

15.21 hrs.

CONSTITUTION (THIRTY-THIRD AMENDMENT) BILL*

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND IN THE DEPARTMENT OF PERSONNEL (SHRI RAM NIWAS MIRDHA): Sir, I beg to move for leave to introduce a Bill further to amend the Constitution of India.

SHRI S. B. GIRI (Warangal): Sir, I rise on a point of order. The statement of Objects and Reasons given in this Bill says—when the Andhra Legislative Assembly is alive—

MR. DEPUTY-SPEAKER: Before you proceed further, because the State Assembly is functioning, cannot Parliament amend the Constitution?

SHRI S. B. GIRI: I am coming to that. The State legislature should endorse the formula; it has not been allowed.

Another thing is, article 246(4) of the Constitution says: "Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in State List." This should have been brought before the State legislature. It has not been done.

Another point is this. The Bill should have come in a different form. In the Statement of Objects and Reasons, it has been stated that "when the State of Andhra Pradesh was formed in 1956, certain safeguards were envisaged." Certain legislative guarantees were envisaged.

MR. DEPUTY-SPEAKER: What is the point of order?

SHRI S. B. GIRI: My point of order is this. I say that this Bill should not be introduced on the ground, firstly, that it is against the Constitution.

MR. DEPUTY-SPEAKER: You are opposing the introduction of the Bill. You have not given your name for that. There is no point of order.

SHRI S. B. GIRI: I am raising a point of order.

MR. DEPUTY-SPEAKER: Then make the point of order. I have not been able to follow your point of order.

SHRI S. B. GIRI: I will again repeat it. Firstly, in the Statement of Objects and Reasons—

MR. DEPUTY-SPEAKER: You are mentioning the Statement of Objects and Reasons. Is that a point of order?

SHRI S. B. GIRI: The Statement of Objects and Reasons says that in 1956 certain safeguards were envisaged for the Telangana—area in the matter of development and also in the matter of employment opportunities and educational facilities for the residents of that area. Another thing is, a Regional Committee has been appointed for Telengana by a Parliamentary enactment. When these things are there—

MR. DEPUTY-SPEAKER: What is the point of order?

SHRI S. B. GIRI: The point of order is this. This Bill is against the Constitution of India. This Bill should have been first of all discussed in the State legislature. That has not been done. Secondly, this Bill should have come in a different shape. When they want to abolish the safeguards and the

*Published in Gazette of India Extraordinary, Part II, Section 2, dated 14-12-73.

[Shri S. B. Giri]

regional committees. it should have come in the form of bifurcating the Andhra State and forming a Telen-gana State.

MR. DEPUTY-SPEAKER: It is not a point or order.

श्री जगन्नाथ राव जोशी (शाजापुर) :
उपाध्यक्ष महोदय, यह विधेयक प्रस्तुत करते समय उनकी जो इच्छा या मंशा है उसको तो मैं समझ सकता हूँ। किन्तु उसमें वैधानिक आपत्ति जो है उसके बारे में ध्यान आकृष्ट करना चाहता हूँ और यह चाहता हूँ कि उस पर वह कुछ खुलासा भी करें। आखिर कुछ लोगों को खास सहूलियत देने की दृष्टि से आप यह करना चाहते हैं लेकिन संविधान ने सबको जो मूलभूत अधिकार दिये हैं कि कोई भी व्यक्ति कहीं भी जा सकता है, रह सकता है, किसी भी शिक्षा संस्था में शिक्षा पा सकता है, इसके विरोध में यह जाता है क्योंकि इसमें यह दिया है, कौन लोकल हैं कौन लोकल नहीं हैं, यह आप तय करेंगे तो एक ही प्रदेश के अन्दर

There is a thing like local area and foreign area in the same State? It is very difficult to understand. It says here "specify any part or parts of the State which shall be regarded as a local area".

यानी मारा झगड़ा तो यहीं पर आयेगा। पिछली बार मारा झगड़ा यहीं पर इसी के बारे में था...

MR. DEPUTY-SPEAKER: That is on merits.

