

SHRI H.K.L. BHAGAT : My difficulty is that I understand it and his difficulty is that he does not understand what he is saying.

S. BUTA SINGH : Hon'ble Professor has got this argument at the fag end of the debate. He, perhaps, has second thoughts. Earlier he did not produce this. But my friend, Madhav Reddi, produced a wonderful argument while speaking on this issue.

Why did they not go to the Prime Minister ? I remember because I have been here for quite some time. When Shrimati Indira Gandhi used to call the leaders of the Opposition, they would say :

[*Translation*]

"We went on speaking and speaking but she did not speak. Then what purpose is served by going there. Now they have said that the present Prime Minister goes on speaking and we do not get a chance to speak. Earlier they did not use to attend the meetings because she used to listen patiently now they do not attend the meetings because the present Prime Minister explains the position in detail, this is the argument of Prof. Dandavate. He did not attend the meeting this time because he was apprehensive that—

[*English*]

—important issues will get diluted. If you take all other previous occasions, we used to have a very fruitful discussion, exchange of views; Government's stand used to be told to the hon. leaders of the opposition and hon. leaders of the Opposition used to have their points made to the Prime Minister and we used to sort out the issues. A new turn has been given by Prof. Dandavate to this argument. Of course, this is the prerogative of the hon. leaders of the opposition. But I think, the hon. Prime Minister has opened a new phase to our parliamentary democracy where we, the ruling party and the opposition, can sort out issues of national importance by sitting together, by jointly discussing the issue. This was a healthy practice."

PROF. MADHU DANDAVATE : I can assure you that I do not want to reply to the reply of the reply. All that I will say, let us not invoke the name of Mrs. Gandhi. I attended every meeting as leader of the Janata Party and every time we were told which particular purpose she had invited us and we discussed the issue threadbare. We never complained that she kept quiet. She spoke a lot, we spoke a lot. Only our sound was different. Therefore, forgetting this side-tracking, I come back to the adjournment motion. Since this is a major failure by the Government and the greatest lapse on the part of the security machinery, as a censure of the Government, I insist on moving the adjournment motion. I request you to put it to the vote.

MR. SPEAKER : The question is :

"That the House do now adjourn"

The motion was negatived.

MR. SPEAKER : Now we will take up next item, item No. 9, Bill for introduction. Shri Buta Singh to move for leave to introduce the Bill.

16.50 hrs.

CITIZENSHIP (AMENDMENT)  
BILL\*, 1986

[*English*]

THE MINISTER OF HOME AFFAIRS (S. BUTA SINGH) : Sir, I beg to move for leave to introduce a Bill further to amend the Citizenship Act, 1955.

16.51 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

SHRI BASUDEB ACHARIA : (Bankura) : Sir, I rise to oppose the introduction of the Citizenship Bill, 1986. It has been stated in the Statement of Objects and Reasons that a large number of persons of

Indian origin have entered the territory of India from Bangladesh, Sri Lanka and some African countries and thus there is a necessity for amending this Citizenship Act which is prevailing for a number of years after Independence. The citizenship can be acquired not only by birth but at the time of birth the parents also should have the citizenship of India. Why there is a necessity to amend this Act? Why the Government cannot seal the borders to check the infiltration for which there is a necessity to amend this Citizenship Act? So, I think there is no necessity to amend the prevailing Act by which the citizenship is acquired only by birth, and that is why I oppose the introduction of this Bill.

MR. DEPUTY SPEAKER : Motion moved :

“That leave be granted to introduce a Bill further to amend the Citizenship Act, 1955.”

Shri Somnath Chatterjee. Brief statement.

SHRI SOMNATH CHATTERJEE (Bolpur) : The size of the Bill is brief but the implications are not brief. So, have a little patience.

MR. DEPUTY SPEAKER : Discussion we can have afterwards.

SHRI SOMNATH CHATTERJEE : This is one opportunity open to us under the rules and I want to utilise that. I have given notice in time. Before I have started, you started intervening, even before the Minister. What is this intention, I do not understand it. Please listen and try to understand.

