

But nevertheless, I started my speech last time with these words that in a sense this is an anticipatory Bill. If you are going to wake up after ten years, when the problems become acute, what is the use? Let us anticipate and have some kind of legislation of this kind so as to project the right of privacy.

Shri Jain talked of rihi and maharihi. I am not familiar with them and shall not, therefore, say anything. I shall only tell him only this much. He talked of naked pictures being taken now-a-days and at the same time he objected to the right privacy. I would like to tell him to look to the issue of Sunday magazine dated 14th February, 1982. Almost a naked picture of the wife of an American politician has been published. What is her fault? She happens to be the wife of an ex-President of USA. Should she not have any right to privacy? Any journalist or anybody else can go, take a naked photograph of her and publish it. This magazine is from Calcutta and has published this photograph. I am not justifying it at all. Has politician's family no right to privacy?

SHRI KRISHNA CHANDRA HALDER (Durgapur): He is showing it to the Members. He cannot do this....

(Interruptions)

MR. CHAIRMAN: Sunday will be very popular.

(Interruptions)

SHRI V. N. GADGIL: Therefore, most of the points of criticism Bill. That was not the object. The object, as I have stated, at the outset, was that a person in democracy should have a right to privacy. That privacy is being invaded by three forces which I have already mentioned, and ultimately they will destroy the dignity of the individual. The Law Commission in their 42nd Report has mentioned similar things about the problem arose; and they have made a recommendation that Chapter 19 should be replaced by another chapter which will place certain restrictions on this and the

right of privacy should be protected. I again submit that this right of privacy in a democracy is very essential and it should be protected.

However, in view of the observations made by my friend, the Deputy Minister of Law, I seek permission of the House to withdraw my Bill. I beg to move for leave to withdraw the Bill to provide for right to privacy to every citizen of India."

MR. CHAIRMAN: The question is:

"That leave be granted to withdraw the Bill to provide for right to privacy to every citizen of India."

The motion was adopted.

SHRI V. N. GADGIL: I withdraw the Bill.

16.14 hrs.

ESTABLISHMENT OF A HIGH COURT  
AT AGARTALA BILL

SHRI AJOY BISWAS (Tripura West): Mr. Chairman, Sir, I beg to move\*:

"That the Bill to provide for the establishment of a High Court at Agartala, Tripura be taken into consideration."

Sir, the purpose of bringing forward this Bill by me is to establish a High Court at Agartala. What is the present position? There is a High Court in Assam at Gauhati and it is conducting cases of six States. There is a Bench of the High Court at Agartala, but that does not serve the purpose. The people of Tripura are very much interested to have a separate High Court at Agartala.

This Bench actually sits in two or three months interval. There is no regular sitting of this Bench. As a result a huge number of cases have got accumulated. Now, the total number of pending cases have exceeded 2,000. During this Session

\*Moved with the recommendation of the President.

[Shri Ajay Biswa.]

I put a question about the number of pending cases. My question was:

"How many court cases are pending in Agaratala Bench of Gauhati High Court?

The reply of the Hon. Minister was:

"As per information received from the Government of Tripura, the pendency of cases in Agaratala Bench of Gauhati High Court was 1,765 as on 1-6-1981.

Sir, now it is 1982 November. That means already more cases have been added. So, I can say about 2,000 cases are pending there.

Sir, Tripura is a small State with a population of only 20 lakhs. And two thousand cases are pending in a State like Tripura where only 20 lakhs people are living. So, you can easily imagine the gravity of the problem.

Sir, it clearly proves the Bench of the Gauhati High Court is inadequate for speedy finalisation of the cases there. Rather this Bench puts the people to more sufferings and loss of money and energy. If the case is delayed, then it is definite that the person, who is involved in that case, will suffer. So, I would like to know what is the intention of the Government in this regard? Whether the Government has decided that they will keep the Eastern region as backward as it is at present or whether the Central Government will do any justice to the people of the Eastern region? In the circumstances, the people of Tripura want to get rid of this Bench and they want a separate High Court for Tripura. The position is that there is no sitting of this bench between two or three months. Then the people of Tripura have to go to Gauhati, Gauhati is a far away place from Tripura and it involves tedious and expensive journey. Moreover, Gauhati is capital of another State, Assam. There the language is different. It is an unknown place for the people of Tripura. When a person goes to Gauhati in connection with any court

case, he is put to difficulties. The people are more in trouble particularly in the present state when, as you know, a separatist movement has started there. Actually people are afraid even now to go to Gauhati in connection with their court cases. So, all these problems have got accumulated.

The second part of my question is: what are the reasons for the accumulation of so many cases, and what are the steps that Government proposes to take, to speed up the finalization of pending cases.

The reply of the Minister was that many complex factors were responsible. The complex factors are those which I am now stating. But the Minister, in his reply, has not said anything about the complex factors.

What is the suggestion of the Minister? The Minister said that the Government had addressed the State authorities concerned to consider the augmentation of the strength of the Gauhati High Court, to cope with the arrears of the Court as a whole, and also facilitate the effective functioning of its circuit Benches, including the Bench at Agartala.

It will not solve the problem. It will add more problems to those which the people of Tripura are now facing. When there are 2,000 cases pending, if the State Government or Central Government engages more Judges and tries to speed up the cases, after 2 or 3 years this total accumulation will definitely cross 3,000 or 3,500. It will further increase day by day. You will not be able to reduce this number.

My next point is: how will the people go to Assam? It is far away. People have to travel to Dharmanagar first, by bus. By rail, the distance from Agaratala to Dharmanagar is 200 Km. From Sabrom it is more than 300 Kms.

