

16.45 hrs.

CONSTITUTION (FORTY-SIXTH AMENDMENT) BILL

MR. DEPUTY-SPEAKER: The House will now take up Constitution (Forty-sixth Amendment) Bill.

If the House agrees, we may have four hours for general discussion, two hours for clause-by-clause consideration and one hour for third reading.

I hope, the House agrees.

Mr. Minister.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI DHANIK LAL MANDAL): Mr. Chairman, Sir, I beg to move*

"That the Bill further to amend the Constitution of India be taken into consideration".

I am happy to bring forward the Constitution (Forty-Sixth Amendment) Bill, 1978 along with Government's amendments, which seeks to provide constitutional status to the Minorities Commission and Scheduled Castes and Scheduled Tribes Commission.

The Janata Government have been keen to establish a Civil Rights Commission, an independent and autonomous body competent to ensure that the minorities, scheduled castes and scheduled tribes and other backward classes do not suffer from discrimination or inequality. However, some doubts were expressed in certain quarters that one composite body charged with the responsibility for looking after the constitutional safeguards provided for all categories of minority groups would not be able to serve the interests of scheduled castes and scheduled tribes properly and adequately. In view of this and in deference to these sentiments, it was

finally decided that two commissions should be set up; one for the minorities, the other for the scheduled castes and scheduled tribes. Subsequently, the Government Resolution setting up the Minorities Commission was issued on the 12th January, 1978 followed by the Resolution setting up the Commission, for scheduled castes and scheduled tribes issued on 21st July, 1978.

As the hon. Members are aware, these two Commissions were initially set up by executive orders for the time being, and it was considered that it would carry a more effective assurance to the groups whose interests are referred to them if they were to be given an appropriate constitutional status. This would carry weight not only with the Government of India but also with the State Government. Moreover, the bestowal of constitutional status on these two Commissions would also remove the anomaly which by the two Commissions will be reporting to the President and Parliament, while the Special Officers mentioned in Articles 338 and 350-B are also charged with the duties of submitting reports on almost the same fields of reference.

It was, therefore, decided to bring forward this Constitution (Forty-Sixth Amendment) Bill, 1978 as introduced in this House in August, 1978 to give a constitutional status and backing to these Commissions and also to do away simultaneously with the overlap of functions between these two Commissions and the Special Officers.

This Constitution Amendment Bill aims to amend Article 338 and provide a new Article 338-A deleting Article 350-B. The present Article 338 provides for a Special Officer for the scheduled castes and scheduled tribes to investigate all matters relating to the safeguards provided for the scheduled castes and scheduled tribes

*Moved with the recommendation of the President.

under the Constitution and to report to the President upon the working of these safeguards at such intervals as the President may direct and the President shall cause all such reports to be laid before each House of Parliament. Article 350-B provides for a Special Officer for Linguistic Minorities charged with the duty to investigate all matters relating to the safeguards provided for Linguistic Minorities under the Constitution and to report to the President upon those matters at such intervals as the President may direct and the President shall cause all such reports to be laid before each House of Parliament and send to the Governments of the States concerned.

The two Commissions made a number of recommendations for further amendments to the Bill already introduced. These suggestions were discussed by the Prime Minister with the Chairmen of these Commissions. In the light of the discussions, amendments to the Bill have been prepared and these are also being introduced by the Government for consideration and passing along with the Constitution (Forty-sixth Amendment) Bill, 1978. These amendments provide that these Commissions may take up investigation of such safeguards as are provided under any Central or State law. It is also proposed to make it clear that the Commissions would be competent to evaluate the working of such safeguards. The Commissions are also being further empowered through these amendments to examine specific complaints and present reports not only annually but at such other times as they may deem fit. Thus, these two Commissions are being given freedom to submit reports whenever they deem fit. It is also proposed to amplify the scope of the work of these two Commissions as regards the discharge of their functions by adding the word 'welfare' to the words 'protection and advancement' and the word 'protection' occurring in the original clauses 3(d) of Articles 338 and 338-A respectively.

This measure has found a favourable response among the various minorities groups including Scheduled Castes and Scheduled Tribes. Keeping in view the wishes expressed in both the Houses of Parliament from time to time, I do sincerely hope that the House would take up the consideration and pass the Bill along with the proposed official amendments. I commend to this Hon'ble House accordingly.

MR. DEPUTY-SPEAKER: Motion moved:

"That the Bill further to amend the Constitution of India, be taken into consideration."

There is an amendment by Shri G. M. Banatwalla for circulating it for the purpose of eliciting opinion. Are you moving it?

SHRI G. M. BANATWALLA (Ponnani): I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 2nd August, 1979."

MR. DEPUTY SPEAKER: Mr. Suraj Bhan, your amendment is the same. So, you need not move it. Mr. Rachaiah.

SHRI B. RACHAIAH (Chamarajanagar): I rise to make a few observations on the Constitution (Forty-Sixth Amendment) Bill, 1978. In the statement of objects and reasons, it has been mentioned that under "Art 338 of the Constitution there is a provision to appoint a Special Officer for the Scheduled Castes and Scheduled Tribes whose duty has been defined there to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under the Constitution and to report upon the working of those safeguards at prescribed intervals. Accordingly, the President has appointed a Special Officer designated as the Commissioner for the Scheduled Castes and Scheduled Tribes. However, considering the magnitude of the

[Shri B. Rachaiiah]

problem, it has been felt that instead of having one officer reporting on the safeguards, it will inspire greater confidence if the matters relating to the Scheduled Castes and the Scheduled Tribes are entrusted to a Commission consisting of persons of eminence and status.