Sir, the Bill purports to amend a very important section of the Citizenship Act which has been there since the year 1955, namely, a person born in this country, after our Republic came into force, would be automatically a citizen of India. Now a distinction is being made that those born up to the commencement of this proposed Amendment Act—we do not know when—they will become automatically citizens of

India. Another category of persons has been thought of, namely, those who will be born after the commencement of this Act. They will not be automatically the citizens of India, unless one of their parents at least is a citizen of India at the time of the child's birth. I would request the hon. members on the other side not to go on raising hands without understanding implications of it. A distinction is being made and discrimination is being made only on the basis of the date of birth—prior to the commencement of this Act or after the commencement of this Act. This is the sole discriminating feature. The Minister has wide and deep knowledge of law, the ramification of the Article 14 of the Constitution of India, I take it. There has to be a distinguishing feature and many of the Members may not have heard that expression—having nexus to the object of the Act, apart from the question of classification which is important, this selection of arbitrary date. The hon. Minister wants to know what is the Constitutional infirmity? We cannot decide the Constitutional infirmity. I do not accept his version as the last word in the law of this country, not even the Law Minister who is prone to mislead others on the points of law. Therefore, I want to place it before the House because the Members of the House have a right, not as a judicial forum but as Members of this House to consider whether the proposed law infringes any provision of the Constitution of India. Article 14 of the Constitution has been held to be the real soul of the entire Constitution of this country, because it is again an arbitrariness. It is against unjustified discrimination between a citizen and a citizen, a person and a person. One thing must be kept in mind. The question of Article 14 discrimination does not relate to citizens only. It is different from Article 19. These are matters which should be looked into. Therefore, apart from the inhumane aspect of this legislation, it is almost showing callous disregard for people who are in trouble, Have you seen the Statement of Objects and Reasons? It says :

“A large number of persons of Indian origin have entered the territory of India from Bangladesh, Sri Lanka and some African countries and they are residing in India.” They are committing crime.

[Shri Somnath Chatterjee]

Persons of Indian origin who are forced to come to this country, are they committing crime? They are not getting automatic benefit of citizenship if they are not citizens of this country. The law provides it. Somebody, the parents or any one of them, may be or may not be citizen of India but may be staying for years, they are Indian nationals and the child born to them will automatically acquire citizenship. He does not have to bother—who is born, who get the first taste of air and life in this country. At least he would be given right of citizenship automatically. This was not innovation by the Government of India in 1955. Most of the countries in the world provide for automatic confirmation of citizenship on birth in the country. Most of the countries in the world do it. If statistics is taken, a survey is made, additional rights are provided *viz.*, acquisition of citizenship on the basis of the nationality of the citizenship of the parents. Therefore, you are merely surrendering to chauvinistic forces. It has brought our country people not together. It made the people drift from each other. It has encouraged forces of divisiveness in this country as also the forces of reaction in this country.

The hon. Home Minister, while replying to the debate or participating in the adjournment motion made an appeal.

MR. DEPUTY SPEAKER : Please wind up. You are going on dragging. On what ground are you objecting, you have to state that? You are going on speaking like this as if in a debate.

SHRI SOMNATH CHATTERJEE : Sir, I have not yet spoken on the merits. Please allow me as a Member to complete the sentence.

MR. DEPUTY SPEAKER : I will allow you at the consideration stage, not now.

SHRI SOMNATH CHATTERJEE : I have seen, and we have many experiences. Therefore, I am asking the hon. Home Minister to kindly tell this House whether this is a Bill which will cement the people together or it will create greater and greater

division and distrust among the people of this country and those people of Indian origin whom you wish to deprive citizenship on the basis of an arbitrary date. The attitude of the Government in that respect, as I see it, is inhuman and I oppose the introduction of this Bill on that ground also.

