

passions and wranglings of this kind. It is good if an independent committee could go into this matter, but I leave it to the Government to decide. So far as the adjournment motion is concerned, I do not think any useful purpose will be served by discussing the matter at any length in this House. So, it is rejected.

Shri Braj Raj Singh: May I seek a clarification?

Mr. Speaker: No, I am sorry.

DECISION OF THE ELECTION COMMISSION
ON RECOGNITION OF POLITICAL PARTIES

Mr. Speaker: I now come to the next adjournment motion by Shri Vajpayee which reads:

"The decision of the Election Commission to annul recognition granted to political parties on a national basis and instead to recognise parties only on State level, a decision which is not only arbitrary and contrary to the statement made by the Law Minister in the Lok Sabha during the last session but also detracts from our efforts to strengthen factors which contribute to national integration. Furthermore, coming as it does a few months before the general elections, the decision has created serious unforeseen difficulties in respect of election plans and strategy of all major parties except the Congress."

What is the situation? How has it arisen?

Shri Vajpayee: The Election Commission has thought fit to change the basis for the recognition of all-India parties. It has been done just on the eve of the elections. The Election Commission could have waited for the results of the election. It should have laid down the criteria now and should have implemented them after the results of the elections had been announced. Now the recognition of certain parties, most of whom are

Opposition parties, who secured all-India recognition by virtue of securing a certain percentage of votes during the last general elections has been withdrawn. As a matter of fact, now no all-India party exists in the country except the Congress . . . (Interruption.) On a previous occasion when the question was raised in the House Shri Nagi Reddy asked—I would like to read the question—

"May I know whether it is a fact that the Election Commission is thinking in terms of changing the position of the all-India parties which has been accepted previously on the basis of a new criterion that they are trying to adopt before the elections are held?"

The reply of the hon. Law Minister was:—

"No, Sir. The only change that will be made, if possible, will be the liberalising of grants of symbols to parties."

As a matter of fact, no restriction has been put on certain political parties.

The Minister of Law (Shri A. K. Sen): Sir, I wish this matter was brought up earlier. The Chief Election Commissioner announced his decision on the 25th August after meeting all the representatives of the parties on the 24th August in which meeting the provisional draft order was circulated. Objections were heard and various matters were gone into. The hon. Member allowed the last Session to go without raising this question and has raised it now. But in any event relevant information should be placed before the House in order to show that this decision was arrived at after mature and full consideration of all the facts.

May I state, Sir, how this matter cropped up? You will yourself remember that this matter was raised off and on by various parties which had not the advantage of having an

[Shri A. K. Sen]

all-India performance in the last general elections but many of whom had performed well in certain States compared to the so-called all-India parties. Insistent demand was made for a revision of the rules which were framed after the first general elections. May I read out something which had been written for this purpose? It reads:—

“Before the first general elections there was no reliable material to go by for deciding which political party should be recognised for the purpose of allotting symbols to their candidates. As many as 29 parties had asked for recognition as national parties and many more as State parties. Taking a liberal view the Commission recognised 14 of the former as national parties and reserved distinctive symbols for their candidates in all the States. After the elections were over it was possible to assess more accurately the electoral strength of each of these parties. The yardstick adopted by the Commission was that the party's candidates must have polled at least 3% of the total valid votes polled at the parliamentary elections to secure recognition as a national party and at the Assembly elections in a State to secure recognition as a State party. As a result only 4 parties were found entitled to recognition as national parties and 19 as State parties.

“Soon after the second general elections the list was again revised on the same basis. Four parties continued to be recognised as national parties....”

It is here that the objection started because they said that only four parties became national parties though candidates in the States of many parties fared much better.

“Four parties continued to be regarded as national parties which meant that a particular symbol

was reserved for allotment to the candidates of that party at any parliamentary or Assembly election anywhere in India. 15 parties were recognised, most of them only in one State and a few in two or three States, as State parties. Here again, recognition in a State secured a reserved symbol for the party's candidates at Assembly elections as well as at parliamentary elections in that State.

