

the interest of bidi workers, as well as millions and millions of construction workers, this restriction of five years should be amended. Even if they are working for 240 days in a year, they should be given the gratuity. All the workers who are engaged in the construction activity under contractors, they may work for six months, seven months or may be one year under one contractor in a particular construction. After finishing that work they may go to another site and may be working under another contractor. They are also being denied this gratuity. So, to protect the interests of those workers, some amendment may be made in the Act to stipulate for the contractor or the employer to issue pass-books to the workers, and to remit the amount which is being paid as gratuity in the account of the concerned worker.

There are a large number of workers who are working in public undertakings for example, in major ports. Thousands of workers are engaged as casual workers for the last 10, 15, 20 years. They are also being denied the gratuity benefits. They may be made permanent after 9, 10 or 11 years of service and only after putting in five years of permanent service they are entitled to get this gratuity. This should go. Their entire service, whether casual or permanent should be taken into account.

Many workers and employees are engaged after super-annuation. They are also entitled to get gratuity only after rendering five years service. This also has to go. They are rendering service because they are more experienced. So, even though they serve for only one year after superannuation they also may be given this gratuity.

Gratuity should be paid to all workers including badli, casual and contract workers and their interests should be protected by making necessary amendments in the Act.

The provision for punishing the employer who contravenes the Act or is making defaults is one year's imprisonment or Rs. 1,000 as fine or both. What is the value of Rs. 1,000? Who is afraid of this fine of Rs. 1,000? By denying the gratuity or other benefits to the workers they can

make tens of thousands of rupees. So, if you threaten them with this fine of Rs. 1,000 no employer is going to be afraid of that. My request is that this amount may be enhanced substantially.

The gratuity amount should be paid the very same day the worker or the employee retires or his service is terminated. The practice at present is to keep the amount for long...

(Interruptions)

MR. DEPUTY-SPEAKER : Mr. Lawrence, you can continue next week. We will now take up Private Members' Legislative Business. Bills for introduction, Shri Anwer Ahmad-Absent.

15.30 hrs.

ANDHRA PRADESH LEGISLATIVE
COUNCIL (ABOLITION) BILL*

SHRI G. BHOOPATHY (Peddapalli) : I beg to move for leave to introduce a Bill to provide for the abolition of the Legislative Council of the State of Andhra Pradesh and for matters supplemental, incidental and consequential thereto.

MR. DEPUTY SPEAKER : Motion moved :

"That leave be granted to introduce a Bill to provide for the abolition of the Legislative Council of the State of Andhra Pradesh and for matters supplemental, incidental and consequential thereto"

SHRI GEORGE FERNANDES (Muzaffarpur) : Sir, I am aware of the fact that it is not customary in this House to oppose a Private Members' Bill at the stage of introduction. But, I am constrained to resort to the extraordinary move of opposing at the introduction stage, a Bill, which I otherwise support. This Bill is coming in an extraordinary situation also, because in the Andhra Pradesh State Assembly there is a motion of breach of privilege, which

has been moved against a member of this House, the hon. Law Minister. I think the poor Law Minister is being made a scapegoat.

SHRI XAVIER ARAKAL (Ernakulam) : On a point of order. Is that a ground for opposing the introduction of this Bill? Can an hon. Member take that as a plea?

SHRI GEORGE FERNANDES : I am explaining the extraordinary circumstance in which an ordinary piece of legislation, which I otherwise support, I have to oppose at the introduction stage itself. The point that I am making is that it is not the Law Minister, it is the entire Council of Ministers headed by the Prime Minister, who are guilty of breach of privilege. However that is not the point that I am discussing now.

The Andhra Pradesh State Assembly, on 24th March 1983, almost a year back, passed a Resolution calling for the abolition of the legislative council. They did that, provided under the Constitution of the country. Within a fortnight of its passing, the resolution was sent here, the Chief Minister of Andhra Pradesh wrote, not once but twice, to the Prime Minister of the country and personally spoke to her, again not once but twice and thrice, stating "I have sent a resolution, which is in conformity with the constitutional provision, please have this law enacted, by Parliament so that the decision of the State Legislature of Andhra Pradesh is honoured".

In any case, it is open to this House, whether to honour that Resolution or not.