SHRI MANIK SANYAL (Jalpaiguri) : Sir, I rise to oppose the introduction of Citizenship (Amendment) Bill.

I am opposing the Bill because it would disturb the well established law pertaining to citizenship right of the people.

Instead of disposing the applications or cases regarding citizenship right, this Amendment, if passed by the House would create more problems especially in the present context.

The proposed Bill intended to take away the natural law of guarding the citizenship right by birth and it has made it conditional, which I believe would be a source of confusion and create distrust amongst the people. That is way I am opposing the introduction of this Bill.

SHRI AMAL DATTA (Diamond Harbour) : Sir, I rise to oppose the introduction of this Bill on the ground that it violates the letter and the spirit of the Constitution.

Sir, it appears that if this Bill is enacted, it is quite possible that from the same parents residing in India but not citizens of India one child who has been born before the date of commencement of the Bill will be an Indian citizen and another child born subsequently will not be Indian citizen. This is the funniest kind of Bill we have seen. Sir, I do not think the people who have drafted this Bill have gone through it properly and what consequences it will have, they have not gone into it. The fact that discrimination has already been made has been mentioned by Mr. Somnath Chatterjee. I am not going into it, but these consequences should have been thought out and this kind of a Bill should not have been brought without proper consideration and this is the stage at which this Bill should be withdrawn.

**SHRI ANIL BASU (Arambagh) :** I rise to oppose the introduction of this Citizenship (Amendment) Bill because it goes against the very spirit of the Constitution. It is a funny Bill as stated by my colleague, Mr. Anil Datta that a child born earlier to this will be granted Indian citizenship and the child born after this Amendment will not be granted citizenship. This is a funny thing and this is against the natural justice and by this Amendment Bill we will create homeless and stateless people and that will create much trouble to this country in future also. That is why I am opposing the introduction of this Bill.

**SHRI ANANDA PATHAK (Darjeeling) :** Sir, I beg to oppose the introduction of this Bill because it takes away the right of the people who want to acquire citizenship right by birth. Secondly, I find that if this Bill is passed, it will give a handle to the separatist forces like the Gorkha National Liberation Front which has raised so many questions regarding the citizenship right of the Nepalese people and they are misleading the people on the question of citizenship rights. Therefore, Sir, I very vehemently oppose the introduction of this Bill and I request the Government to withdraw this Citizenship (Amendment) Bill.

**THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL PUBLIC GRIEVANCES AND PENSIONS AND MINISTRY OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM) :** Mr. Deputy Speaker, Sir, as I understand the only objection which can be raised at this stage is whether there is an apparent Constitutional infirmity in the Bill. Just as my hon. friend has said, we cannot at this stage decide upon the Constitutionality. We cannot decide. It is for the courts. So, the question is, is there an apparent Constitutional infirmity. My humble submission is, kindly see what is the provision of the Constitution under which we are making this Bill and whether it enables us to make such a Bill. The question whether it is a good Bill or a bad bill, which has to be improved or whether the Bill should not be passed, it is matter for the later stage of the debate.

Now, what are we doing? Articles 5 to 10 of the Constitution deal with specific aspects of citizenship relating to citizenship

at the commencement of the Constitution, citizenship of certain persons who have migrated to India from Pakistan, citizenship of persons who have migrated from India to Pakistan, citizenship of persons residing outside India. In article 11, a paramount power has been given to Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship. Article 11 starts with the "notwithstanding" clause.

"Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision..."

