

हिस्टारिकल बिल और उसको इंडिविजुअल मैटर 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 अलाऊ 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 reviewed. Therefore it is the conviction taken by Prof. Kurien that this

Order tantamounts to discrimination in many respects. When you think about the social economic and other backwardness of this Section of the people, I also endorse the view expressed in this House by the mover that this— five orders in number— do require consideration of the Government and the Government may take appropriate measures to remove this discrimination based on religious faith.

I do understand that under Article 341 the State Government has to take a measure in order to remove it. Of course, the Central Government also has an imperative duty to see that no injustice is done on account of the religious faith. The Scheduled Castes and Scheduled Tribes do require the Protection of the Government. The benefits should be given on the basis of the original criteria viz, the Scheduled Castes and the Scheduled Tribes.

Based on these points may I also appeal to the Minister to consider whether the Government can remove the discriminatory Proviso as pronounced in the five orders?

With these words, I support the Bill.

SHRI BAPUSAHEB PARULEKER
(Ratnagiri) This bill seeks to remove clause 3 from the Constitution Scheduled Castes Order 1950. Clause 3 says

“Notwithstanding anything contained in paragraph 2, no person who professes a religion different from Hinduism shall be deemed to be a member of the Scheduled Castes.”

The entire problem that has to be considered is as to what is the definition of the word ‘Scheduled Castes’. This Clause 3 was included which says that the Scheduled Castes only from the Hindu religion shall get the benefit of the Constitutional provisions. If we read the definition of the word ‘Hindu’ for which a guideline has been given in our Constitution, Article 25 says that the word Hindu shall include Sikhs, Buddhists and Jains. Therefore whoever are Scheduled Castes in Buddhists, Sikhs, Jains and Hindus, they get the benefit of the Constitutional provisions by which some benefits are given

to the Scheduled Castes. Which are the castes and religions which are excluded? They are Parsis, Anglo-Indians, Mohamadans and Christians. In Parsis and Anglo-Indians there are no Scheduled Castes. The question is if there are any Scheduled Castes which one is equated with untouchables amongst the Muslims and Christians. If I am correct, I feel, at the time when this Particular Article 341 under which this Ordinance came to be drafted and passed, the thought was given and unanimously the framers of the Constitution came to the conclusion that there was no untouchability in Islam. There was no untouchability amongst the Christians and therefore, Scheduled Castes is not a caste which is among the Christians and the Islam. If we pass this Bill impliedly we mean that Islam and Christianity recognise in our country untouchability and the Scheduled Castes. Are we going to do that? I therefore, respectfully bring to the notice of the Mover of this Particular Bill is it is intention to get admission from the Parliament of India that Christianity and Islam at any time recognised untouchability that is, a class which is known as the Scheduled Castes?

I do agree that there are weaker sections in all religions. But weaker sections cannot be equated with Scheduled Castes. I may invite the attention of the hon. Members of the House to article 46 which makes a clear distinction between the two. Article 46 runs like this

“The State shall promote with special care the educational and economic interests of the weaker sections of the people and, in Particular, of the Scheduled Castes and the Scheduled Tribes.”

So, this clearly lays down that the intention of the framers of the Constitution was to treat weaker sections as the genesis out of which the Scheduled Castes were the species. The Scheduled Castes were a community, an unfortunate group of people who were called untouchables only among the Hindus and, therefore, under article 341, a special provision came to be made.

The word ‘Scheduled Castes’ has again been defined in article 366(24). The wording is similar to that of in article 341.

Now, I would like to bring to the notice of the hon. Members that this very subject was considered at the time when article 341 came to be framed. One of the hon. Members of the constituent Assembly brought it to the notice of all other hon. Members in his speech I would like to quote it. I would clear all the doubts in the minds of the people who are in favour of this particular amendment. Shri V.I. Muni-swami Pillai, while speaking in the Constituent Assembly, when this article was being drafted said :

“Mr. President, I come to support the amendments that have been moved by the Hon.

“Dr. Ambedkar, These amendments deal with the definition of Scheduled Castes. As far as I can see, he has made it clear that, according to the second part of it, the President on the 26th January, 1950, will publish a list of such communities that come under the category of Scheduled Castes. But I would like to inform this House of the background which brought out the special name of Scheduled Castes, It was the untouchability, the social evil that has been practised by the Hindu community for ages that was responsible for the Government and the people to know the section of people coming under the category of Hindus and who were kept at the outskirts of the Hindu society. Going back: wards to 1916, it was in that year when Government found that something had to be done for the untouchable classes, (when they said untouchable classes, they were always understood to be Hindus) and they had to be recognised. In Madras, there were six communities that came under this classification. During the Montagu:Chelmsford reforms, they were made ten. In 1930 when the great epoch-making fast of Mahatma Gandhi came about, then only the country saw who were the real untouchable classes. And in the 1935 A.t,

the Government thoroughly examined the whole thing and as far as the Province of Madras is concerned, they brought 86 communities into this list or category, though there were some touchable classes also. Now, after further examination the Provincial Governments have drawn up a list and, I think, according to the amendment mover's suggestions, all those communities that come under the category of untouchables and those who profess Hinduism will be the Scheduled Castes, because I want to emphasise about the religion: I emphasise this because of late there have been some movements here and there, there are people who have left Scheduled Castes and Hinduism and joined other religions and they also are claiming to be Scheduled Castes. Such converts cannot come under the scope of this definition.