SHRI JAGANNATHRAO JOSHI: Not merits. It is the Fundamental Right. It contravenes the fundamental rights guaranteed under the Constitution that any citizen can go and reside anywhere. Have we no right to seek a clarification?

MR. DEPUTY-SPEAKER: Which provision of the Constitution is it contravening?

SHRI JAGANNATHRAO JOSHI: Article 19(e), Fundamental Rights, to reside and settle in any part of the territory of India. Supposing I go and stay, shall I be termed as local or foreign? What is it? I have got certain rights guaranteed to me under the Constitution.

श्री श्यामनन्दन मिश्रा (बेगूसराय) :
एम्प्लाइमेंट के लिये भी कुछ है।

श्री जगन्नाथ राव जोशी : उसी के लिये तो है, एम्प्लाइमेंट और शिक्षा, इन्हीं दो के लिये है और वह मूलभूत अधिकार है हमारा। तो ऐसी स्थिति में

We go and specify a local area. Do you mean to say that there is a foreign area in the same State?

कल कोर्ट में जाकर यह चैलेंज होगा। इसलिये मैं कहता हूँ कि पहले जैसा फेट इनके एम्प्लाइमेंट ऐक्ट का हुआ जो 57 में पास किया था वह तो सुप्रीम कोर्ट ने रद्द कर दिया, आगे चल कर वही इसके लिये होगा, तो यह कुछ मेरी समझ में नहीं आता। उनकी मंशा मैं मान लेता हूँ। जैसे पांच प्वाइंट का फार्मूला रखा था, हमने उसे पास किया, अब उसको रिपील करने के लिये वाद में आये हैं। वह जो सोलहवां आइटम है वह तो रिपील करने के लिये है। वे उसे रिपील करने के लिये क्यों ला रहे हैं? एक बार पास कर दिया फिर रिपील कर दिया यानी हम यहां कुछ सोच समझ कर करें क्या इसीलिये हम यहां बैठे हैं कि वे जो जो लायेंगे उसको हम करते जायेंगे? आइटम सोलह पढ़िये :

Item 16: to move for leave to introduce a Bill to provide for the repeal of Mulki Rules.

You cannot simply take it for granted or you should not think that only Leaders of the Congress Party, only their approval is necessary.

आपने और किसी को पूछा ही नहीं। यह मामला कोई कांग्रेसियों के झगड़े का है क्या? देश का मामला है, कुछ संवैधानिक अधिकार सबको मिले हुये हैं। इसलिये मैं जानना चाहता हूँ कि जब दोनों प्रदेशों की जनता की इसमें सहमति नहीं है तो कल फिर जा कर कोर्ट में यह चैलेंज होगा, तो आपको निर्णय करना ही है, अलग आंश करों, अलग तैलगाना करो तो मैं समझता हूँ—(ध्यक्षान्) मैं केवल क्लेरिफिकेशन चाहता हूँ। मैं चाहता हूँ कि इस पर वे प्रकाश डालें। मेरी राय में यह संविधान में गारन्टी किये हुये हमारे अधिकारों को हनन करता है। इसका वह खुलासा करें।

SHRI S. B. GIRI: On a point of order.

MR. DEPUTY-SPEAKER: What is the matter with you? You cannot make a second speech on the same question.

SHRI S. B. GIRI: On a point of order. This Bill is unconstitutional.

MR. DEPUTY-SPEAKER: I cannot allow you; I will not do anything irregular.

SHRI S. B. GIRI: This is another point of order. You give your ruling.

MR. DEPUTY-SPEAKER: Have you ever thought carefully what is 'order'?

SHRI S. B. GIRI: Yes.

MR. DEPUTY-SPEAKER: I take it that as hon. Member of this House we are aware of what is order in this House. The order is the sequence of items which are coming up. If you think that any particular rule has been violated, you can say there is a point of order. If you can say that any provision of the Constitution has been violated, that is a point of order. If you say that there is something wrong in the order, that is a point of order. Anything else is not a point of order.

