

[Shri Madhuryya Haldar]

the point of equity this anomaly should be set right. The standard of teaching is yet another point which needs the careful consideration of the Government for the standard of teaching in different States is different and it is necessary to maintain some minimum standard in all the States. There should be some co-relation between the type of education given in West Bengal with those in Kerala. This parity of educational standards between the different States is absolutely essential. In West Bengal this year we have changed the higher secondary course from 11 years to 10 years. Unfortunately the books for the current year are not available. That is owing to the shortage of newsprint and also the new syllabus is not ready and the students have to read the books which were meant for the earlier course. From the demands for grants, publication it is clear that a good amount of money has been earmarked for technical education. But in West Bengal we find that teachers with engineering diploma are engaging themselves and are taking physical training just to keep their job. There are 37 schools with technical sections and in each school there are costly equipment costing nearly one lac each. Thus nearly 37 lakhs worth of equipment are lying idle while the teachers are busy getting physical training courses. This is a colossal wastage of public money. Who is responsible for this—Central Education Minister, the Education Commission or the State Government? Not only the teachers are idling, the equipment are being wasted but the students are also being denied the books which are prescribed for their course. We have referred to many a times in this House about a book 'Peacock Reader'.

MR CHAIRMAN: If the hon member wants to continue his speech he may please resume his seat now. Does the hon Member want to continue?

SHRI MADHURYYA HALDAR: Yes, I would like to continue.

MR CHAIRMAN: You may speak tomorrow. Kindly resume your seat.

18 HRS

HALF-AN-HOUR DISCUSSION

LEGAL AID TO THE POOR

SHRI C K CHANDRAPPAN (Tellicherry): Mr Chairman, Sir, the question of providing legal aid to poor is the subject matter of the discussion.

It has been accepted as one of the responsibilities of a modern State to provide certain extra facilities to the poorer sections—the weaker sections—of the society. It is with that in mind that several measures are taken by different States in this connection. For example, we provide medical facilities to the poor, we provide unemployment benefit, we provide old age pension and protection against disease and social oppression. These are certain responsibilities which the State has taken upon itself to discharge. It is in this category that rendering of legal aid to the poor should be categorised. This opinion has been discussed in our country for quite some time for the last so many years. And after 1945 this matter has been discussed in our country.

Several commissions have gone through the genuineness of the case and they have come out supporting that there should be ample provisions—financial or legal—to provide legal help and assistance to the poor people. All the Law Commissions from 1954 onwards successively have recommended to Government that they should take measures to provide legal aid to the poor. If you take the latest developments, you can see that in 1972 a Commission was appointed under the chairmanship of Shri V R Krishna Iyer who was a Member of the Law Commission at that time to concretely suggest ways and means so that the Government can take measures to provide legal aid to the poor people. And this Commission has now submitted its recommendations.

In 1972 and 1973, at least half a dozen times, the hon Minister Shri Nitin Singh Chaudhary and his col-

league, Shri Gokhale had made promises in this House that they are coming with a comprehensive bill. The latest of the series of the promises made was that in this budget session itself, the Government is willing or the Government is ready to come forward with a comprehensive legislation to provide legal aid to the poor people. But, we are a little disappointed about the performance of the Government in this matter also as in many others. I think the Minister will not say that it is due to the paucity of money or fund that he is not coming forward with concrete suggestions. Some of his predecessors in 1970 made a suggestion that paucity of fund stood in the way of Government from their coming forward with concrete measures. But, that was widely criticised from all sections of the people, from all sections of the press; that attitude was criticised: It was pointed out also that there was sufficient money which the Government could find out only if there was a will. Now, there are certain estimates made about the probable expenditure involved annually if legal aid is provided to the poor people. One such estimate is that it may be necessary to provide Rs. 50 crores per year. It was reported in the press that Shri V. R. Krishna Iyer, in his report, given to the Ministry, had suggested that this could be taken up in different phases. The first phase will cost only Rs. 4 crores. Now, if we do not take it up or if we leave the situation as it is to-day and leave the poor man to the mercies of whatever happens around him, then the conditions are really very bad.