I do not know whether it will be possible for the Minister to have a bus journey from Agartala to Dharmanagar. If he does it, he will know how tedious it is, because in Tripura, 62 per cent of the area is covered by hills. You have to



travel through zig-zag roads in a zig-zag way. From Dharmanagar to Gauhati you have to go by train—a distance of 452 Kms. Though the distance is only this much, it takes 20 to 22 hours.

If the Minister undertakes a journey from Agartala to Dharmanagar by bus, I am sure that (*Interruptions*) after that journey, he will change his views.

**THE DEPUTY MINISTER IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI GHULAM NABI AZAD):** I have already visited the places you are mentioning twice.

**SHRI AJOY BISWAS:** Gauhati is unfamiliar to the common man of Tripura. So, when he goes there to pursue a case at the Gauhati High Court, he will take the advocate from the Agartala Bar. The Advocate will not go by bus or train; he will fly. What will be the cost? Can you calculate what the burden you have inflicted upon the people will be? And the Advocate will not go alone.

He will take some one who is just a common man. He will take another man who knows about Gauhati and the atmosphere over there. You know the present situation is complicated. He will stay in a hotel. Tripura is a poor State where 83 per cent of the people are living below the poverty line. Will they afford to go to Gauhati for proper justice? It is not possible.

I quote from the Constitution what is their motivation. I am quoting from the Directive Principles of State Policy. 39A says as follows:

'The State shall secure that the operation of the legal system promote justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities'.

Is it being followed?

16.27 hrs.

[SHRI V. N. GADGIL in the Chair.]

In the case of Tripura, our demand is not to provide free legal aid but our approach is that the Central Government will not add more financial burden on the shoulders of citizens of Tripura. In Tripura, exactly that is happening. I can say clearly that the opportunities for securing justice are denied and the Central Government is responsible for that. Justice delayed means justice denied.

You can see the cost for establishment of a separate High Court in Tripura. I can say that if you establish a separate High Court, that will not cost more than what you are incurring now. My opinion is that already there is a bench and the Government is to bear T.A. and D.A. for the judges. The judges are getting them for the period when they are staying at Agartala. They are also getting T.A. for their peons. If you add all costs you will see that you are spending a huge money for the present bench. I am not against giving T.A. and D.A. to the judges. They are entitled for that and they will get that. My point is that a separate High Court rather minimises the present expenditure.

There is a big library which is now being used by the Judge of the Gauhati High Court. The present staff of the Agartala Court are available because their services have been placed at the disposal of the Bench of the Gauhati High Court. So, the superstructure is there and the Government will not face any difficulty if they decide to establish a separate High Court for Tripura. I am sure, and I can challenge, that the expenditure will not be more than what the Government is now spending to maintain the Bench. Moreover, it is the duty of the Government as per the directives of the Constitution to provide justice for the poor people. Therefore, the Government should not be have like a businessman.

My main point is, I would like to know the attitude of the Government. Because, it all depends on the attitude of the Government. You may say many things against the establishment of the High Court. But if your attitude is that you will allow the development of the Eastern

[Shri Ajoy Biswas]

region, then there is no problem in establishing a High Court because spending of money is not involved. Because, naturally you will take a decision that some Judges are required. But my point is that actually the Government is not interested in the development of the Eastern region. In the case of Tripura, Mizoram and in Nagaland, you are always trying to see that all the States will depend on the Centre or on the neighbouring States. I have said about the High Court. About the university and other cases also you are doing the same thing. Tripura is a full-fledged State now; Nagaland is a full-fledged State. In the Eastern region two or three other areas have also attained full statehood. Then, what is your duty when a State like Tripura or Nagaland attains statehood? It is your duty to provide all the amenities and facilities so that the people feel that they have really attained statehood. But actually you are not doing that. Your main motive is to delay, or your main motive is to divert their attention and to exploit the region. That is the reason why you see that the people in Nagaland, in Mizoram, in Arunachal Pradesh and Manipur, everywhere the people are frustrated and are fed up with the Central Government. At some places some people have even been saying that the Indian Government is not their Government. They say that the Government of India does not feel that they are within India. How has this feeling come? Why should they think that they are not Indians and that they are outside India? That is because of your attitude and because of your not providing any facilities for the development of Eastern region. That is why, I have brought this Bill. It is a minor thing. It will not involve so much money. If you establish a High Court, then the people of Tripura will be very much pleased. They will feel that the Central Government is doing something for them. If you accept some of the demands of the people of Nagaland and Arunachal, they will feel that the Central Government is doing something for them and that they are part and parcel of India. My main motive in bringing forward this Bill is to highlight the situa-

tion that is prevailing in that region. Already the Chief Minister of the State has discussed the matter with the Central Government. The State Legislature adopted unanimous resolutions and sent to the Central Government, so that a separate High Court could be established there. Not only that, the Agartala Bar Association had also adopted a resolution in favour of a separate High Court. They approached you. But you have paid no heed. You did not care even to reply to them. Then they started agitation. Recently they boycotted the courts. So, this is the situation there. This is not my Bill. It enjoys the support of the entire people of Tripura.

I shall request the Minister to see reason and accept this Bill so that the long pending demand of the people of Tripura can be fulfilled.

MR. CHAIRMAN: Motion moved.

"That the Bill to provide for the establishment of a High Court at Agartala, Tripura be taken into consideration."

Mr. Vijay Kumar Yadav.