If you make another point of order on that score, not the same point of order on which I have given my ruling, I am prepared to listen to you. Please understand what is order.

SHRI S. B. GIRI: With regard to the appointments in the State, they have made it district-wise. When the Mulki Rules were upheld by the Supreme Court, how can they bring a Bill giving employment on district-wise basis? This Bill should not be allowed to be moved.

MR. DEPUTY-SPEAKER: The minister may take note of this question and give an answer.

SHRI SAMAR GUHA (Contai): I want to oppose the introduction of this Bill on a basic issue. This House should not arrogate to itself the power to change the sacred provisions of the Constitution. I use the word 'sacred' for the reason—this gentleman, Shri Lalit Narayan Mishra...

MR. DEPUTY-SPEAKER: You can add, my fair lady!

SHRI SAMAR GUHA: The Constitution should not be made a political toy to fit into the political game of a political party, may be the ruling party. Very often it is done to fit into the whims of the political party that is ruling over the destiny of our people. For any reason, they simply come and bring forward a Bill. Because they have a massive majority, by their sheer strength of majority, they want to change the Constitution which has been enacted by the founding fathers after deliberate consideration and thinking. What is the object? They have evolved a six-point formula to resolve the dispute between the people of Telengana and Andhra. We know, Sir, that although they had a majority, yet there was a breakdown of the constitutional machinery in Andhra Pradesh, as a result of which President's rule was promulgated and for many months, there was no popular Government there. There were

(Shri Samar Guha)

agitations and innumerable arrests were made. here was a mass upsurge all over Telengana and Andhra. It is said in the statement of objects and reasons that the six-point formula has received wide support in Andhra Pradesh and has been endorsed by the State Government. How do they say that it has received support among the people and it has been endorsed by them? Has there been any referendum or any other machinery devised by the Government to ascertain the opinion of the people about the six-point formula? It was not even placed before public meetings and conferences. It was only evolved inside the camera of the ruling party.

If you allow all this, I would say that it is a frivolous way of changing the provisions of the Constitution only to suit the whims, the political interests and the parochial interests of the ruling party. What does it mean? It means that they equate the State to the Government and the Government to the people. The actual position is just the reverse of it. The strength of the Government flows from the people and the Government is a part of the State. I object to this Bill for the basic reasons that the people are not identical with the Government. The people have not been consulted. Even the political parties, except the ruling party, have not been consulted, even though millions of people participated in the movement. Their voice has been completely ignored. For that basic reason I oppose the introduction of the Bill. I conclude by saying that the Constitution should not be made a political toy to suit the political game of the ruling party.

SHRI S. B. GIRI: Sir, I want to point out...

MR. DEPUTY-SPEAKER: He has stated what he wanted to state twice or thrice. If he speaks again, what he speaks will not go on record.

SHRI S. B. GIRI: * * *

(Shri S. B. Giri then left the House)

SHRI RAM NIWAS MIRDHA: Sir, they have not said anything that would suggest that this Bill is outside the legislative competence of this House or that there are any other difficulties because of which this Bill should not be introduced. I would like to say that this House has the requisite legislative competence to undertake this legislation. This Bill has been brought under article 368 of the Constitution.

SHRI SAMAR GUHA: I did not raise any constitutional issue. I only said that this violates the basic principle of democracy by ignoring the people. So, I raised it on the question of propriety.

MR. DEPUTY-SPEAKER: All these things he can mention when the Bill is taken up for discussion. I am concerned with the limited question whether this Bill can be introduced or not. I say that all these submissions of the hon. Members could be good reasons, good submissions, on the Bill when it is taken up for consideration, but they are not grounds for preventing the introduction of the Bill.

The question is:

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

The motion was adopted

SHRI RAM NIWAS MIRDHA: I introduce the Bill.

15.39½ hours

MULKI RULES (REPEAL) BILL*

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND IN THE DEPARTMENT OF PERSONNEL (SHRI RAM NIWAS MIRDHA): I beg to move for leave to introduce a

* * * Not recorded.

*Published in Gazette of India Extraordinary Part II, Section 2, dated 14-12-73.