There was a seminar recently where some cases were cited. A worker died while he was working. Even though his wife and children could have claimed compensation, they could not get any single pie because they were ignorant of the law. There was another case of a car accident. The son of a big police official was driving a car and it dashed against a poor man, a mali, who was crippled by this very serious accident. But he could not claim compensation because he was unaware of the existence of the legislation under which he could have claimed compensation. There are so many such instances which one can

go on quoting to show how justifiable is the case for providing free legal assistance to the poor people.

Apart from the steps which the Government will take, I would like to know the attitude of Government towards voluntary organisations which are providing legal assistance to poor. I can give a specific case. In the Delhi University, the students of the Law Faculty and the law college are running a legal clinic for the poor people, which was started on 2nd February 1970. There is a history behind it. On that day a poor woman walked into the University Law Faculty, met the Professor and told him that her husband was in jail for the six months, that she did not know why he was kept in jail and that she could not go anywhere seeking remedy because she does not have any money. The Professor of the Law Faculty of the Delhi University, with the cooperation of his colleagues, took up this case and put up a defence. As is usual in courts, the case was postponed twice but they finally got the case heard. The person who was in jail told the lawyers that he also did not know why he was kept in jail. When the Professor asked him why he did not complain about it, he replied that he did not know whom to complain. That was the plight of that poor man. In the course of the hearing they found that he was not a criminal, there was no criminal case against him, there was no previous record of any criminal offence against him. The only case against him was that he was found roaming about the supermarket of Delhi and some policeman thought that he is a suspicious character. That poor man had come from Andhra in search of a job and he was put in jail for six months. This is the situation faced by poor people. The Minister being a lawyer, he must have come across many such cases. After this incident, after intervening in this case, the Law Faculty of the Delhi University, with the cooperation of the professors and students there, set up a clinic called the Clinic for Legal Aid to the Poor. They are dealing with several cases like this. I do not know whether the Government is providing them any help.

[Shri C. K. Chandrapan]

There are several proposals of this kind, which were made in the past by many eminent personalities in public life. Many seminars have made this recommendation that voluntary organisations should be pressed into action, so that they will defend many cases of this kind.

There was also an interesting proposal made, which was also made by the commission headed by Shri V. R. Krishna Iyer, that every lawyer who got a degree in law, when he enrolled himself as a practitioner in the court should be statutorily required to take up at least two or three cases every month free of cost for the poor people about whom Government should make a definition stating who were the people who were deserving to be supported legally. But I am very sorry to say that the Government at the Centre were sleeping over these recommendations and even the latest recommendations made by Shri V. R. Krishna Iyer. After big tomtomming and after a big declaration from the housetops, this commission was appointed and it was announced in the House that a commission was being appointed. At that time, the claim was made that this would be one of the major break-throughs that Government were making to help the poor man. But now, years have passed and the Commission's recommendations have been with Government for six months or more, and no step has been taken about it. In the meantime, some of the States have taken certain measures.

If I may claim a little credit—the hon. Minister need not feel bad about it—when the communists were in power in Kerala long ago, in 1958, a Bill was enacted to provide legal assistance to the poor under which it was provided that anyone having an income of less than Rs. 100 p.m. was entitled to get legal assistance from a counsel of his choice whom Government would pay. That kind of step was taken by the Communist party when they were in power in Kerala as far back as 1958. Certain other States also have taken some similar steps. But I would like

to know from the hon. Minister what he is going to do about the recommendations made by Shri V. R. Krishna Iyer in his latest report for providing legal assistance to the poor.

As far as the recommendations are concerned, we do not know what they are because we have very little source of information, but we understand that the proposals are good. We understand that he has proposed certain statutory bodies and boards to be set up and also popular committees at the lowest level so that cases at different levels will be discharged speedily and at the same time the poor man will be provided with legal assistance.

In this connection, I may mention though it is not directly related to this that the large mass of cases pending in various courts in the country down from the Supreme Court to the lowest court in the country also creates another problem. The poor man who is going to get justice from the court will have to die without getting any justice from there because the case is postponed and years and decades pass without his getting justice.