“This method of distinguishing between the national and State parties and taking into account only the votes polled in parliamentary elections in the former case and in Assembly elections in the latter case has not been found very satisfactory. Since recognition in this manner is equally for the purpose of allotting symbols at parliamentary elections and Assembly elections it cannot be said to be logical. It is possible in this system for a party securing 3 per cent of the votes polled in parliamentary elections to obtain recognition in every State even if it did not contest any Lok Sabha seat in some States. Such recognition extends to all legislative assemblies without reference to the party's performance at the general elections to each of those assemblies. The party might not have contested even a single Assembly seat in same State, but on the strength of the minimum electoral support at parliamentary elections in a few other States it becomes entitled to recognition in every State.”

Shri Das Gupta raised this point very vigorously. He said that his party had secured 11 out of 14 seats in the District of Purulia and the Jan Sangh had not even contested anywhere there, yet the Jan Sangh would get a symbol whereas his party would not. These questions were

raised by various parties whose performance at the local level was much than the performance of some of these parties on an all-India basis.

"The Commission, therefore, considered that it would be more realistic and rational to recognise parties Statewise after taking into account the electoral support each party had in a State in parliamentary as well as in Assembly elections. The results of the second all-India general elections and of the mid-term general elections in Kerala and Orissa have been analysed from this point of view applying the same yard-stick of 3 per cent of the total valid votes polled as the minimum necessary for recognition in any State or Union territory. On this basis it is found that the various political parties which contested those elections would have been entitled to recognition for the purpose of reservation of symbols in the States and Union territories as specified below."

So far as the Jan Sangh is concerned, they were entitled to recognition in Madhya Pradesh, Maharashtra, Punjab, Rajasthan Uttar Pradesh and Delhi.

Shri Tyagi (Dehra Dun): Why Uttar Pradesh?

Shri A. K. Sen: Their performance comes within this criterion.

Shri Vajpayee: The question is.....

Shri A. K. Sen: Let me finish, Sir. I am only giving this in detail in order to rebut this rather sweeping talk that it was arrived arbitrarily. It shows the amount of thought and material that had gone into the whole question before the determination was arrived at. I am not giving the figures for the other parties because we are not concerned with that just now. Certain changes in the party position which had taken place since the last

general elections required to be taken into account. The All-India Scheduled Castes' Federation which fought the last general elections as a recognised party in some States dissolved in 1958 and was replaced by the Republican Party of India.

12.28 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

We cannot go by its performance at the last elections. The Republican Party now says, "We have the same strength. Why should we be denied a symbol?" After due enquiry this latter party was recently recognised in Maharashtra and the Punjab. Since the old party was dissolved and a new party had taken on the strength of the old party, they insisted for the same amount of recognition. Going into the facts the Election Commissioner gave them recognition in Maharashtra and the Punjab. The Maha Gujarat Janata Praishad formally wound itself up and ceased to exist as a political party... (*Interruption*). After making a charge of an arbitrary decision, the hon. Member must be patient in hearing the answer for it. It is no use making a charge and not waiting to be told the facts.

Shri Vajpayee: The hon. Law Minister is reading the statement which has been issued by the Election Commission. We all know about this statement. The statement does not answer the simple question as to why the criterion has been changed just on the eve of the elections.

Shri A. K. Sen: This statement is my statement.

Mr. Deputy-Speaker: The hon. Member should not expect an answer only to that question. We are all interested in this matter and if the whole thing is cleared, there will be no harm.

Shri A. K. Sen: It is my statement and it has not been published anywhere. I have taken the trouble to prepare it myself.

The Indian National Democratic Congress, which was recognised as a State party in Madras, merged itself in the newly formed Swatantra Party, and hence its recognition was withdrawn.

There was no review in 1957 of the State parties in Andhra Pradesh, since the general election to the Legislative Assembly of this State was confined to the Telengana area. The Peasants and Workers Party, which was recognised only in the old State of Hyderabad and which contested both Parliamentary and Assembly elections in the Telengana area, did not poll the requisite number of votes. It cannot therefore continue to be recognised in the State. Similarly, the Praja Party which was recognised in the old State of Andhra, contested a few Parliamentary and Assembly seats at the general elections but got little electoral support.

Therefore the Election Commissioner felt that the whole matter needed revision and fresh consideration, and a conference was called of all the representatives of parties, including the Swatantra Party into which had merged certain parties like the Peasants and Workers Party and a few other local parties. The draft of the tentative proposals was circulated on the 24th August, 1961 and thereafter, after all the discussions, the draft was finalised on the 25th August and published. The Jan Sangh raised...

