly providing information on matters referred to by the Commission. The Government have also informed the Commission that if any specific case is brought to the notice of the Government where the State Government or any other authority has failed to cooperate fully with the Commission in performing its duties, the Government would take up the matter in an appropriate manner.

I have also personally talked to the Members of the Commission and they are also satisfied and now they are getting full cooperation from the State Governments.

As the Members are aware the Constitution provides for a Special Officer for Linguistic Minorities and a Special Officer for Scheduled Castes and Scheduled Tribes. At the time of the Janata Government, the Minorities Commission and the Commission for Scheduled Castes and Scheduled Tribes were set up. This led to some overlapping of functions. The proposal to give the constitutional status to the two Commissions during the Janata period also fell through. So far as our Government is concerned, we are taking steps to ensure that the Commissions function effectively. In this connection various suggestions have been made and various opinions expressed from time to time. Before taking a final view it would be necessary to consider all aspects and implications. Members can rest assured that the points made by them

will not be ignored and will be duly taken into account in arriving at a view.

In view of what I have explained, I would request Shri Banatwalla to kindly withdraw his Bill.

SHRI ATAL BIHARI VAJPAYEE (New Delhi): Sir, what about the main question? The question was whether the Government is prepared to give a statutory status to the Minorities Commission.

SHRI NIHAR RANJAN LASKAR: Sir, we are considering this aspect and it will take time. But the only thing which I can assure you is whatever suggestions they have made will be gone into and we will take a decision in view of the suggestions made.

MR. CHAIRMAN: Whatever the suggestions you have made, the Government will take a decision thereon. That is the reply.

SHRI RAMAVATAR SHASTRI: I want to speak.

MR. CHAIRMAN: According to the procedures, the rules do not permit it normally. How can we branch off from the rules? A very seasoned Parliamentarian like Shri Vajpayee should help us.

श्री रामावतार शास्त्री : लेकिन यह ठीक नहीं हुआ, मैंने अपना प्रोटेस्ट आपको बता दिया ।

This is wrong. He should have called me.

MR. CHAIRMAN: Your protest is taken note of.

श्री रामावतार शास्त्री : पार्लियामेंट में जो जो मन में आये करें, प्रीसाइडिंग आफिसर किसी की सुनते नहीं, नाम रहता है, तब भी सुनते नहीं। इतना इम्पार्टेंट मामला है, हमें भी अपनी पार्टी का ब्यु बताना होगा।

Otherwise we will be misunderstood.

SHRI G. M. BANATWALLA: Mr. Chairman, Sir, I thank the Hon. Members of this House who have participated in this debate on my Bill.

SHRI ATAL BIHARI VAJPAYEE: And also those who did not participate.

SHRI G. M. BANATWALLA: They have indeed made a very valuable contribution on this very important topic viz. vesting the Minorities Commission with Constitutional status and statutory powers.

Sir, I have already pointed out in my opening speech the other day that the question with respect to minorities commission has been engaging the attention of our leaders even prior to Independence. Thereafter the question has assumed greater importance and there is a restless demand for vesting this Minorities Commission with the necessary statutory powers so that it can function effectively and fulfil its trust with the destiny of the minorities in secular India.

Mr. Chairman, Sir, I am also grateful to the Hon. Minister for refraining from adopting a negative attitude towards the Bill and to this important question with respect to the Minorities Commission.

Sir, after the reply of the Hon. Minister I really feel that our debate today has been both light-bearing and fruit-bearing. I must thank the Hon. Minister for having given us at least this promise, though a very vague one, at least this promise that the matter would now receive the consideration of the Government.

SHRI ATAL BIHARI VAJPAYEE: They have gone back on their election manifesto.

SHRI G. M. BANATWALLA: But here, I must say that nearly half the term of this House is over; and still, this Government is applying its mind to this question of giving the Minorities Commission the statutory powers. I do not know what is the hesitation. The Congress (I), when it went to the polls in the year 1980, had its manifesto. It was on the basis of this

manifesto that they have come to power. Last time, I read out a quotation from that manifesto, promising the nation that if they are returned to power, the Minorities Commission will be given the necessary statutory powers. Are the manifestoes issued, only to be followed in breach? A solemn promise was given to the nation, a solemn promise was given to the minorities. And to-day, even after nearly one-half of the term of this House is over, the Government is still applying its mind to this question.

I would, therefore, urge upon the Government to see that the matters move expeditiously. The attitude of the Government is at least helpful. They have said that all the suggestions will be taken into consideration. But for how long? Last time, I read out a couplet of Ghalib, and the hon. Deputy Minister of Law completed it. I said:

हममे माना कि तबकुलम नहीं करेगे
लेकिन कि हो जाँगे हम, तुमको सबर होने तक।

श्री अटल बिहारी वाजपेयी : जनाब ये तो तबकुल करने पर उतारू हैं।

SHRI G.M. BANATWALLA: Therefore, I must urge upon the Government to see that it moves, not with the snail's pace, but expeditiously, in the interests of the entire nation.