“While I have no objection to Government granting any concessions to these converts, I feel strongly that they should not be clubbed along with Scheduled Castes.”

This was accepted by Dr. Ambedkar and, while the definition of “Scheduled Castes” came to be made which we find in article 369(24), it has a reference to this speech which was accepted by all the members of the Constituent Assembly who were present when this article came to be drafted.

Under the circumstances, there is no objection to giving the benefits to those untouchables who were in Hindu religion but due to conversion, have embraced Islam or Christianity

But, they should not be treated as Scheduled Castes. That would mean that Scheduled castes are still there in Mohammedan religion and in Christian religion. It is on this background, I would respectfully urge the mover of the Bill to see whether it is his intention, to tell the people of this country “Yes, Islam and Christianity do

recognise untouchability". That is the implied meaning of this particular Bill. I have absolutely no objection to giving all the benefits as in weaker section because the argument that was advanced in favour of the Bill was that there is discrimination. One belonging to weaker section who is an untouchable remains in the Hindu religion and, therefore, he gets the benefits. But by only converting into Islam or by changing the religion into Christianity, he does not seem to be a member of the weaker section he should get the benefit, I do not agree that all these persons should get the benefit as weaker section but not as scheduled castes. So, some other provision will have to be made in the constitution as is suggested by the speaker who spoke, and whose speech I quoted just now but not in the capacity of Scheduled Caste and, therefore, I would like to urge that if the Government feels and if the Government is of the opinion that there are Scheduled Castes in Islam and Christianity, well, accept the Bill.

But if you feel strongly that it is not so, then the Bill, I would request, should not be accepted and, in that case, if there is any percentage of people who have converted to other religions, to them benefits should be given but not by this provision, but by some other provisions. Therefore, I am not in a provision wholeheartedly to support this particular Bill.

15.58 hrs.

[SHRI F. H. MOHSIN *in the Chair*]

SHRI EDUARDO FALEIRO (Mormugao). Sir, this Bill now brings to the floor of this House those topics of religion and Caste which are so commonly discussed in this country. For one will be the happiest person and I do look forward that in my own life-time this will happen that religious bigotry, religious obscurantism and the importance that religious traditionalism and irrationalism has in the life of this country would disappear and that will include this very nasty thing, to my mind and I suppose to any rational man, the caste system.

Well, but until that hallowed day comes, we must be realistic and Members of

Parliament are supposed to be anything but realistic and pragmatic and must take the reality as it comes and within the scope of the reality, try to do as much justice as is logically possible.

My friend who has just spoken— and I will be shocked into the point— is grievously mistaken if he thinks that the question of untouchability of a realigion is the criterion for bringing the persons professing that realigion within the fold of Scheduled Castes. The shot as applied to my friend is what happens with the Sikhs. As per the Contitution Scheduled Castes Order, 1950 it is not only persons who profess the Hindu religion, but also the persons who profess the Sikh religion who get the benefit of caste in the Scheduled Castes

If untouchability is in the religion and if it is the criterion for having Scheduled Castes, I would like to know the answer to this; where is untouchability in Sikhism? Is there any untouchability in Sikhism? My friend would answer this and if he knows the tenets of the great Guru Govind Singh, if he knows the practice of the cow slaughter secremony through which every adult Sikh must go through, then he will very soon realise that Sikhism as a religion, does not have a concept of untouchability. What happens in Sikhism is that the social reality is different from the religious preaching and while the tenets of the Sikhism do not have anything to do with untouchability or opposed to untouchability, the social reality is that the Sikhs do have castes and there are castes similar to those among the Hindus which qualify owing to them in the Schedule.

16 hrs.

MR. CHAIRMAN : What about Buddhism?

SHRI EDUARDO FALEIRO : Buddhism is not in the purview of this order. The short point is this that religion is not the criterion for defining the Scheduled Castes as shown in the case of Sikhism. If it were, then the Sikh castes would not be in the Schedule.

Number two, religion cannot be the criterion for defining Scheduled Caste by virtue of article 15 of the Constitution which says that the State shall not discriminate against any citizen on grounds only of religion, race, and so on and, so forth. But that is happening is that discrimination is being committed, grievous discrimination is there for everybody to see, against the Harijans belonging to the Christian religion or professing the Christian religion. What is the reason? If untouchability is not the reason, what is the reason? The reason is very simple. How were the Sikhs brought in this? The Sikhs were brought in this because the great Sikh leader, Master Tara Singh, led an agitation—let us be frank and realistic again—and saw to it that the benefits were given to the Sikhs also. What is the reason—let us be fair and truthful to ourselves—why the Christians are not given the benefit? The Christians are not given the benefit because the Christians are only two point some percentage of the total population; they just do not count; they do not lead any agitation and I hope that they will not lead. Then the Scheduled Caste population among the Christians is hardly fifty per cent of that two per cent. So, they just do not count.

In our Polity we are unfortunately faced with terrible alternative: either you resort to agitation, either you force a situation, either you resort to violence, or you do not get justice. This is the short point and the tragic reality that we must face.