श्री विजय कुमार यादव (नालन्दा) :  
सभापति जी, यह बिल बहुत ही छोटा है और इसका एक ही मकसद है, और ऐसा कोई मकसद नहीं है इसका जिसमें सरकारी पक्ष की ओर से कहीं कोई विरोध की गुंजाइश हो। सवाल यह है कि सरकार का यह घोषित नीति है कि देश की जनता को सरकार सस्ता न्याय दिलाना चाहती है, सहज न्याय मिल सके और न्याय में शीघ्रता हो। और यह बिल कि त्रिपुरा में हाई कोर्ट की स्थापना हो मैं समझता हूँ कि सरकार को घोषित नीति के पूरी तरह अनुकूल है। देश के अन्दर जो इलाके पिछड़े हुए हैं, खास तौर पर वहाँ से और जहाँ इस तरह के न्याय में अभी पूरे देश के बारे में कई बार सवाल यहाँ उठते रहते हैं दूसरे हाई कोर्ट्स की क्या हालत है, जजों की जगह खाली हैं बड़ी मात्रा में, हर हाई कोर्ट और सुप्रीम

कोर्ट के अन्दर भी कैसे जूट पॉइंटिंग है .....  
 ऐसी स्थिति में उस फ़ण्ट पर जो समस्याएं हैं, उनको सुलझाने की दिशा में, मैं समझता हूँ कि यह बिल एक पीजिटिव स्टैप देता है त्रिपुरा में अगर अस्थाई तौर पर एक बैंच हो जाता है, जैसा कि कहा गया है कि त्रिपुरा एक पिछड़ा हुआ क्षेत्र है, 83 फीसदी लोग गरीबी की रेखा के नीचे हैं, तो यह एक अच्छी चीज होगी। यह कैसे उम्मीद की जा सकती है कि त्रिपुरा के लोग उन मौकों पर जब कि बैंच वहाँ नहीं बैठता हो, वह गोहाटी जा सके और न्याय को उम्मीद कर सकें ?

देश के दूसरे हिस्सों में भी न्याय काफी महंगा है, बहुत कम लोगों की पहुँच न्याय तक हो पाती है। जो बिल लाया गया है, और बिल का पायलट करने वाले सदस्य ने जो तर्क दिये हैं, मैं समझता हूँ कि मिनिस्टर साहब का और सरकार को कन्विन्स करने के लिए उसमें काफी मसाला है, काफी तथ्य उसमें दिये गये हैं। यह कोई पोलिटिकल बात नहीं है। वहाँ की बार एसोसियेशन के चेरमैन खुद कांग्रेस (आई) के लोग हैं, वहाँ का असेम्बली ने इसको पास किया है, आर्थिक तौर पर भी कोई ज्यादा वर्डन गवर्नमेंट का नहीं होने जा रहा है। हालांकि ऐसे मामले में मेरी राय यह है कि यदि आर्थिक बोज़ भी सरकार को पड़ता हो तो उसे उठाना चाहिए ताकि आम जनता को, खासतौर से गरीब लोगों का आसानी से न्याय मिल सके। सरकार को यह जिम्मेदारी अपने ऊपर लेनी चाहिए।

मैं इस सिलसिले में कुछ ज्यादा बोलना नहीं चाहता, मकसद साफ है, डिमांड एक ही है। मैं समझता हूँ कि त्रिपुरा और ऐसी जो भी स्टेट्स हैं, वहाँ आम धारणा यही होती है कि जब किसी को स्टेट-हुड दिया जाता है तो न्याय के मामले में भी हाईकोर्ट उनका मिलेगा। मैं इस बिल का

पुर्जोर समर्थन करता हूँ। मैं समझता हूँ कि इस मामले में मंत्री महोदय पोलिटिक्स नहीं करेंगे, वह बराबर विरोधी लोगों से सहयोग को बात करते हैं, त्रिपुरा के लोगों को यह साधारण सी मांग है, यह उनको माननी चाहिए और हाईकोर्ट के मामले में जो बिल आया है, उसके लिए सरकार को अपनी सहमति जाहिर करनी चाहिए।

MR. CHAIRMAN: Mr. Somnath Chatterjee.

SHRI SOMNATH CHATTERJEE (Jadavpur): Mr. Chairman, Sir, I am very happy that our new dynamic, young Minister will be intervening on behalf of the Government and we sincerely hope that there will be positive response from him in this matter. The Bill no doubt refers, particularly to Tripura. The necessity of having a special judicial tribunal for that area cannot be gainsaid but it raises certain basic issues. As you will kindly appreciate having the experience of the functioning of the judicial bodies in this country, for future experience it is considerable that I would like to press some of the basic issues involved. Our Constitution, as it has been already read out, visualise as a part of the Directive Principles, the securing of justice by the common people. Now there are several obstacles in our country, obstacles generated out of poverty, out of non-accessibility, out of want of awareness of the problems of the people that are required to be solved; it is these things that create trouble. The people are poor and the expenditure on litigation is much. Over and above that, if one has to calculate the cost of travel and taking the lawyer along with them to far away places, it adds greatly to the burden.

So far as our Constitution is concerned, judicial independence is one of our basic structures; whether one likes that expression or not, it is one of the bulwarks of the foundations of our constitutional set up in this country, of parliamentary democracy, the type of polity that we have set up by our organic law.

[Shri Somnath Chatterjee]

So, to have a meaningful, independent judiciary, the necessary concomitant is people's accessibility to the judicial forum. It is a necessary concomitant and one does not have to say much about it. This demand for courts has been made from different places, not Tripura alone. There was a demand from UP, another from Punjab, from so many places. Apart from the chauvinistic pressure that may be there, which we should not succumb to. I do not lie to impute chauvinism in such matters, unless some people take up matters on that basis. But we have seen the unhappy spectacle—I am not happy about it—that people in UP in different districts are asking for the location of a Bench of the High Court in their respective areas, be it Meerut, Moradabad or some other place. The other day we had seen that the Maharashtra High Court had struck down the decision of the Chief Justice of Maharashtra to locate a Bench at Aurangabad and the Supreme Court has upset that decision.