So, I would like to know from the hon. Minister when he is introducing the promised Bill which he had said would be drafted on the basis of the recommendations of the commission headed by Shri V. R. Krishna Iyer. Will he introduce it during this session itself as he had promised during the last session of Parliament? Thirdly, what are the broad details of the proposals made by Shri V. R. Krishna Iyer in his recommendations, and what will be the approximate financial commitment that Government will have to incur if they introduce a Bill and take the necessary steps.

Lastly, what is the assistance Government will render to voluntary bodies engaged in providing legal assistance to the poor? In what way do you think you are going to encourage them?

These are my questions. Before resuming my seat, I would make an earnest request to the Minister to try to give, as far as possible, elaborate

replies because I am afraid he is known for very short replies. Hence this warning and my request to you for protection also.

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI NITIRAJ SINGH CHAUDHARY): I am sorry my hon. friend has charged us with sleeping over the report and not taking any steps. I will first clarify that position.

The Law Ministry appointed a Committee headed by Mr. Justice Krishna Iyer to assist the Ministry as to how legal aid could be provided. That Committee took quite a long time and submitted their report sometime in the middle of last year. I have a copy of the report with me. It is a typed copy and a voluminous one. As soon as the Ministry received it, we appointed a Committee of three secretaries of the Ministry to scrutinise it and formulate the steps we had to take. The Committee looked into the report and advised us that certain things could be done by executive order and for certain things the existing laws have to be amended and how legal aid has to be enforced by bodies constituted at the national, State, district and taluk levels. As soon as we got it, we started drafting a Bill. It has also been done and a copy of the draft Bill is with me.

Now, the question is what is to be done. My hon. friend originally said that this matter has been hanging fire for the last many years from 1945 onwards. In 1949 the British Government enacted a law for legal aid. On the basis of that, the father of the present Justice Bhagwati was asked to formulate a scheme. He did so and the Government of India, if I am not mistaken, sent circulars in 1960 to State Governments suggesting what they should do. But I am sorry to say that none responded.

The idea then was that administration of justice being a State subject, the States had to do everything. Later on when we thought that we have to do it, we got it, examined as to whether the Central Government could do any-

thing; we found on the authority of two decisions of the Supreme Court that there are certain entries in the Constitution in the Concurrent and Union Lists by which we could bring in this sort of a legal aid scheme and take it up, of course with the help and active cooperation of State Governments.

So the scheme is now ready. The State Governments have to be provided with copies of the main Report and the Report of the Secretaries and also of the Draft Bill. We have already sent the Report for printing. The press has informed us only three or four days back that they have despatched the copies with the RR; and the copies are yet to arrive. The moment copies of the Report are received, they, along with the Report of the Committee of Secretaries and the Draft Bill, would be sent to all State Governments, to the High Courts and to the bodies presently voluntarily dealing with legal aid for their comments. After that, legislation will be brought forward.

The questions put by my hon. friend are these: the first question was, when we will introduce the Bill and what is the expenditure. As I have already replied, the draft is ready and it is with me. But it has to go to the State Governments because it is they who have to implement it and not the Central Government. The Central Government can only send...

SHRI P. G. MAVALANKAR (Ahmedabad): Why don't you make the report available to Members of Parliament also?

SHRI NITIRAJ SINGH CHAUDHARY: It was a Committee appointed by the Ministry to assist the Ministry. So, we are getting it. We have to decide as to what is to be done. If certain of my friends who are interested in it, I will certainly see that they get it. About laying it on the Table of the House, I cannot make any commitment at this moment.

SHRI A. K. M. ISHAQUE (Basirhat): Why this differentiation? There should be one principle. Either they

[Shri A. K. M. Ishaque]
lay it on the table of the House or they do not supply it at all. How is it that only some Members may get it? That cannot be done.