The hon. Minister has told us that it is the policy of the Government to see that the minorities come up, and that the entire nation is welded into one solid nation. These are noble sentiments, but then, they have to be backed up with the necessary action. The Constitution guarantees several rights, but then there has to be some machinery; and the minorities Commission has been thought of as an effective machinery for the purpose. It must act effectively.

With respect to the Minorities Commission and its acting effectively, I cannot do better than quote from the speech by the then Minister of State in the Ministry of Home Affairs who is now a Member of

[Shri G. M. Banatwalla]

this House in the Opposition, viz. Shri Dhanik Lal Mandal when a similar Bill had come up during the Janata period. Moving the Bill, he said:

"As the hon. Members are aware, these two Commissions were initially set up by executive order for the time being, and it was considered that it would carry a more effective assurance to the groups whose interests are referred to them, if they were to be given an appropriate constitutional status. This would carry weight not only with the Government of India, but also with the State Governments."

Why have I quoted this? There is a purpose behind it. The purpose is that the matter has been engaging the attention of the Governments since a very long time. The parties may come and go; but, after all, the Government Departments have been considering this issue; and it was on certain solid facts that they came to this decision as we were told in this Lok Sabha on that particular occasion. I must, therefore, say that there is an unwarranted hesitation in this particular matter. The hon. members said that there are several suggestions that have come from various quarters for the effective functioning of the Minorities Commission.

SHRI NIHAR RANJAN LASKAR: There are various Commissions functioning whose functions are overlapping. We are considering this also.

SHRI G. M. BANATWALLA: The Government is considering these suggestions. But I am sure now a decision would soon follow and the decision would be in the positive; that is what I hope. The minorities are looking up for this particular thing. The Minister of State has said that circulars have been issued to the State Governments saying that they must cooperate fully with the Minorities Commission. Thank you. But need I quote to you, Mr. Chairman, from the First Annual Report of the Minorities Commis-

sion on page 739 when the Commission made its observation with respect to Aligarh riots, and the Commission wanted the District Magistrate and the senior Superintendent of Police to appear before it. On page 73, it says as follows:

"This is hardly the type of cooperation which the Commission expected from the State Government. In the circumstances, the Commission has had to complete its report, regrettably, without having heard the two most important district officers concerned with the handling of these disturbances."

Such are the observations coming from the Minorities Commission itself; and the point continues that the Minorities Commission has been kept at the mercy of the bureaucracy; the Minorities Commission has no power whatsoever to call for any record; they have no power whatsoever to call for any person to appear before it. I am constrained to remark that the Minorities Commission, as it exists today in its framework, is nothing but a piece of window display. I must, therefore, say and urge upon the Government to move expeditiously to see that the Minorities Commission has the statutory power and the constitutional status that is needs on which I have already dwelt at length, without which the Commission says that its work is impaired. Even the latest report of the Minorities Commission says something about the effective functioning of the Commission and in order to see that the functioning of the Minorities Commission is not impaired, they must have certain statutory powers. I have already quoted at length from all these reports; and they are all matters of record and I hope, I am sure, they will engage the attention of the Government.

I must thank all the members who have made valuable contribution while discussing my Bill. I would thank the hon. members who have supported the Bill. Shri Mool Chand Daga also spoke but he was never clear in saying where he stood as far as the provisions of the Bill are concerned. Of course, he made out a pertinent point, that is, we should pay our attention to their socio-economic condi-

tions rather than other considerations. We must, however, realise that the demand for vesting the Minorities Commission with the statutory powers is to see that it functions effectively for the socio-economic upliftment of the minorities that we have. I think there is a discrimination against the minorities; that is a part unfortunately of the social phenomenon that we have.

Therefore, a mere application of standards of equality does not solve the problem of upliftment of the minorities. Here, I would like to refer to the observations made by the Hon'ble Judge of the Supreme Court in the famous St. Xavier's College case reported in AIR 1974 Supreme Court 1389. He says, at page 1406:

"According to Advisory opinion of the Permanent Court of International Justice of Minority Schools in Albania (6th April, 1935), Publications of the Court, series A/B No. 64, p. 19:

'whereas equality in fact may involve the necessity of differential treatment in or order to obtain a result which establishes an equilibrium between different situations.... It is easy to imagine cases in which equality of treatment of the majority and of the minority whose situation and requirements are different, would result in inequality..... Equality between members of the majority and of the minority must be effective genuine equality.'