Shri Tangamani (Madurai): Did not the C.P.I. oppose it even when it had been circulated to them?

Shri A. K. Sen: The Jan Sangh and the C.P.I. raised objections. Their objections were only that the old decision should remain. That means

that if there is an all-India performance of 3 per cent of the total votes polled, that party will have symbols everywhere though it might not have contested in any State—like the Communist Party not having contested a single seat in Gujarat in the last elections, and yet under the old rules they would have been entitled to a symbol in Gujarat as a matter of course, though the other local parties might have been denied that advantage.

Shri Tangamani: May I ask the hon. Minister whether the Gujarat State existed at the time of the 1957 elections?

Shri A. K. Sen: It might not have existed as a State, but the territory was there.

So, having gone into all this, these decisions were published on the 25th August.

12.33 hrs.

[MR. SPEAKER in the Chair]

Various representations were made, as I said, by the Loke Sevak Sangha party in Purulia and the Swatantra Party. And all these having been considered, this point was made. Let us take the Jan Sangh. The result will be like this. They will be recognised as a State Party in Andhra Pradesh, Assam, Bihar, Gujarat, Madras, Mysore and West Bengal; in the other States they will be regarded as an all-India party under the new decision. They will be regarded as an all-India party in Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Uttar Pradesh and Delhi; and in the other areas they would have the status of a State party, namely, they would have the symbol allotted to them, so that if they put up a candidate, that candidate will have the first choice with regard to the symbol they want, and no other party would be entitled to it, and the question of deciding by ballot would not arise. I do not see how any difficulty arises.

Similarly, with regard to the Communist Party they will be regarded as an all-India party everywhere except in Madhya Pradesh, Mysore and Himachal Pradesh. But in these States they will have a State party's status: so that if they decide to set up any candidate in Madhya Pradesh, Mysore or Himachal Pradesh they will have first priority in the choice of their symbol. I do not see how any difficulty is created and of the so-called four national parties. But the new party whose strength was assessed as concentrated and confined to particular areas and whose performance was much better than these so-called all-India parties in those areas, get the recognition consistent with their strength in those local areas.

These are my submissions, and I submit that there is no point in raising this adjournment motion.

Shri Bal Raj Madhok: The decision to declare certain parties all-India parties was taken with a view to give a fillup to the process of polarisation. There are other parties which have been given symbols. That facility could have been extended to some more. What was the need for changing the criteria laid down for the first and second general elections on the eve of this election? If a change was necessary it should have been made after these elections. Some parties might have fought the elections only in a few States in the 1957 elections but they might have grown much bigger now. For instance, the Bharatiya Jan Sangh is contesting more than 50 per cent of the seats in Andhra, Kerala and Karnataka and other States where it did not exist in 1957. So by making this change you have almost put them to a disadvantage. We do not mind if you give a symbol to any particular party, but why change the criterion for the others? That is our objection.

ए० एन० शर्मा १३५५ एल० एस०

श्री राम सेवक यादव (बाराबंकी) : मान्यता देने का जो प्रश्न है, उस के बारे में मैं समझता हूँ कि चुनाव कमिशन ने ज्यादा अच्छा कानून बना दिया है क्योंकि मान्यता देने का जो सिद्धान्त अब तक रहा है वह कुछ कम मुफीद था। अब जो परिवर्तन हुआ है वह न्याय पर हुआ है और ठीक ही हुआ है।

श्री बाजपेयी : पहले अन्याय पर था।

श्री राम सेवक यादव : हाँ, पहले अन्याय पर था। किसी दल की कहीं पर कोई शाखा हो या न हो, एक स्टेट में कुछ सीटों पर ही अगर उसे तीन परसेन्ट मत मिल जाये तो उसे मान्यता दे दी जाये, यह अन्याय है। अब चुनाव कमिशन ने जो निश्चय किया है वह नियम इन्साफ पर है और ठीक है।