Why are these demands coming? In this august House, for the last 10 years, since the Fifth Lok Sabha, I have had the opportunity to raise this question. I strongly support the location of such circuit benches of the High Courts in the different States for the convenience of the people. I have been advocating a circuit bench in North Bengal, which is a difficult place to go. In spite of Shri Ghani Khan Chaudhuri trying to re-vamp Malda railway system, it is very difficult to go there. As a matter of fact, I am strongly in favour of a circuit bench, or some circuit benches, of the Supreme Court, the highest court of the land.

Think of the plight of the people coming to Delhi. There is a dismissed worker, who has got the award in his favour. The High Court under article 226 reverses the award. Then he has to come to the Supreme Court. Think of his lot. How does he pay for the expenses, apart from the legal expenses, which are substantial amounts?

Therefore, if justice is meant to be given to the people, in a vast country like ours, with such gnawing poverty

eating into the vital of our country, if you believe that justice has to be provided for them, then you have to take justice nearest to the people, rather than asking the people to go to distant places to seek justice. It is not only a question of providing easy accessibility to the court. You have to generate in the people faith in the judicial system. If you want to be cohesive, if you want people to have faith in the rule of law and in the dispensation of justice by the judiciary, then you should have the involvement of the people in it. The people's faith is generated in the system that in a case if I am wrong, I can go easily to the seat of justice and with my limited resources, even I can seek justice according to law. But if you make that difficult, there is a necessary erosion of the people's faith in the entire judicial system and thereby in the constitutional set-up of our country. Therefore, I would request you one thing. As rightly stated, I am not imputing anything that it will be considered on political basis. I know, sometimes one has to take a broader approach. One has to necessarily apply broader outlook in this matter and consider it from the point of view of the greater good for the greater number and the greater number being poor, we must necessarily try to help them by providing easy accessibility to court.

Come to Tripura. I know, either in this House or in the earlier House, we have seen Government has come out with Bills for setting up Benches of High Court. There is some moral or principle behind it. The principle is obvious. In a huge State like Uttar Pradesh with 65 districts, if I am not mistaken, naturally two places—Allahabad, Lucknow, of High court are found to be inadequate. Maharashtra is such a big place. You had to make a sojourn to Maharashtra and come here. You are welcome. Maharashtra has now three places—Bombay, Nagpur, Aurangabad and now Goa also.

SHRI GHULAM NABI AZAD: It is based on population.

SHRI SOMNATH CHATTERJEE: It is not population only. Population is no doubt important but it is not population only. Take the case of Nagaland. Take

the case of Arunachal, Mizoram. What do you feel if you come to Gauhati where they do not know anybody? The lawyers are unknown. There may have been lawyers in the District Court, in the Sub-Divisional Court in whom they have faith. How do they come to Gauhati? Even if they come, which lawyer to select? You cannot forget these things. These are everyday experiences. If the principle, moral, behind having more than one Bench of High Court, and if there is that principle and if that principle is believed, I do not find any answer to this Bill.

I know the hon. Mover, Shri Biswas, has referred to the answer given by our Law Minister Shri Kaushal. It is only on the 19th October, 1982 where he admits—

"In a smaller place like Tripura, Agartala Bench, 1765 cases as on 5th June, 1981."

You do not have figures even for the last one year. And then it is admitted:

"That the High Court has been requested, States have been asked to augment the strength of the Gauhati High Court to cope with the arrears of the court as a whole and to facilitate effective functioning of the circuit benches including the bench at Agartala.

Therefore, the necessity of a greater frequency of the sittings of the circuit Bench at Agartala is conceded."

That is conceded. What has been pointed out here, I believe, is pertinent. Even if there is an arithmetical calculation, if that is the abiding consideration here as to the costs involved, then having judges to come here and stay here in Agartala for four months, five months or six months a year, for the rest of it there is nobody available there, then how does it effect the Government or put Government into such greater problems with regard to payment of award or having a separate High Court in the State? Cost is not more. The fact which is very important is, I would request the hon. Minister to keep in mind, not only you get the High

Court there, you get contended people along with that. People's aspiration will also be met. On the other hand, you do not spend more money, on the other hand, you have the people's greater involvement in the matter of dispensation of justice. I would therefore, earnestly request the hon. Minister to consider that. Then, there is a unanimous resolution of the Legislative Assembly, and the Bar Association comprising of different political elements also, if that has any relevance. They have also asked for it. They have started a movement; they have boycotted the courts. Instead of having a more regular Circuit Bench, it is better to have a High Court.

I have the personal experience of appearing in Agartala Court. I know what is the condition of the lawyers there. That is very important. You will agree with me that to have a good Bench, it is necessary to have a good Bar: they are complementary to each other. Without a good bar, you cannot have a good Bench and *vice versa*. What do you think of a Bar whose people are waiting impatiently that one or two learned Judges from Gauhati will come for one or two months in a year? How can you expect a thriving, responsible, hard-working and alert Bar in such circumstance? It is important. And, they are not guided by monetary consideration, when they have been demanding it. But, of course, as professional people they have to think of their earnings, because that is their livelihood. But, as I said, you cannot have a good Bar, a thriving Bar without a High Court. But even then I have seen and my experience is that they are very eminent, hard-working and brilliant lawyers, though there is a small Bar at Tripura. We are very happy when we go there and work along with them.

Taking into consideration these matters, and consideration of the dispensation of justice, taking into consideration the spirit behind this demand, this should be agreed to... (Interruptions).

Article 226 of our Constitution is the soul of our Constitution; it has been held to be the conscience of our Constitution. Article 226 represents the conscience of our Constitution. The ambit of Article 226 is being widened, and the public

[Shri Somnath Chatterjee]

interest litigations are being instituted. Ordinary people are very keen to take recourse to it. Although some rich people and big people take advantage of it, yet, as I said, ordinary people are keen to take the assistance of Article 226 of the Constitution. And the district court cannot dispense justice under Article 226; it is only the High Court and the Supreme Court. If High Court is far away from the people, then you are necessarily preventing them from taking benefit of this jurisdiction, which is the most important jurisdiction, so far as the judiciary is concerned in our country.