Similarly, the Constitution provides in article 350B for a Special Officer for Linguistic Minorities. The Government are of the view that appointment of a Commission to safeguard the interests of all minorities, whether based on religion or language, would provide a more satisfactory institutional arrangement for achieving the desired objective. A Minorities Commission was, therefore, set up by an executive order. Such a Commission would, if set up in pursuance of Constitutional provisions, inspire greater confidence among the minorities. Therefore, they have brought forward this Bill for consideration and acceptance.

In this connection, what I would like to ask the hon. Minister is this.

16.55 hrs.

[SHRI N. K. SHEJWALKAR in the Chair.]

No doubt the provision in this Bill is an improvement over the one which has been provided under Art. 338 for appointing a Special Officer. In view of the various safeguards under the different articles in the Constitution and also for the developmental activities that have been taken up by the government this provision to appoint a commission consisting more than one member is there. Constitutional safeguards have been extended for not more than ten years; every time this is going to end by 1990. I should like to know by bringing this Bill, whether government have made up their mind to amend the provision to extend reservation and safeguards under various articles of the constitution for another at least thirty years. Some Members while speaking on the report

of the commissioner for SC/ST expressed their concern about the atrocities on them even after a lapse of 32 years of Independence. Yesterday and the previous few days the subject has been discussed at length and I do not want to go into details; I will be accused of repeating what has been said in this House about the problems of scheduled castes, their economic backwardness and social degradation. Still the problem is so acute and day by day it is assuming the nature of a challenge to the nation. Therefore, I should like to know whether under various articles, safeguards would be continued further. This has not been mentioned by the Minister. If that is not so, where is the need for upgrading the office to that of a commission. Therefore, I should like to know if the government have decided to extend the safeguards for further periods.

The second point is this, whether there will be more members, commissions for the economic uplift, education, and for looking after the service safeguards of the scheduled castes and tribes. The problems are many and varied, difficult problems and each one of them requires a special commission consisting of experts to go into the matter and find out whether the safeguards have been properly implemented, if not, what are the bottlenecks in the way of implementation. It requires thorough investigation and study of the problems. Therefore, government should not be happy only by appointing commissions, and not providing enough staff and officers to deal with these matters. Therefore, I should request the minister to make known to us: what is in his mind, whether they are going to appoint more officers or more commissions, whether the commission will consist of more members, more persons, as he mentioned, persons of eminence and status.

17.00 hrs.

And if so, what is the number? What may be the expenditure involved in that; whether that amount will

be charged to the welfare of the Scheduled Castes and Scheduled Tribes? I would like to know that. Similarly, we have been spending money on non-recurring and recurring expenditure and approximately the amount has been mentioned in the Financial Memorandum. On the non-recurring expenditure it is mentioned that about Rs 4.3 lakhs will be spent and on recurring expenditure it will be about Rs 5.7 lakhs. In the case of the Minorities Commission it is Rs 6.4 lakhs on the non-recurring and the recurring expenditure will be Rs 8.2 lakhs annually. The exact quantum of money has not been worked out that will be spent on recurring and non-recurring expenditure. So this has to be spelt out. Will this huge amount be debited under the Head Welfare of the Scheduled Castes and the Scheduled Tribes? Will it be debited to the 'General Administration'?

With regard to the Minorities Commission, I would like to say that formerly there was a separate Commission for Linguistic purposes and for Religion. Now if they are combined as one Commission, then will they be able to cope up with the work? Will they be able to do justice to both the subjects? Therefore, I think, it would be better to have separate Commission not only one for the linguistic minorities but also one for the religious minorities. You have been seeing all through that the minorities in this country have not been treated properly and they have been prosecuted and they are having a raw deal. So, they expect a generous attitude from the Government so far as their problems are concerned. If there is a separate Commission for religious minorities and a separate Commission for linguistic minorities, then it would be better, because their problems are quite different. Their problems are not the same. Therefore, the problems of minorities require more attention. Their problems are more acute. The number of problems of the linguistic minorities may be more. So, this combined Commission will not be able to

cope with the work which is entrusted to them by the President. Therefore, I once again plead to the Government, as suggested by Shri Banatwalla in his amendment, to send this Bill for circulation so that we may have public opinion on this Bill and then we will be able to consider it coolly and in a very calm atmosphere. Therefore, I once again ask the Minister to spell out what is in his mind about the extension of the reservation and about the expenditure involved and also about appointing separate Commission for linguistic minorities and also a Commission for the religious minorities.

With these few words, I conclude my speech.

17 04 hrs.

STATEMENT RE: WAGE NEGOTIATIONS IN COAL INDUSTRY

THE MINISTER OF ENERGY (SHRI P. RAMACHANDRAN): As Members may be aware, the last Wage Agreement in the coal industry lapsed on 31st December, 1978. Some months before the expiry of this agreement we set up a Joint Bipartite Committee consisting of representatives of the management and the central trade unions to negotiate a new settlement. The Bipartite Committee held a number of meetings and in the course of negotiations constant efforts were made to find a way to bridge the gap between the demands of the Unions and the offer made by management. These efforts were redoubled during the last few days and the Bipartite Committee had been in almost continual session since the 13th of this month. During the course of negotiations, in April the unions had also given a call for indefinite strike in the coal industry from the 18th of this month.

I am happy to inform the House that as a result of our most earnest efforts we were able to reach an agreement with the unions early this morning and they have withdrawn the