SHRI NITIRAJ SINGH CHAUDHARY: When you are dealing with legal aid, if we give it to those who have interest in it, we shall get some concrete suggestions from them. I do not mean any disrespect or discrimination in that matter. When we are giving it to other bodies who are not in this House but who are dealing with legal aid—when we are giving them copies—there should be no reason for us to refuse to give them to those Members who are interested in it.

Then, the second question was, whether we will introduce the Bill in this session. As I have already submitted, we have to send it to the State Governments, and unless we have their concurrence and comments, it would not be fair for us to rush with the Bill and then face so many troubles because it is the States who have to implement it.

Then the next question was about the broad outlines. If I may summarise the suggestions, they could be divided into three parts. Educating the people about their rights for legal advice on matters for which people go to courts and where they are unnecessarily dragged; then, legal aid committees being constituted in every taluk or tehsil subdivision, and after we have done that, then it could be thought of for the State high court level and the Supreme Court level. The third is, assistance in the conduct of cases. These are the three suggestions which have been made.

To spell out those suggestions in a little more detail, the recommendations are, firstly, for making provisions for a comprehensive legislative scheme of legal aid; I have already referred to it; the Bill is there. Secondly, the formation of a statutory Corporation to stimulate, guide and perpetuate organised free legal services which is insulated from official or party pressure. That is provided in the Bill. Thirdly, organisation of a network of legal aid groups of bar associations, law schools, community

organisations, a variety of rural, private and public agencies, organs of local Governments and *ad hoc* panels of private lawyers. This is in reply to the questions raised by my hon. friend.

About lawyers, the suggestion is that the Advocates Act should be amended, and it should be made obligatory for every lawyer who is registered under the Act as an advocate, to accept the cases that the legal aid committees may forward, be that at the tehsil level or the taluk level or the sub-divisional level, district level or at any other level. If they entrust the cases to those lawyers, they should take them and they will not be able to refuse, and the fee payable would be the fee fixed under the law. If they do not want that fee they may not charge any fee, but if they refuse, that will be taken as a misconduct on their part and that will mean sufficient bar on the lawyers from refusing it.

Fourthly, the recommendation is for an amendment of the Code of Civil Procedure. The Civil Procedure Code (Amendment) Bill has been introduced in this House today. The Bills must have reached hon. Members. If they refer to pages 66-67 of the Bill, they will find Order XXXIII, under which provision has been made to deal with pauper matters. A provision has been made therein that if the court finds that the matter needs assistance of a counsel, the court shall provide a counsel. I will read the provisions:

"9 A-Where a person, who is permitted to sue as an individual indigent person is not represented by a pleader, the Court may, if the circumstances of the case so require, assign a pleader to him.

The High Court may, with the previous approval of the State Government, make rules providing for—

- (a) the mode of selecting pleaders to be assigned under sub-rule (1);
- (b) the facilities to be provided to such pleaders by the Court;
- (c) any other matter which is required to be or may be provided by the rules

for giving effect to the provisions of sub-rule (1)."; Then, Sir, the next recommendation is simplification of the Criminal Procedure Code and liberalising the bail provisions. For that, after we receive the report, a Bill shall have to be moved for amending the Criminal Procedure Code. The other recommendations are—constitution of a litigation fund for workers in industries; creation of a special advisory committee for legal aid to scheduled castes and scheduled tribes and appointment of a Welfare Officer for tribal areas and Harijan habitations; creating public defence counsel in children courts; enlarging the jurisdiction of Nyaya Panchayats; making a statutory provision for all lawyers to do a specified minimum of legal aid work—to which I have just referred—and other allied matters. Broadly, these are the recommendations of the Committee which the Law Ministry

appointed; headed by Justice Shri Krishna Iyer.

So, to say that we are sleeping is not fair. That is all I would say. We are trying to proceed as fast as possibly we could. We have got the whole report examined. We have sent the report for printing. We have got the draft Bill ready and I hope Mr Chandrappan and other friends would agree that unless we get the States' cooperation, we cannot go ahead with this scheme. We are trying to get the States' assistance and their consent. Thereafter, a Bill would be introduced.

16.27 HRS.

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, April 9, 1974/Chaitra 19, 1896 (Saka).