PROF. N. G. RANGA (Guntur) : That is right.

SHRI GEORGE FERNANDES : I am glad that the Deputy Leader of the ruling party endorses my view that it is open to this House whether to accept that piece of legislation or not. Now, this is precisely where my entire case for opposing this Bill lies. It is admitted by the Deputy Leader of the Congress (I) that it is the prerogative of

this House whether to accept or reject the Resolution adopted by the Andhra Pradesh State Assembly. This Resolution, adopted on the 24th March 1983, was forwarded to the Prime Minister and to the Government of India on the 7th April 1983.

Then there were a series of letters from the Chief-Minister of Andhra Pradesh to the Prime Minister and a number of meetings between the Prime Minister of this country and the Chief Minister of Andhra Pradesh.

Now my question is this. Where is the legislation before the House? (*Interruptions*). If it is as simple as that, I am here to endorse this Bill. In fact, I would have been the first to second it, even though seconding may not arise at the stage of introduction. The hon. Deputy Leader of the ruling party has said just now (*Interruptions*) He said that it is the prerogative of this House. Now Sir, look at the Constitutional provision. I would urge that you should have a look at Article 169 of the constitution because you will be called upon to give your ruling on just now.

MR. DEPUTY-SPEAKER : The mover will reply to your question.

SHRI GEORGE FERNANDES : Now, what does article 169 (i) says?

"Not with standing anything in Article 168, Parliament may by law provide for the abolition of the Legislative council of a State having such a Council or for the creation of such a Council in a State having no such Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two thirds of the members of the Assembly present and voting."

This Article says Parliament 'may'. And I think the Deputy leader of the Congress (I) say that in that 'may', the Government has the discretion whether to bring forward a Legislation or not. Sir, the discretion is

with Parliament and this is the point which I want the Government to understand. The discretion is with Parliament. Parliament may pass the Law. It is not that the Government may bring forward the legislation. It is the Parliament may pass the Law. The Parliament may not pass the Law. It is open to Parliament to reject the decision of a State Assembly.

SHRI XAVIER ARAKAL : Sir, I am on a point of order under Rule 72. It says :

“If a Motion for leave to introduce a Bill is opposed, the Speaker, after permitting if he thinks fit, allow brief statement from the Member who opposes the motion and the Member who moves the Motion.”

SHRI GEORGE FERNANDES : Sir, he is creating disorder.

(Interruptions)

MR. DEPUTY-SPEAKER : He says, Mr. George Fernandes, you please stick to that rule.

SHRI GEORGE FERNANDES : I am within the rule. This is such a complex matter that even a brief statement has to be long statement. After all what is a brief statement? We earlier also ran into similar problem when the Parliamentary Affairs Minister said that the Minister will need time. The question was how much time.

MR. DEPUTY-SPEAKER : Do you need such a detailed speech when it is at the introduction stage?

SHRI GEORGE FERNANDES : Sure, Sir.

PROF. SATYASADHAN CHAKRABORTY : At least he has to be reasonable.

SHRI GEORGE FERNANDES : So, my submission is that here the Government has failed in its duty to bring forward this Bill. The Government has committed not only breach of privilege of the Andhra Pradesh Assembly, but the Government has also

committed a breach of privilege of this very House. In fact, I have already given a notice of a Motion of breach of privilege against the Prime Minister and the Council of Ministers. I have already given it because there is very clear breach of privilege. It is our prerogative to decide whether to respect the decision of the Andhra Pradesh Assembly or not.

MR. DEPUTY-SPEAKER : Now, you come to the point. Why are you opposing its introduction?

SHRI GEORGE FERNANDES : This is precisely because I want the Government to come forward with a Bill. This is precisely because the Government has so far failed to come forward with a Bill. I want the Government to endorse the Bill which Shri Bhoopathy is moving now that I am opposing its introduction.