I hope the plea of paucity of funds would not be put forward. The hon. Prime Minister said the other day that the Government may have to spend more money to set up industries in backward areas than getting them up at a cheaper cost in forward and developed areas. If that principle which has been stated the other day by the hon. Prime Minister on the floor of the House is to be translated into action, it is all the more necessary that you apply the same standard, the same attitude so far as the question of providing justice to the people is concerned. Tripura does not abound with rich people, multinationals or other such people.

17.00 hrs.

If you provide a seat of justice for them where an easier access is possible, you will be providing a greater remedy to the poor people. Eightythree per cent of the people there are below the poverty line. Therefore, this will not be a concession to the monopolists, to the big-business, to the big landlords as such; it will be a concession and responding to the urges and aspirations of the people of a section in the country, who aready feel cut-off from the rest of the country. The Hon. Minister himself has undertaken a journey and he realises the difficulties of the journey, of the expenses involved and of the time element involved in it. You cannot reach Gauhati except by undertaking a journey of 24 hours.

Therefore, I would very strongly urge the Hon. Minister and I am sure he will respond favourably to the Bill and not come with a stereotype answer prepared by some Deputy Secretary.

श्री हंर श कुमार गंगवार (पीलीभीत):

माननीय सभापति जी, श्री अजय विश्वास द्वारा इस प्रस्ताव का "कि अगरतला, त्रिपुरा में एक न्यायालय की स्थापना की उपबन्ध करने वाले विधेयक पर विचार किया जाए", मैं समर्थन करता हूँ।

श्रीमन्, संविधान के अनुसार जनता का सस्ता और सुलभ न्याय दिलाने के लिए हम कटिबद्ध हैं लेकिन इस न्याय को सुलभ करने के लिए, जन सुलभ बनाने के लिए हम ने बहुत कम प्रयत्न किये हैं उसी प्रकार से जैसे कि हम ने अपनी प्राथमिक आवश्यकताओं में हर देहात को सड़क से जोड़ने की बात नहीं की। इतना बड़ा डैमोक्रेटिक सैट-अप जहां आप ने नागरिकों को दिया है और बहुत से मौलिक अधिकार दिये हैं, वहां जनता को सस्ता और सुलभ न्याय यदि आप नहीं दिला पायेंगे, तो आप का प्रजातंत्र का ढांचा बहुत लचर हो कर रह जाएगा और रह गया है। पिछली बार जब श्री हरीश रावत ने बरेली में इलाहाबाद की हाई कोर्ट के समान एक हाई कोर्ट बनाने की या एक बेंच की स्थापना करने के लिए एक बिल मूव किया था, तो उस समय मंत्री जी ने आश्वासन दिया था कि बहुत से कारण हैं, जिन पर वे विचार करते हैं और विचार कर रहे हैं की कहां-कहां हाई कोर्ट की स्थापना की जाए। बहुत सी स्थितियां होती हैं और अधिक आवादी की भी एक स्थिति है, जस एक बरोड़ की आवादी वाला जो प्रदेश है, वहां भी एक हाई कोर्ट है और 12 करूड़ की आवादी वाला जं प्रदेश है, वहा भी एक हाई कोर्ट हो, तो कैसे लोगों को न्याय मिल सकेगा।



दूसरी बात यह है कि राज्य की भौगोलिक स्थिति भी देखनी पड़ती है। अगर अग्रस्तला, त्रिपुरा की जो स्थिति है, वह आपके सामने बताई गई। 30-30 घण्टे बहां जाने में लगते हैं। ऐसे ही उत्तर प्रदेश में एक सिरे से दूसरे सिरे तक अगर हम जाएं, तो ट्रेन में भी 20-22 और 24 घण्टे लगते हैं। मान लीजिए कि इलाहाबाद में हाई कोर्ट में अपने केस के लिए अल्मोड़ा और पिथौरागढ़ या तिब्बत से मिले धारचूल नामक स्थान से किसी का जाना है, तो न्याय लेने के लिए उस आदर्मी को कितना लम्बा सफर करना पड़ेगा और कितना अपने काम का हर्ज करना पड़ेगा, इसको सभी जानते हैं। आजकल के युग में भौगोलिक स्थिति या जो सामाजिक स्थिति है, उसका देखते हुए, कोई निश्चित पालिसी आपका देश में, हाई कोर्टों को नई बेंच स्थापित करने के लिए बनानी चाहिए, जिससे लोगों को सस्ता न्याय मिल सके। इसी सदन में उस समय के न्याय मंत्री श्री शिव शंकर ने इस के बारे में आश्वासन दिया था। मैं जानना चाहता हूँ कि आप ने इस सम्बन्ध में क्या पग उठाए हैं। और क्या उनके आश्वासन पर आप अभी शटल हैं, क्या आपके आने से वह आश्वासन समाप्त हो गया है ?