And then they go on further to say:—

"We are of opinion that this view is a sound one."

Therefore, the entire question that has been raised is, in order to see that the situation should take into consideration the necessary policies that are pursued, and we have a Commission which is effective enough to deal with the problems that come up. While considering the various suggestions, I must urge upon the Government to keep in mind two important

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things: First is that the Commission must have the necessary statutory powers and constitutional status in order to function effectively. Second is the question of appointment and of the terms of the Minorities Commission. Today, we find that the members of the Minorities Commission are being appointed on an year to year basis. This is a hardly satisfactory method of appointment of the members of the Minorities Commission. Every year, the members are being appointed on an annual basis. Every year, they have to wait for the Government's renewal. It is most undesirable that the terms of appointment of the members of the Minorities Commission should so remain at the pleasure of the Government and the executive. I must, therefore, urge upon the Government that when it considers the various suggestions with respect to the Commission it must have a very clear policy with respect to the terms of appointment of the members of the Minorities Commission so that it can function without any fear whatsoever in an effective manner.

I must thank the Government for the assurance—though a vague one—that the entire aspect will be considered. I am sure that they will now take a longer time. I am sure that the hon. Minister will come to this House with the Government's own suggestions, running parallel almost to the provisions of the Bill that I have placed before this House, because the Bill has almost secured a national consensus during all these years, with the hope—some say that fools live on hopes—and with the assurance that has come from the hon. Minister, I seek leave of this House to withdraw the Bill. I hope that the Government will move at a greater speed and come forward with its own suggestions and also accept the various provisions that have been incorporated in the Bill that is before this House. I thank the hon. Minister for his reply and also the hon. Members who have made valuable contribution while speaking on the Bill.

I move for leave to withdraw the Bill further to amend the Constitution of India.

MR. CHAIRMAN: The question is:

"That leave be granted to withdraw the Bill further to amend the Constitution of India."

The Motion was adopted

THE G. M. BANATWALLA: Sir, I withdraw the Bill.

15.30 hrs.

RIGHT TO PRIVACY BILL

MR. CHAIRMAN: Now, we take up the next Bill i.e. Right to Privacy Bill.

SHRI V. N. GADGIL (Pune): I beg to move:

"That the Bill to provide for right to privacy to every citizen of India be taken into consideration."

It may appear an unusual Bill because the concept of privacy itself is not very deep-rooted in this country. I believe, in a democracy, every citizen should have the right to privacy. Indeed, one may go to the extent of saying that the right to privacy is the source of all democratic rights.

In recent years, with the fantastic development of technology, there has been a tremendous invasion on privacy in western countries. It almost appears as if the nightmarish world of George Orwell of 1984 is about to become a reality.

The three forces which are invading this privacy are the Government, the big corporations and the big media. As one English writer said that three dangers are the over-eager constable, the over-zealous investigator and the over-nosy journalist. These are causing considerable invasion on privacy in western countries. In a sense, this Bill is an anticipatory Bill, because in ten years time, we may have similar problem in that acute form in this country.

My Bill seeks to provide four things. I will not read the Bill. In the first place, what the Bill proposes is to

give a legal right of privacy to every citizen. Secondly, to make it actionable in the sense, to use the technical term, like in the Law of Torts, a person will be entitled to go to the court against any person, who invades this right. In the third place, it provides a remedy in two ways. First, the court can grant injunction prohibiting a person or an institution from invading the privacy and the second alternative remedy is, if invasion is proved, the citizen will get damages. In the last, I have provided for certain defences. If in public interest, there is invasion for a justifiable cause, then there will be no right to privacy. These are broadly the four concepts.

Before I deal with the concept of privacy in the technical, practical and theoretical sense, I would like to make a submission regarding certain misconceptions.

In the first place, I would like to state the origin of this Bill. There is a weekly of a particular political persuasion, which is very imaginative, Mr. Vajpayee. When this Bill was introduced, it wrote that Mr. Gadgil has brought this Bill at the instance of Government. There is some diabolical plan behind all this and, therefore, at the instance of Mr. Sathe, I was asked to bring this Bill and I brought this Bill. This is not only unfair to me but poor Sathe did not know about this Bill at all. After it was introduced, when I met him in the lobby, he said: "What have you done? What Bill have you introduced?" I have received a query about it. I said, "This is the Bill." So, this is for the first time he learnt that such a Bill is introduced.

SHRI ATAL BIHARI VAJPAYEE: (New Delhi): You did not keep him informed?

SHRI V. N. GADGIL: The second misconception is that it is some kind of a western fashion, a new fangled idea like pollution or as some people said ecology is not a problem of India, it is some borrowed concept. Similarly it is not that privacy is something that I have borrowed in an imitative way or fashion; that is not so.