लेकिन मैं एक चीज जानना चाहता हूँ कानून मंत्री जी से। चुनाव आयोग ने एक यह चीज रखी है कि जो उम्मीदवार अपनी जमानतें खो देंगे उन के मतों का शुमार अगले चुनाव के लिये मान्यता देने के सम्बन्ध में नहीं किया जायेगा। ऐसे भी उम्मीदवार हैं और ऐसी भी मिसालें हैं जिन में कि उम्मीदवारों ने अपनी जमानतें खोई हैं फिर भी वे जीत गये हैं और विधान सभा के सदस्य हुए हैं। ऐसी अवस्था में चुनाव आयोग का यह फैसला कि हम उन के मतों का शुमार मायता प्रदान करने के लिये नहीं करेंगे, यह अन्याय है। मैं चाहूँगा कि उन के मतों का भी शुमार किया जाय ताकि यह नियम और अच्छा बन जाय।

श्री बाजपेयी : मेरा एक निवेदन है। पिछली बार चुनाव आयोग ने जो भी आधार तय किया था वह गलत हो या सही, उस आधार पर कुछ दलों को मान्यता दी गई थी अल इंडिया पार्टी के रूप में। यदि इस

[श्री वाजपेयी]

आधार को बदलना था तो चुनाव कमिशन उस आधार की घोषणा आज कर सकता था और उस को चुनाव के बाद लागू कर सकता था। अब आप देखिये, केरल में भारतीय जन संघ का सिम्बल किसी लिस्ट में नहीं है। केरल में अगर भारतीय जन संघ का उम्मीदवार खड़ा हो तो वह दीपक का चुनाव चिन्ह नहीं ले सकता क्योंकि सिम्बल्स की जो सूची है वह की, उस में वह है ही नहीं।

श्री राम सेवक यादव : वह पायेगा। आप की जानकारी में यह चीज नहीं है।

श्री वाजपेयी : यह स्थिति हमारे लिये चुनाव की दृष्टि से बहुत हानिकारक है और मैं चाहता हूँ कि चुनाव कमिशन इस फैसले पर फिर से बचाव करें। वास्तव में चुनाव कमिशन की घोषणा ला मिनिस्टर महोदय की घोषणा से मेल नहीं खाती। मगर वह इस का समर्थन कर रहे हैं। क्यों कर रहे हैं, यह मैं नहीं समझता। हो सकता है कि कांग्रेस को लाभ हो रहा है, इस लिये कर रहे हों।

Shri A. K. Sen: By saying that the Election Commissioner's declaration does not fit in with our declaration, the hon. Member has paid the greatest compliment to our electoral law and machinery which they deserve; because, we do not want our electoral machinery to be run according to the dictates of the Government. We have kept it as independent as possible. It is independent, it hears every one and arrives at decisions. They may not be in accordance with all that the hon. Member wanted, but it has pleased every one else.

Shri Rajendra Singh (Chapra): The Election Commission and the Election Commissioner are autonomous. But the Election Commission cannot be allowed to behave capriciously and to the advantage of one party.

Mr. Speaker: I am not satisfied that it has acted capriciously in view of the elaborate statement made by the hon. the Law Minister that the Election Commission gave ample opportunities to the representatives of all parties to meet and discuss with them. Of course, wherever it is not right or proper to give a greater emphasis to any particular party, notwithstanding the fact that they have not got an all-India reputation, to that extent it is open to the Election Commission, after satisfying all the various parties and taking their advice, to restrict that party or the symbol to be given to that party to particular States. I do not think, in view of the statement that has been made by the hon. Law Minister and the action taken by the Commission, any useful purpose will be served by discussing the matter once over here. There is apparently difference of view on many of these matters. Ultimately some decision has to be arrived at. I am not prepared to give my consent to this adjournment motion.

CONVICTION OF COL. BHATTACHARYA BY PAKISTANI MILITARY TRIBUNAL

Mr. Speaker: Shri Balraj Madhok "The serious implications of the conviction of Col. Bhattacharya by the Pakistan Military Tribunal". May I know at what stage this is? I read in the papers that an appeal is going to be filed.

Shri Jawaharlal Nehru: Col. Bhattacharya has been sentenced to a long imprisonment of eight years. Naturally, the Government is much concerned on this. The Government did not think that his trial was justified or the tribunal which as tried him was the proper one and therefore it was put in a somewhat embarrassing position because it did not recognise that tribunal. It did not directly prefer an appeal. The Government has nothing to do with it. But, it helped the relatives, wife and others, of Col.