श्री जी. भूपति : श्री जार्ज फर्नांडिस एक टिनामिक लीडर है। यह बहुत हिस्टोरिकल बिल है जिसको मैं इट्रोड्यू कर रहा हूँ। अफसोस की बात है कि उन्होंने उसका अपोज किया है। मे समझना है कि केन्द्रीय सरकार बहुत गलत रास्ते पर जा रही है और कास्टीट्यूट की बेज्जती कर रही है। यह एक कांस्टीट्यूशन मैटर है। आंध्र प्रदेश न एक रेजोल्यूशन 24 मार्च को पास किया था और 26 मार्च को उस रेजोल्यूशन को आंध्र प्रदेश के मुख्य मंत्री ने प्राइम मिनिस्टर के पास भेज दिया था। अभी तक उसका पार्लियामेंट में लाया नहीं गया है, यह बटन ही अफसोस की बात है। चूंकि वह इसको नहीं लाई है इस वास्ते मुझे उसको प्रा. वेट मैम्बरज बिल के तौर पर लाना पडा है। यह केन्द्रीय सरकार के लिए शर्म की बात है। जल्दी से जल्दी इस बिल को पार्लियामेंट में रख कर पास करने के लिए आप से अर्ज कर रहा हूँ। या फिर आप मेरे ही बिल का ऐडोस करे।

ला मिनिस्टर ने एक ऐसा रत लिया कि यह एक टि. डिविजुअल मैटर है। रतना बा

हिस्टारिकल बिल और उसको इंडिविजुअल मेटर कहना ठीक नहीं है। क्या वजह है जो यह नहीं आ सकता ? क्या संविधान के अनुसार ऐसा नहीं हो सकता है ? आप क्या करना चाह रहे हैं ? यह बिल पास करने जा रहे हैं या डिस्कशन अलाउ कर रहे हैं ? मेरी राय में आपको इस बिल को संजीदगी से लेना चाहिए।

(Interruptions)

SHRI GEORGE FERNANDES : After hearing his submission I am convinced that I should withdraw my opposition

MR. DEPUTY-SPEAKER . The question is :

“That leave be granted to introduce a Bill. To provide for the abolition of the Legislative Council of the State of Andhra Pradesh and for matters supplemental, incidental and consequential thereto.”

The motion was adopted.

SHRI G. BHOOPATHY : Sir, I introduce the Bill.

15.42 hrs.

CONSTITUTION (SCHEDULED CASTES) ORDERS (AMENDMENT) BILL

By Shri P.J Kurien

MR. DEPUTY-SPEAKER : Now we take up further discussion on Prof. Kurien's Bill Constitution (Scheduled Castes) Orders (Amendment) Bill First, two hours time was allotted and later one more hour was allotted Out of three hours we have exhausted two hours and eighteen minutes and we have got 42 more minutes. Some more hon Members have to speak. Anyhow we have to complete it.

(Interruptions)

MR. DEPUTY-SPEAKER : You will get a chance. Another Bill is also there and it has to be taken up.

Now, Mr. Xavier Arakal may speak.

SHRI XAVIER ARAKAL (Ernakulam) : Sir, I go appreciate the spirit in which the Bill was moved by Prof. P.J. Kurien. He has given very cogent reasons as to why this discrimination should be removed from the statute.

Sir, we are in a blessed country where we have the freedom of religion which our Constitution has guaranteed, very well so. In the Preamble itself, it says :

“Liberty of thought, expression, belief, faith and worship.”

So also, if you refer to Part III of the Constitution relating to the Fundamental Rights, throughout the Constitution we can see very well that any religious faith is well protected in our country. Therefore, this country compared to many other nations is a blessed country wherein we have the liberty to practise any religion or belief or faith. Therefore, the Orders, five in number, which are mentioned by our hon. Member, Prof. P.J. Kurien, do deserve consideration by the Government. The proviso in these Orders says :

“No person who professes a religion different from the Hindu or the Sikh religion shall be deemed to be a member of the Scheduled Castes.”

Sir, nowhere in the Constitution it is stated that religion is the criterion on which the other benefits are given out Precisely this is the argument to say that whatever may be the religious faith, that should be a private personal affair though it may amount to some other consideration. Sir, in this matter what the Bill is seeking is to remove the discriminatory measure pronounced in these five Orders, viz ‘No person who professes a religion different from the Hindu or the Sikh religion shall be deemed...That ‘deemed’ provision has to be removed. As I said earlier, on conversion many of them retained the same characteristics in which they have lived.

That is the main issue on which this has to be review. Therefore it is the conviction taken by Prof. Kurien that this