Religion has had a very important role in the history of this country. When we want to talk encomiastically about ourselves, we say that this country has been the cradle of the great religions of the world. It has also, we must admit to ourselves, been the cradle of a lot of obscurantism, a lot of bigotry, from all the religions, Christianity included.

This is something that the founding fathers of the Constitution, of the nation, adverted to, that this country is to remain as one great country as it should be, that religion and religious divisiveness must give place to unity based on rationalism, absolutely setting aside all religious obscurantism.

Therefore, I say that esecularism is the cornerstone on which the national policy is based. Therefore, any type of talk or deed or reasoning based on religion which seeks to give some privileges which are denied to others, must be set aside. It is not religion that is or that should be the criterion. The criterion should be: are the people who seek protection as Scheduled Castes are discrimination attached to them? Here I would like to say that the caste Hindus or for that matter the Christians themselves who do not belong to Scheduled Castes or who do not have the Scheduled Caste origin discriminate equally against the Harijans professing the Hindu religion and also those professing all other religions. The discrimination is the same. I will cite offhand some examples. I should add here that not merely the caste Hindus but also the people who profess other religions and who do not belong to the Harijan community do not discriminate at all between Christian Scheduled Castes and Hindu Scheduled Castes who happen to live in the same village or hamlet whenever any disturbance occurs.

The following are some of the incidents which have taken place, to quote as examples to prove the above statement. The first Harijan to be killed by the caste Hindus during the communal riots in 1965 at Mudukulathur of Ramnad District of Madras State was one Mr. Emmanuel, a Christian Harijan. The Government instructed Mr. S. Venkateswaran, I. C. S., Member Board of Revenue, to investigate the matter.

On 29th March 1975, one Mr. Paul Raj, a Christian Harijan was axed to death by Mr. Thirumani, a caste Hindu, at Tirumallapuram vaillage in Tirunelveli District of Tamil Nadu as the latter could not tolerate the insult from the daughter of the deceased, a Harijan Christian. Mr. Thirumani was sentenced for life imprisonment by the Additional sessions Judge and the sentence was upheld by the Bench of the Madras High Court and the matter was reported in local press.

On the morning of 28th July, 1978 one Selva Mary, a Christian Harijan of Annanagar, Villupuram town, South Arcot District,

Tamil Nadu was about to be burnt alive during the communal riots between the Caste Hindus and the Harijans between 25th to 28th July 1978. But the Police party arrived in time and saved her life as otherwise she too would have lost her life in the same way as 12 other Harijan who were killed during the period, Mr. P. Kahuan, the Sub-Inspector of Police has registered the case as F. I. R. No. 1137/78. The Tamil Nadu Government have Appointed Justice R. Sadasivam as one Member Commission to enquire into the matter.

There are series of incidents which I can go on quoting here for the rest of the day to the effect that in social practice no distinction is made at all between the Harijan of Hindu religion and the Harijan professing another religion. All the Christian, Harijans are treated equally and they suffer the same social disabilities. Therefore, I should say that the criteria being the social stigma, the religion should not have any place in this and all of them whether they come from the Hindu denomination or christian denomination or any other religion, should get the same benefits and they should get the same protection.

I understand that this would mean—the main reason is this—that the cake of reservation which presently is monopolised by the Harijans professing the Hindu religion would not increase and it will have to be shared with people professing Christian religion also. That is the main objection. If we are having 10% reservation, why should we share it with somebody else who is not there? Why let some more people come in and share the same benefits without increasing the benefits?

Here I would like to say that the Policy of reservations being fair and just in the sense that it is necessary to bring about an egalitarian society which is essential for the progress and viability of this country, yet some abuses have now and then crept in and are bound to creep in I cannot understand. For instance, if the policy is to give benefits to those who are socially deprived, why should some people who have been Ministers of the Government of India for years together and their families have all

these benefits? Why should some people who have been Judges of the Supreme Court and their families get all these benefits? In what way are these people and these families socially disabled? In what way are they deprived as compared to so many other people in this country?

The third point is this that there is logic and there is justice in support of this Bill. (Interruptions) Mr. Singh—anything can be excused from him.

The Bill has justice and has logic in its support. The Bill will be opposed not merely by Members of the opposition like our friend here but it will be opposed by Members of all parties. It has logic, truth and justice and that must prevail and the Government should support this Bill or at least you say, if you do not support the Bill, that you will bring a legislation in conformity with the spirit of the Bill.

Our Prime Minister has been quoted as saying that a Memorandum was submitted to her in this regard sometime back and that she was favourably considering a proposal to extend these benefits and these privileges to the people of scheduled castes origin belonging to other religions. This commitment must be carried forward by this Government by means of a Legislation and, I should think, that it should be carried forward in this very Parliament in which finally there is not very much time left

Sr, I support this Bill and I hope that the Government will support it too.