देश में विभिन्न स्थानों से बड़ी वास्तविक मांग हाई कोर्ट को बेंच बैठाने की की जाती है लेकिन आप इस पर ध्यान नहीं देते। इसलिए लोगों में बड़ा असंतोष है। ऐसा कहा जाता है कि आप पोलिटिकल प्रेशर जब पड़ता है तो गंगा में, नागपुर में बेंच बना देते हैं और औरंगाबाद में भी अब बनाने जा रहे हैं। अन्य स्थानों के बारे में आप ध्यान नहीं देते। उत्तर प्रदेश के बरेली और उसके आसपास के जिलों के वकीलों ने हड़ताल की और आजकल भी वे हर शनिवार को हड़ताल करते हैं, अदालतों में काम नहीं करते हैं। इस बात को महीनों गुजर

चुके हैं, मेरे ख्याल से साल हो गया है। आपने यहां घोषणा कर दी कि उत्तर प्रदेश में हाई कोर्ट की कहां बेंच बिठाई जाए इसके लिए एक कमीशन मुकर्रर कर दिया है। वह कमीशन अब तक क्या कर चुका है और क्या कर रहा है, इसका कुछ पता ही नहीं है। हम जानना चाहते हैं कि उत्तर प्रदेश में हाई कोर्ट की बेंच बिठाने के लिए आपने जो कमीशन मुकर्रर किया था उसने अब तक क्या किया ? क्या उसने किसी पदाधिकारी से मुलाकात की, किसी की गवाही ली ? क्या उसने उत्तर-प्रदेश का कोई सर्वे किया, उस कमीशन ने उन परिस्थितियों को जानने के लिए कौन-सा कदम आज तक उठाया जो कि एक हाई कोर्ट को बेंच के लिए होनी चाहिए ? मैं कहता हूँ कि वह कमीशन अभी तक डिफैक्ट है, वह बना ही नहीं है, केवल काज पर है। आप अपने राजनीतिक उद्देश्य को पूरा करने के लिए यह चाहते हैं कि जब तक आने वाले चुनाव न हो जाएं तब तक उस कमीशन की रिपोर्ट न आने पाए। यह तरीका आपने अपना लिया है।

जिन जिन स्थानों पर हाई कोर्ट हैं, वहां के वकील लोग यह कभी नहीं चाहेंगे कि हाई कोर्ट को बेंच किसी दूसरी जगह बिठाई जाए। मगर वहां के लोगों से आप डरेंगे तो कोई कदम नहीं उठा पायेंगे और कोई काम नहीं कर पायेंगे। इसलिए इस डीली-डाली पालिसी को आप छोड़ दीजिए, और हमें आश्वासन दीजिए कि कब तक आप अग्रस्तला या उत्तर प्रदेश में जिसके लिए आपने आश्वासन दिया हुआ है हाई कोर्ट की बेंच बिठा देंगे। यह भी आश्वासन दीजिए कि इस देश के सम्पूर्ण भाग का अध्ययन करके कितनी बेंच कब तक आप बिठा देंगे, कब तक इसकी घोषणा करेंगे और कब तक इसके सम्बन्ध में बिल लायेंगे और इसके सम्बन्ध में कितना सोचने में समय और लगेंगे ? यह मैं आप से इस अवसर पर जानना चाहता हूँ।

[श्री हरोश कुमार गंगवार]

जहाँ तक रास्ते और सुलभ न्याय की बात है वही कानूनी सहायता अच्छी होती है और सस्ती होती है जो आसानी से मिल सके। अगर आसानी से कानूनी सहायता सुलभ नहीं होती है तो कैसे काम चलेगा। हमारे देश में कितनी गरीब जनता रहती है। हमारे देश में आधे से ज्यादा ऐसे लोग रहते हैं, जिन्हें आप कहते हैं कि दो वक्त की रोटी भी नहीं मिलती है। ऐसे लोगों को हजारों मील जब न्याय के लिए जाना पड़ेगा तो कैसे सस्ता और सुलभ न्याय मिल पाएगा? ऐसे लोगों को न्याय प्राप्त करने के लिए इतनी दूर जाने में कितनी तकलीफ होती है, इसका आप सहज अनुमान लगा सकते हैं। आप अगर अपने देशवासियों को खास तौर पर गरीब लोगों को ऐसा न्याय नहीं दे सकेंगे जिसमें कि मुकद्दमे में उनसे फीस न ली जाए, जिसमें कि उनको शीघ्र न्याय प्राप्त हो और बहुत आसानी से प्राप्त हो तो बड़े लोग अपने पैसे के बल पर अपने मतलब का न्याय प्राप्त करने में सफल होते रहेंगे जैसा कि आज तक हो रहा है। वे लोग अपने पैसे के बल पर अपने मतलब का न्याय प्राप्त करने में सफल हो जाते हैं। आप ऐसी व्यवस्था करें कि हमारे देश के देहात में रहने वाला छोटे से छोटा, निर्धन से निर्धन, हरिजन और बैकवर्ड भी सस्ता, सुलभ और आसानी से न्याय प्राप्त कर सके।

मैं इस बिल के माध्यम से माननीय मंत्री जी से अनुरोध करूंगा कि माननीय मंत्री जो घोषणा करें कि वे उत्तर प्रदेश में किस स्थान पर हाई कोर्ट की बैच बनाने जा रहे हैं।

इस सम्बन्ध में क्या निर्णय लिया गया है और ऐसे ही देश के विभिन्न भागों में किन परिस्थितियों के आधार पर जैसा कि माननीय कानून मंत्री ने आश्वासन दिया था, कहां-कहां आप हाई कोर्ट के बैचों

की स्थापना करने जा रहे हैं। इन शब्दों के साथ, श्रीमन्, मैं आपका आभारी हूँ कि आपने मुझे बोलने का मौका दिया।

SHRI CHITTA BASU (Barasat): I rise to support the Bill moved by our colleague, Shri Ajoy Biswas. So far as the urgency of having a separate High Court in Tripura is concerned, I think, you have been convinced of it because there are certain facts which you cannot deny, not that you have got political predilection for being convinced about it, but you cannot also deny the fact of life. In our Directive Principles of the Constitution, we have been assured that justice will be secured for every citizen; not only that, the question of cheap justice is also to be taken into consideration. The element of expenses, you cannot just remain blind of, as it has been very rightly pointed out that additional burden of expenditure is being incurred for a litigant for going from Tripura to Gauhati. I do not require any further time or any argument to convince you that that should be one of the principal considerations for having a separate High Court in Agartala.

Apart from that, you should not forget the reality that Tripura is also a State. Every State has got its own personality and distinction; and naturally a separate High Court for a State is not only merely a status symbol but it adds to the prestige and status of a State. By not having a High Court of Tripura which is a State, please bear in mind that you are denying that rightful position of the State. I would only implore upon the Government that do not forget that it is a State; it is a State like any other State of the country. Therefore, the distinct personality of the Tripura State urges on the people of Tripura to have it; whatever might be their number; it might be only 20 lakh; but 20 lakh people having a distinct culture of their own, language of their own, being inhabited by different sections of the people, constitute a State, a State of the Union Republic of India. Therefore, I think, when a decision was earlier taken, I am sorry to comment that this very reality that Tripura constitutes one of the

States of the Republic of India was not taken into consideration; and this is what the people of Tripura want. They want to have their own hopes and aspirations fulfilled; and with this demand is associated people of all sections, of political opinion. There is no difference on this issue as it has been pointed out that there has been a hesitation for a long time. The Bar Council adopted a unanimous resolution. The Tripura Legislative Assembly has also adopted a unanimous resolution. Now, you may say, "Why should we care about a State Legislature? After all, it is a State Legislature!" But they are the representatives of the people. And when the entire State Legislature unanimously adopts a resolution you just cannot remain blind to it. Does it strengthen the federal polity of our country? I question even this also. Does it not affect the federal polity of our country? Do you want to destroy that federal polity? Do you not want to improve the Centre-State relations? Do you not want that the people's expectations should be fulfilled to the best possible extent? Therefore, these are all the major political issues, but not partisan issues. I admit that these are political issues. But every political issue should not be considered as a partisan issue. It is not a partisan issue, but it is a political question, that, can a State be allowed to function without having the distinction of being a State? Therefore, in consideration of these basic issues, the issue relating to the distinct personality of every State, I think you would take a proper decision. Tripura is a small State. There is no doubt about it. But Tripura also has got many prospect. Gas has been made available in Tripura. It is a big news among the people of Tripura. It is a big news in the entire Eastern region. Not only the availability of gas but other petroleum products are being made available. The industrial prospects of Tripura are becoming brighter and the entire shape of Tripura will be changed. Instead of a poor agricultural State it may take the shape of a prosperous industrial State, whatever may be its geographical area.

Tripura has started cultivating rubber. Once the rubber cultivation becomes successful, the prospects of industrial growth of Tripura become bright. Then it would

not be less prosperous than any of the neighbouring States, although its population is very limited today—hardly 20 lakhs.

17.18 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

I do not want to dilate on the subject. I would only urge upon the Government to bear in mind that you have got the responsibility to provide for not only justice, but also for cheap justice. In consideration of all these issues, we have to find a way to provide a separate High Court in Tripura. If you believe in a federal polity today, you will have to give a distinct personality to Tripura as a State. In order to strengthen the federal polity, I think a separate High Court for Tripura is urgently called for.

Lastly, although Tripura is a poor State now, it may also blossom into a prosperous industrial State and I think it is not wrong to have a decision which will also help Tripura to blossom into a prosperous State. Therefore, I strongly support the Bill moved by Shri Ajoy Biswas, and I hope and trust that the Government would take into consideration all these aspects and concede all the demands of the people of Tripura in fulfilment of their hopes and aspirations.

MR. DEPUTY-SPEAKER: Shri Harish Rawat.

श्री हरीश रावत (प्रत्योदा) :  
उपाध्यक्ष जी, सवाल केवल भारत ला में एक  
हाई कोर्ट के बैंच की स्थापना का नहीं है,  
सवाल इस बात का भी है कि संवैधानिक  
रूप से हमारी प्रतिबद्धता है कि हम लोगों को  
सस्ता न्यायदेंगे, उनको सस्ता न्याय उपलब्ध  
करायेंगे। इस समय न केवल वहाँ से  
बल्कि देश के कई और भागों से भी इसी  
प्रकार की मांग लोगों की है। उत्तर प्रदेश  
में भी लम्बे इतने से लोगों को यह मान  
है, कि उत्तर प्रदेश में एक बैंच इलाहाबाद  
हाई कोर्ट को पश्चिमी उत्तर प्रदेश में कहीं  
एस्टेबलिश की जाय। सरकार इस मामले को

### [श्री हरीश रावत]

लम्बे समय से टाल रही है। मुझे अफसोस है कि यहाँ पर न्याय विभाग के बड़े मंत्री जी उपस्थित नहीं हैं, लेकिन मैं समझता हूँ कि डिप्टी मिनिस्टर साहब मेरी भावना को उन तक पहुँचा देंगे कि उत्तर प्रदेश के पश्चिमी क्षेत्र में एक अतिरिक्त बेंच की स्थापना की जो मांग थी जिसके लिए श्री जसवन्त सिंह आयोग की स्थापना की गई थी, उसके द्वारा जो साक्ष्य लिए जा रहे हैं वह संतोषजनक नहीं है, बहुत ज्यादा समय लिया जा रहा है। किसी न किसी बहाने से ऐसा लगता है कि सरकार या यह आयोग जल्दी अपनी रिपोर्ट पेश न करके इस मामले को टालना चाहता है? लोगों में इस बात को ले कर बड़ा असंतोष है। यदि आपने इस मांग को पूरा नहीं किया और ज्यादा देर लगाई तो हो सकता है एक और आन्दोलन उत्तर प्रदेश में हो। और उसके बाद यदि आप अतिरिक्त बेंच स्थापित करते हैं तो वह उचित नहीं होगा।

अगरतला में बेंच हाईकोर्ट की स्थापना होनी चाहिए तथा उत्तर प्रदेश की इस मांग को सरकार को तात्कालिक लेना चाहिए और जो आयोग इस काम के लिए गठित किया गया है उसके लिए एक समय निर्धारित करना चाहिए कि उस निश्चित समय के अन्दर वह अपनी रिपोर्ट दे दे।

इन्हीं शब्दों के साथ मैं इसका समयान्तर करता हूँ।

**SHRI GHULAM NABI AZAD:** Mr. Biswas, while piloting the Bill, has levelled one charge that the Central Government is not taking much interest in the North-Eastern State. I would like to refute this charge. The Central Government is very much concerned about these States. The Prime Minister in particular has been taking very keen interest in the North-Eastern State. She has been going there many a time and he has been giving lot of time to the North-Eastern States in every sphere.