श्री राजनाथ सोनकर शास्त्री (सैदपुर) : माननीय सभापति जी, हमको इस बिल के सम्बन्ध में दो मिनट के अन्दर कुछ खाम बात कहनी है। पहली बात तो यह है कि जो बिल रखा गया है—मैं समझता हूँ कि यह अनुसूचित जातियों के प्रति एक गहरी साजिश है। अभी हमारे मित्र ने कहा है कि सिख धर्म में भी अनुसूचित जातियों को मिलने वाली सुविधायें दी जाती हैं। मान्यवर, मैं सबसे पहले तो यह बतला दूँ कि धर्म और सम्प्रदायों के दो अलग-अलग चीजें हैं। सिख एक धर्म नहीं है, बल्कि

एक सम्प्रदाय है, लेकिन मुस्लिम एक धर्म है, ईसाई एक धर्म है, जैन एक धर्म है। इन धर्मों में जातीयता हो सकती है, लेकिन इन में अनुसूचित जातियां नहीं हैं, जबकि हिन्दु धर्म के अंतर्गत अनुसूचित जातियां हैं। अनुसूचित जातियों का जो क्राइटेरिया बनाया गया है मैं उमी में संबंधित थोड़ी देर बाद एक बिल ला रहा हूं, जिसे मुझे आज ही पेश करना है। अनुसूचित जाति किसे कहते हैं—मैं उसी के सम्बन्ध में अपने मित्र फकीरियों साहब को बतलाऊंगा।

SHRI EDUARDO FALEIRO : He is making a discourse on religion.

श्री राजनाथ सोनकर शास्त्री : आप मनु लीजिए। हिन्दु धर्म में कुछ पुस्तकें हैं जैसे मनु-स्मृति, आपस्तम्ब धर्म शास्त्र, ब्राह्मण ग्रन्थ, रामायण आदि हैं। मैं उन में से कुछ ग्रंथों का उदाहरण देना चाहूंगा जिनके आधार पर हजारों वर्षों के बाद भी भेद-भाव, घृणा, और अस्पृश्यता बरती जाती रही। उसके बाद कास्टीचूशन के अन्दर अस्पृश्यता के सम्बन्ध में अलग से निर्धारण किया गया और वह निर्धारण था अनुसूचित जातियाँ। जो लोग हिन्दु धर्म के सम्बन्ध में नहीं जानते, वे जरा इस को ध्यान से सुने। हिन्दु धर्म की एक "मंत्रोयानी मंहिता" है उस के श्लोकों का अर्थ है—आग्नहोत्र के काम में जिस गाय का दूध प्रयुक्त किया जाता है शूद्र उस गाय को न दूहें। शूद्र की उपस्थिति में यज्ञ नहीं करना चाहिए। शूद्र को सोमरस नहीं पिलाना चाहिए। शूद्र में बात नहीं करनी चाहिए। शूद्र को कोई अधिकार नहीं है, वह दूमरों का सेवक है। शूद्र कुर्सी पर बड़ना है तो उस के चूतड़ काट देना चाहिए। शूद्र को यदि शासन करता है तो उस को देश से बाहर निकाल देना चाहिये। शूद्र की स्त्री मुन्दर है तो उस को ले लेना चाहिए। इस किस्म की बातें हिन्दू धर्म में हैं और इन के आधार पर

हजारों वर्षों से जो विभेद चला आ रहा था, उस के विपरीत अनुसूचित जातियों की लिस्ट बनी और अनुसूचित जातियां कायम की गईं। उनको आरक्षण दिया गया। लेकिन अब यह कहा जा रहा है कि अनुसूचित जातियों को जो सुविधायें मिल रही हैं, वे और धर्मों में जो लोग कन्वर्ट हो गए हैं उनको भी दी जाँय। हिन्दू धर्म तो पहले ही अपवित्र था, लेकिन मुसलमान धर्म को अब अपवित्र क्यों बनाया जा रहा है? इसलिए कि विभेद के कारण बहुत सी अनुसूचित जातियों के लोगों ने जो मुसलमान धर्म ग्रहण कर लिया है या ईसाई हो गए हैं या जैन हो गए हैं उनको ये सुविधायें दिलाई जायें। मैं नहीं समझ पा रहा हूँ कि उन को ये सुविधायें देने की क्या जरूरत है, इस विभेद के कारण ही तो उन्होंने अपना धर्म बदला है? मैं तो यह समझता हूँ कि यह बिल अनुसूचित जातियों को जो लाभ मिल रहा है उसको समाप्त करने के लिए लाया गया है।

मेरे पास बहुत कम समय है और मुझे अपना बिल पेश करने के लिए थोड़ा काम करना है—मैं इस बिल का विरोध करता हूँ मैं यही चाहता हूँ कि अनुसूचित जातियों को इस समय जो सुविधायें मिल रही हैं, वे उन्हीं को मिलें और जब वे तरक्की कर लेते हैं तो इस सुविधा को खत्म कर दिया जाय।

सभापति महोदय : श्री मूलचन्द डागा।

श्री राजनाथ सोनकर शास्त्री : सभापति जी, मैं आपके माध्यम से निवेदन करना चाहूंगा कि इस बात को जल्दी समाप्त किया जाए, क्योंकि मैं इससे बढ़िया बिल ला रहा हूँ।

श्री मूलचंद डागा (पाली) : सभापति महोदय, मनुष्य किसी भी धर्म का मानने वाला हो या कोई भी भाषा-भाषी हो, उसमें कोई

अन्तर नहीं पड़ता है। सब एक ही शक्ति के स्वरूप हैं और ब्रह्माण्ड में एक ही शक्ति निवास करती है। इसलिए मनुष्य, मनुष्य में कोई अन्तर नहीं हो सकता। हमें किसी भी आधार पर कोई भेदभाव नहीं करना चाहिए, न धर्म के आधार पर ही कोई भेद करना चाहिए।

हमन तो जो संविधान बनाया है उसमें भी यह निर्देश दिया है कि आदमी को पूरी स्वतंत्रता और लिबर्टी है कि वह किसी भी धर्म का पालन करे, किसी भी धर्म को ग्रहण करे। इसमें यह साफ लिखा हुआ है कि—

“We THE PEOPLE OF INDIA having solemnly resolved to constitute India into a ‘SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC’ and to secure to all its citizens.

JUSTICE, social economic and political,

LIBERTY of thought, expression belief, faith and worship.”

आर्टिकल 25 में यह साफ तौर पर जिक्र है कि हम किसी के साथ रिलीजन के आधार पर किसी प्रकार कोई भेदभाव नहीं कर सकते। यह भेदभाव करना वाजिव भी नहीं है। हम लोगों ने यह भी माना है—

“वमध्वेव कुटुम्बकम्”

हम सारी पृथ्वी पर जितने इंसान हैं, वे सब एक ही कुटुम्ब के सदस्य हैं।

इसलिए प्रो० कूरियन ने जो बिल रखा है वह संविधान के आर्टिकल 25 में जो यह दिया गया है :—

“25 (1) 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.”

Articles 15 and 16 say :

“15 (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.”

“16 (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.”

संविधान का जो मंशा है उसके अनुसार कोई ऐसा भेद नहीं है। आपने जो सैक्शन 42 का कहा है, उसके अन्दर भी मंशा यही है।

We will look into the interests of the weaker sections

जो वीकर सेक्शन है, इकोनॉमिकल्ली जो वीकर है, उनकी भी हम रक्षा करेंगे। फिर मै कूरियन साहब की मंशा को नहीं समझ पाया। भारतवर्ष तो धर्मनिरपेक्षता में विश्वास करता है। हमने अपने संविधान में भी यह माना है कि भारत एक धर्मनिरपेक्ष राज्य है। इसके तीन महत्वपूर्ण तत्व हैं। व्यक्ति की धार्मिक स्वतंत्रता— कि किसी भी व्यक्ति के साथ धर्म के आधार पर भेदभाव नहीं होगा। राज्य की ओर से किसी भी धर्म विशेष के लिए कोई प्रोत्साहन या प्रश्रय नहीं होगा।

जब हमारा मूलभूत आधार है कि हम सेक्युलर स्टेट में विश्वास करते हैं और हमारे यहां कोई भी व्यक्ति किसी भी धर्म को मान सकता है तो यह शका क्यों? उसके आधार पर हम लोग भेद भाव करते हैं। इस आधार पर कूरियन साहब ने जो बिल पेश किया है यह संविधान की भावना के अनुकूल है। संविधान में यह कहा गया है कि मनुष्य मनुष्य में कोई फर्क नहीं है, वह ईश्वर का अंश है और शक्ति का स्वरूप है। उस हालत में जो हम हिन्दू, सिक्ख, ईसाई, मुसलमान सब इंसान इन्सान एक हैं, कोई फर्क नहीं है। हम धर्म निरपेक्षता में विश्वास रखते हैं। इसलिए, जो

भी शेड्यूल कास्ट अगर किसी दूसरे धर्म में जाते हैं तो उन्हें अपने पूरे अधिकार मिलने चाहिए। धर्म के आधार पर उनको मिलने वाली सुविधाओं से उनको वंचित नहीं किया जाना चाहिए। आज मनुष्य का चिंतन बहुत आगे बढ़ गया है। धर्म के आधार पर होने वाले फर्क को समाप्त किया जाना चाहिए। कोई भी व्यक्ति अपनी इच्छा के अनुसार किसी भी धर्म को ग्रहण कर सकता है। इससे जो सुविधाएं उनको पहले दी जाती थी वह वापिस नहीं ली जानी चाहिए। यह इस बिल की भावना है। इसलिए मैं इस बिल का हृदय से समर्थन करता हूँ।

श्री सुन्दर सिंह (फिल्लौर) : सभापति महोदय, डागा साहब ने बड़ी अच्छी बात कही है। मैं उनसे सिर्फ यह पूछना चाहता हूँ कि शेड्यूल कास्ट को जो अधिकार मिले थे वे किम लिए मिले थे, अनटचेबिलिटी के लिए मिले थे।

श्री मूलचंद डागा : सविधान ने अनटचेबिलिटी को अबालिशन कर दिया है।

श्री सुन्दर सिंह : 1952 में मैं मिनिस्टर था। उस वक्त मवाल उठा था कुछ सिक्कों ने मजबूती आदि सिक्कों के लिए रिजर्वेशन की माँग की थी और टमके लिए उस वक्त के मिनिस्टर ज्ञानी करतार सिंह ने काफी एजी-टेशन किया। उन्हें बड़ी मुश्किल में ये अधिकार मिल पाए थे जब उन्होंने ये कहा था कि हम हिन्दू हैं और हमारे अंदर भी छूत-छात है। आज चौधरी दलबीर सिंह रोहतक के किसी गांव के कुएं पर चढ़ नहीं सकते, क्योंकि वहां पर छूत छात है इसलिए वहां पर ये रियायतें दी गई हैं। आप भी हिन्दू हो जाइए, आपको भी ये रियायतें मिल जाएंगी। जब एक आदमी ईसाई बन जाता है तो क्या ईसाई बैंकवर्ड क्लास हो सकती है।

श्री मूलचंद डागा : सभापति, महोदय, ये कानून के खिलाफ भाषण दे रहे हैं। अनटचेबिलिटी एक्ट बन गया है।

श्री सुन्दर सिंह : क्योंकि जहां तक नाई, धोबी हैं ये कुएं पर चढ़ सकते हैं बैंकवर्ड क्लास में है, ईसाई बैंकवर्ड क्लास हो सकता है ?