As far as allocation of funds is concerned, as compared to their size and population, we have been allocating funds above the normal as we have been doing in the case of other States.

My friend has mentioned while moving the Bill that Tripura is the only State where we do not have a High Court. Most of my friends have also mentioned that since it has the status of a State it should also be provided with a High Court. For the information of the hon. Members I would like to tell them that there are some other States also where we do not have High Courts, like Manipur, Nagaland, Meghalaya, Tripura. Even two big States Punjab and Haryana have one common High Court at Chandigarh. There are at present 18 High Courts in the Country. According to relevant provisions of the North-Eastern Areas (Reorganisation) Act, 1971, there is a common High Court with its principal seat at Gauhati for all the States of Assam, Meghalaya, Nagaland, Manipur, Tripura and the Union Territories of Mizoram and Arunachal Pradesh of the North Eastern Region. Prior to the coming into force of the aforesaid Act there was a common High Court, namely the High Court of Assam and Nagaland with its jurisdiction over the States of Assam and Nagaland. There were separate Judicial Commissioner's Courts for Manipur and Tripura.

Circuit Benches of the Gauhati High Court are at present functioning at Agartala, Imphal, Kohima and Shillong under section 31(3) of the North Eastern Areas (Reorganisation) Act, 1971. My friend has mentioned that there are so many pending cases. As far as the new courts are concerned, there are two or three things which are taken into account. No. 1 the population No. 2 the pending cases. But I would like to go into the cases which we are having in North-Eastern State. The number of main cases instituted during 1977, 1978, 1979, 1980 and 1981 were respectively 241, 310, 345, 563 and 681. When we compare it to the rest of the High Courts, I think it is just nominal. One High Court Judge is expected to dispose of at least 650 main cases in a year. The workload in Agartala is just sufficient for one judge. It does not justify the setting up of a separate

High Court for Tripura nor even establishment of a permanent Bench. A permanent Bench should consist of at least two judges, preferably three. The Law Ministry in particular have suggested methods to the State Government of Tripura whereby these lacunae may be removed and even if they have some pending cases, how they can be dealt with. The sound approach would be for the Chief Justice of Gauhati High Court to depute judges in such a way that one judge is always available at Agartala. Another judge can go to those places to constitute division benches. They should meet the requirements of the area. These arrangements have not in the past worked because the Gauhati High Court was not working at full strength. The sanctioned strength of the Gauhati High Court at present is nine judges. Till April, 1981, it had only five judges in position. Two judges were appointed in April, 1981 and one judge has been approved for appointment. So, the High Court will now have a working strength of eight judges. The only vacancy left to be filled is that of a Chief Justice. It has also been proposed by the Acting Chief Justice of Gauhati High Court to create two more posts of judges and the Governor of Assam and Meghalaya has been addressed to give his view in consultation with the Governor of Manipur, Tripura and Nagaland. The Minister of Law, Justice and Company Affairs, in his letter to the Governor of Assam has recommended the proposal. If there is a working strength of ten or eleven judges in position, it would be possible to have adequate sittings of the Circuit Benches and to ensure that at least one judge is always there in Imphal and Agartala.

As far as the new Bench is concerned, this is not a demand from Agartala alone, Governments of Manipur and Nagaland have also proposed the creation of separate High Courts for their respective States. The workload at Imphal and Kohima is even less than at Agartala. Even if a High Court is established at Agartala, pressure will mount from the other States in the North-Eastern areas for the establishment of High Courts.

Keeping in view all these difficulties and all these problems, I think my friend Mr. Biswas will agree with me. I think we have almost 31 States and Union Territories, but at the moment we have only 18 High Courts. So, there are thirteen other places where we do not have High Courts at the moment. So, keeping in view all these difficulties, I will request my friend Mr. Biswas to withdraw the Bill.

**SHRI AJOY BISWAS (Tripura West):** Sir, actually the Minister has failed to advance any acceptable arguments against the establishment of a separate High Court. The Minister has said one thing that the pending cases which are now at the Agartala Bench, are nominal. I may remind the Minister that when the Assam High Court started, the number of cases was only less than 50. So, the argument of the Minister is not applicable even for the people of Tripura.

The next argument, the main one rather, was that if a separate High Court is sanctioned for Tripura, then the other States also will come forward with such a request. I say that their requests should also be conceded. If, for example, Nagaland asks for a separate High Court, you should sanction it. So also for Manipur or Meghalaya. It is rather strange that the Central Government is giving such an argument that other areas will make such a demand, if Tripura is conceded a High Court.

So, I would request the hon. Minister to reconsider the question in the light of what I have stated. He has to respect the urges and aspirations of the people.

**MR. DEPUTY-SPEAKER:** Are you withdrawing it?

**SHRI AJOY BISWAS:** No.

**MR. DEPUTY-SPEAKER:** The question is:

“That the Bill to provide for the establishment of a High Court at Agartala, Tripura, be taken into consideration.”

*The motion was negatived.*