MR. CHAIRMAN : The time allotted to this Bill is already over. Is it the pleasure of the House to extend the time by half an hour ? The Minister also has to reply.

PROF. N. G. RANGA : (Guntur) No. Sir.

MR. CHAIRMAN : The Minister has to reply. The time allotted is already over now.

PROF. P. J. KURIEN : (Mavelikara) : Am I not to reply also ? I am the Mover of the Bill.

MR. CHAIRMAN : All right. Now, is it the pleasure of the house to extend the time by half an hour ?

SOME HON. MEMBERS : Yes.

MR. CHAIRMAN : All right; Now, the time is extended by half-an-hour.

Mr. Sunder Singh, please try to conclude.

श्री सुन्दर सिंह : मैं आपको बताना चाहता हूँ कि डा अम्बेडकर ने कहा था -

I am born as a Hindu and I should not be blamed. But I will not die as a Hindu.

तब जाकर रियायतें मिली थी। मुसलमान, सिक्ख और ईसाई कहते थे कि हमारे में छुआ छूत नहीं है उसके बाद जब रियायतें मिली तब वे कहने लगे कि हमारे में छुआछूत है। जो बैंकवर्ड नहीं है और रियायतों की वजह से आना चाहते हैं तो हम नहीं आने देंगे। (व्यवधान)।

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI-SHRIMATI RAM DULARI SINHA) : Mr. Chairman, I have heard the speeches made by Mr. Arakal, Mr. Babu Saheb Parulekar, Mr. Faleiro, Mr. Rajnath Sonkar Shastri, Mr. Mool Chand Daga and Mr. Sunder Singh with rapt attention. I have also gone through the speeches made by the hon. Members, the other day, in this record.

Sir, the Constitution (Scheduled Castes) Orders (Amendment) Bill, 1980 as introduced by Shri P. J. Kurien in this House on the 28th March, 1980 seeks to omit paragraph 3 of the Constitution (Scheduled Castes) Order, 1950, the constitution (Scheduled Castes) (Union Territories) Order, 1951 and paragraph 2 of the Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962, the Constitution ((Pandicherry) Scheduled Castes Order, 1964 and the Constitution (Goa, Daman and Diu) Scheduled Castes Order, 1968. At the outset, it may be pointed out that the honorable Member has not taken into consideration the Constitution (Jammu & Kashmir) Scheduled Castes Order, 1956 and the Constitution (Sikkim) Scheduled Castes Order, 1978.

According to the Presidential Orders specifying Scheduled Castes, no persons who professes a religion different from the Hindu or Sikh religions is deemed to be a member of the Scheduled Caste. In his Bill Shri Kurien proposes to remove this restriction with reference to religion so that members of the Scheduled Castes, who are converted from Hinduism to other religions are not deprived of the special benefits conferred on the Hindu Scheduled Castes members.

The main criterion which a community has to satisfy for being considered as a Schedule Caste is that it should suffer from the extreme social, educational and economic backwardness arising out of the traditional practice of untouchability. This criterion was first suggested by the Census Commissioner in the 1931 Census Operations. In drawing it up the Census Commissioner had followed the yardstick that the communities which suffered from disability on account of their low social positions and on account of

being debarred from temples, schools or wells should be included in the list. It was also decided that Muslims and Christians should be excluded from term Depressed Classes in 1931. The list of depressed classes prepared by the Census Commissioner during the 1931 Census Operations formed the basis of the specifications of Scheduled Castes under the Government of India Act, 1935 by the Government of India (Scheduled Castes) Order, 1936. In this Order, persons professing Christianity, Islam and Buddhism were not specified as Scheduled Castes.

The Advisory Committee on Minorities which was set up by the Constituent Assembly had also recommended the same Criteria for specifying scheduled castes in 1950. As the Sikhs also come within the fold of Hinduism, they were covered alongwith the Hindus in the 1950 Order which was further amended in 1956. And this fact has already been brought out before the House by the hon. Members. Of late, the demand from Buddhists and Christians who or whose forefathers belonged to any of the communities in the Schedule for their inclusion in the list of scheduled castes and for grant of concessions as admissible to other scheduled castes has been repeatedly urged. We have been opposing this demand on the ground that backwardness alone is not the yardstick for specifying any community as a scheduled caste, but the community should also be suffering from the handicaps arising out of the traditional practice of untouchability. As pointed out by J H Hutton, Census Commissioner in 1931. Census, the characteristics of untouchability arise out of the caste system which is a phenomenon prevalent amongst the Hindus only. The other religions like Islam, Buddhism and Christianity do not recognise this practice at all.

The Bill as conceived by the hon. Member is, therefore, not necessary at this stage for the reasons as I just now mentioned. I, therefore, request the hon. Member to withdraw the Bill.

Prof. P. J. KURIEN : Mr Chairman, Sir, at the outset I must thank all the hon. Members who have participated in the Bill moved by me.

First, I would like to answer the points made by the hon. Minister. She has pointed out reply that backwardness alone is not the criterion for enlisting a caste as scheduled caste. Untouchability is also a criterion. Shri Bapusaheb Parulekar has also emphatically said that untouchability is the criterion. This is an important point. But Sir, untouchability has been put to an end in this country by law. Untouchability was practised at one time and there were certain sections of the people who were victims of this. But, it does not exist now. If untouchability is the criterion, then all those who were once victims of untouchability should be enlisted as Scheduled Castes. A Hindu Harijan is not an untouchable now. But he is enlisted as Scheduled Caste, on the ground that he was untouchable once upon a time. They are listed as Scheduled Caste. Those who are now in Christianity, Islam or Buddhism, that is, those who were victims of untouchability, should get it. I am not saying that all Christians, Muslims or Hindu should get it, but that an untouchable i.e. the person whom we considered to be untouchable, simply because he changes his opinion about God, should not be denied this. You consider the logic. If untouchability is the criterion, and till today we are giving concessions through reservations, we should this untouchable who has changed to other religion, be deprived of this benefit? What is the reason? I want to get the answer.

Another question asked was whether casteism existed in other religions like Christianity. What is the point in going into theoretical matters? It may be ideal or very good to say that there is no casteism in Christianity or Buddhism, or that so many ideal things are there in Hinduism. But what is there in practice? In practice, even if an untouchable or Harijan is converted to Christianity, Islam or any other religion, the caste prejudices are carried by him. He is considered Harijan.

When I spoke earlier, quoted a number of cases where a convert to other religions is considered as a caste Hindu. In this country, at least in some States, I know that if a Hindu Harijan i.e. an SC is converted to any other religion, he is deprived of the benefits of reservation saying that the new religion,

he is embracing does not accept casteism. He has got rid of caste prejudices. But after living for five years without caste, in a caste-free religion, if he re-converts, then he is considered scheduled caste. How is it possible? What is the logic behind it? He is given all the conversions benefit if he is re-converted. Thousands of such cases are there in Kerala and Tamil Nadu. I do not know about other States. In these two States, re-conversion takes place after 15 years. After re-conversion, he is treated as an SC. What is the principle? So, the basic principle is not their caste, but social, economic and educational backwardness. We should see that reality. We should see whether, due to conversion, social, educational or economic backwardness changes. Untouchability is not a point at all, because we have stopped it by law. We have to see whether those untouchables, that is, victims of untouchability are socially, educationally and economically backward. That is the only point to be seen.

I only argue that those people who were untouchables and who would have got the benefit of reservation, should not be deprived of it due to change of religion.

Next, one hon. Member said the previous day that the Bill, if accepted, would encourage conversion. I dealt with this on that day also. Somebody talked about forcible conversion also.

I am totally opposed to forcible conversion and it should be condemned by all. Is it not shameful to say that Harijans or other weaker sections will be converted due to monetary benefits other inducements? I don't think so. But if somebody is converted genuinely, he should not be deprived of the benefits for the simple reason that he has changed his religion.

It was said about SC definition that only Hindu were included in the SC. If that is so, the definition should change. After enlisting certain castes as SC, the proviso of the Presidential Order says in respect of this list:

“Those who are converted will not be considered as SC.”

What does that mean? What is the necessity of this proviso? That proviso

was brought there only because of the fact that these SCs exist in other religions also. So, this proviso is itself an admittance on the part of the President that SCs exist in other religions also.

Recently, there was a Supreme Court judgment in the case of Mr. Devarajan, MP, in an election case. The Supreme Court has upheld that, conversion from Hinduism to another religion, does not preclude him from claiming his caste. This was given in November 1983. Another hon. member referred to the speech in the Constituent Assembly and said that it was meant that SC should be restricted only to Hindus. Shri K.M. Munshi moved an amendment on 27th August, 1947, saying that this SC phrase should be replaced by a section of Hindu community referred to. That amendment was dropped under the Chairmanship of Dr. Ambedkar. It was discussed on 13-12-1948. If that amendment was accepted by the Constituent Assembly, then I would have agreed that the intention was that SC should be restricted to Hindus only. It is very clear that SC should not be restricted to Hindus only. I am only saying that we should come to a reality, and the reality is that, after conversion, the social, economic and educational status remains the same of those people who were previously untouchables. I am not saying that this should be extended further.

There is a fear among the present SCs that if this is extended to these people also, their share will decrease. No, their share will not decrease; their share should not decrease also, we should find a provision for increasing their share, for making the cake bigger so that this poor lot gets this benefit.

I request the hon. Minister and the Government to accept my Bill. She has already requested me to withdraw it. My request is that I can withdraw this Bill, but I will not withdraw my demands. I stick to it. Because logically, legally and based on the basis of social conditions my arguments stand and I request this House to accept my Bill. If not, let the Minister give an assurance that these points will be considered by the Government while bringing another Constitutional amendment. I want

such an assurance from the Minister. Only when that assurance is given I can withdraw this Bill. I request the Minister to consider these points also, and bring another amendment to the Constitution.

SHRI BAPUSAHEB PARULEKAR : What assurance do you want? Do you want the Government to bring another Bill?

PROF. P.J. KURIEN : I want an assurance from the Government. That answer I expect from the Minister.

MR. CHAIRMAN : Madam, would you like to say something?

SHRIMATI RAM DULARI SINHA : No. I have already requested him to withdraw the Bill.

MR. CHAIRMAN : Mr. Daga, you have given notice of an amendment. Are you pressing it?

SHRI MOOL CHAND DAGA : I want to withdraw my amendment.

MR. CHAIRMAN : Is it the pleasure of the House that the amendment moved by Shri Mool Chand Daga be withdrawn?

HON. MEMBERS : Yes. Amendment No. 1 was, by leave, withdrawn.

MR. CHAIRMAN : Now, Mr. Kurien, are you still pressing your Bill for consideration, or are you withdrawing it?

PROF. P.J. KURIEN : We have passed 13 Private Members' Bills in this House. I only wanted an assurance from the Minister that it can be considered.

MR. CHAIRMAN : Mr. Kurien, you have already appealed and she has rejected your appeal. Are you withdrawing your Bill or not?

PROF. P.J. KURIEN : I want an assurance.

MR. CHAIRMAN : You cannot go on speaking like that. Are you withdrawing or not?

PROF. P.J. KURIEN : Why can you not say that you will consider it ?

SHRIMATI RAM DULARI SINHA : You can come to my office.

MR. CHAIRMAN : Are you still pressing for it or are you withdrawing ?

PROF. P.J. KURIEN : I beg to move for leave to withdraw the Bill further to amend the Constitution (Scheduled Castes) Order, 1950, the Constitution (Scheduled Castes) (Union Territories) Order, 1951, the Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962, the Constitution (Pondicherry) Scheduled Castes Order, 1964 and the Constitution (Goa Daman and Diu) Scheduled Castes Orders, 1968.

MR. CHAIRMAN : The question is : "That leave be granted to withdraw the Bill further to amend the Constitution (Scheduled Castes) Order, 1950, the Constitution (Scheduled Castes) (Union Territories) Order, 1951, the Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962, the Constitution (Pondicherry) Scheduled Castes Order, 1964 and the Constitution (Goa Daman and Diu) Scheduled Castes Order, 1968."

The Motion was adopted.

PROF. P.J. KURIEN : I withdraw the Bill.

MR. CHAIRMAN : Now we go to the next item. Shri Rajnath Sonkar Shastri.

16.50 hrs

HINDU SCRIPTURES AND OTHER
RELIGIOUS LITERATURE (REVIEW
AND AMENDMENT) BILL BY SHRI
RAJNATH SONKAR SHASTRI

*श्री राजनाथ सोनकर शास्त्री (सैदपुर) :
सभापति महोदय, मैं प्रस्ताव करता हूँ :

"कि हिन्दू धर्म-ग्रंथों तथा अन्य

*Moved with the recommendation of
the President.

धार्मिक साहित्य में ऐसे शब्दों, वाक्यों, कंडिकाओं, पद्यखंडों, अध्यायों आदि का, जिनसे भारत के संविधान में अन्तर्विष्ट सिद्धांतों और संविधान की प्रस्तावना में अन्तर्विष्ट भारत की जनता के पुनीत संकल्प के विपरीत, धर्म मूलबंध, जाति, लिंग, व्यवसाय या जन्म-स्थान के आधार पर नागरिकों के प्रति घृणा, भेदभाव असमानता या अपमान्यता को प्रोत्साहन मिलता है या प्रचार होता है, पता लगाने और उनका लोप करने या उनमें संशोधन करने की दृष्टि से हिन्दू धर्मग्रंथों तथा अन्य धार्मिक साहित्य का पुनरीक्षण करने और इस प्रयोजन के लिए एक आयोग की स्थापना करने तथा इनसे सम्बन्धित बातों का उपबंध करने हेतु विधेयक पर विचार किया जाये'

पालियामेंट के इतिहास का यह 37वां वर्ष है और मैं समझता हूँ कि आज यह जो बिल मैं पेश कर रहा हूँ, वह हिन्दुस्तान के 70 करोड़ नागरिकों में नई आशा और नई ज्योति लाएगा। मैं आज बहुत ही गौरवान्वित हूँ और मुझे काफी प्रसन्नता हो रही है कि मैं इस बिल को इस सातवीं लोक सभा में पेश कर रहा हूँ जब कि चाहिए यह था कि इस बिल को आजादी के बाद जब 26 जनवरी 1950 को यह देश गणराज्य घोषित हुआ उसी समय इस पालियामेंट के अंदर लाया जाता। लेकिन खेद है कि हमारे कुछ बुजुर्गों ने पालियामेंट के अंदर इस बिल को लाने का प्रयास किया तो उस परिस्थिति में उस समय यह बिल किसी कारण नहीं आ सका। मैं उपस्थित माननीय सदस्यों में अनुनय-पूर्वक निवेदन करूंगा कि वह जरूर इस बिल को इस पहलू से देखें और बड़ी गम्भीरता से इस पर विचार करें। फिर हम लोग इस पर जो आगामी चर्चा करें उस में बिलकुल संविधान के तहत