Parliament has absolute power to make citizenship laws and nothing in articles 5 to 10 will affect article 11. In fact, this Parliament has made the Citizenship Act of 1955. The Act has been amended from time to time and today we are bringing another amendment to four provisions of that Act. The power is there in article 11. You cannot question the power. Then, he said assuming that the power is there, is it not a Bill apparently in violation of article 14 of the Constitution. My submission is, it is not, and we have not violated Art. 14. In fact, the inhuman character which he attributes to the Bill would be there only, if we enact this Bill retrospectively. You cannot affect a child who was born yesterday or who was born a month earlier. What is this Bill? We have one of the most liberal citizenship laws in the whole world. In today's law, the father need not be a citizen; mother need not be a citizen; neither of them even may want to become a citizen of this country. Neither of them may apply for naturalisation. Merely because the child is born in India, the child automatically acquires the right of citizenship. That is the law today. What we are saying now is, we cannot confer citizenship on children who are merely born in this country without even one of their parents expressing an intention or desire to become a citizen of India. What we are saying is, if one of the parents is an Indian citizen, automatically the child will be Indian citizen. How many other countries have a law where father is not a citizen, mother is not a citizen; neither of them applies for naturalisation; neither wants to become a citizen; but the child who is born to them will be a citizen? In India, the child becomes a citizen. (Interruptions)

[Shri P. Chidambaram]

Courtesy requires you to hear me patiently. I did not interrupt you. Arguments of law cannot be advanced by interruptions. What you say is, clause (a) and clause (b) make a distinction. Anybody who is born before the Act will not be affected, because the Act cannot be made retrospectively. Anybody born after the Act, if one of the parents is a citizen, the child will be an Indian citizen. This does not affect the naturalisation procedure. The Third Schedule is still in-tact. Hon. Members are not reading the whole Act. The naturalisation procedure will still be there. On domicile rights, if you have domicile for a certain number of years you can still apply for naturalisation. What we now affect is the automatic right of citizenship, not the right to naturalisation. There is no infirmity in this Act. It squarely stands the test of Article 14. Of course, we will hear the suggestions of hon. Members and I am sure that if the suggestions are good, Government would accept them.

MR. DEPUTY SPEAKER : The question is :

"That leave be granted to introduce a Bill further to amend the Citizenship Act, 1955."

The motion was adopted.

S. BUTA SINGH : Sir, I introduce the Bill.

17.10 hrs.

#### MATTERS UNDER RULE 377

[English]

##### (i) Need to clear Ib Thermal Project in Orissa

DR. KRUPASINDHU BHOI (Sambalpur) : In order to meet the power shortage in Orissa, there is a proposal to set up an Ib Thermal Project in the State sector during the 7th Plan. The Project is proposed to be located in Sambalpur district. According to the phasing of the project, the first unit is to be commissioned in 1990.

State Government have established Orissa Power Generation Corporation for execution of the project. The Corporation has taken up infrastructural preliminary work like land acquisition, water supply, power supply, road, construction of staff quarters etc. at a total estimated cost of Rs. 32 crores.

The State Government have furnished proposals to the Central Government for financial assistance from the new scheme of floatation of bonds and equipment credit from foreign equipment supplies. The proposals received from different foreign equipment suppliers have also been furnished to Government of India for selecting any one of the proposals alongwith the floatation of bonds. Government of India have, however, replied that the scheme of floatation of bonds would not be extended to State Government Organisations. But their decision on selection of foreign equipment supplier is still awaited. This project for which all preliminaries have been completed should be expeditiously cleared by the Planning Commission and the funding pattern should be approved by Ministry of Finance and Ministry of Energy by selecting the foreign equipment/credit supplier.

##### (ii) Need to condemn the attack on the life of Prime Minister and take stern steps for Prime Minister's security

SHRI SOMNATH RATH (Aska) : The country has heaved a sigh of relief that the Prime Minister Shri Rajiv Gandhi was not harmed by the attempt on his life at Rajghat where he had gone to pay homage to the Father of the Nation on the occasion of Mahatma Gandhi's Birth Anniversary on 2nd October. The Prime Minister has reacted in a manner that befits the leader of the nation but that does not mean that the gravity of the incident should be minimised or the seriousness of the tragedy averted should be overlooked. A full picture has not emerged yet out of enquiry.

The incident denotes serious lapses in regard to the Prime Minister's security. Two years ago, on the last day of another October, Smt. Indira Gandhi was assassinated. And again, in October of this year, there is dastardly attempt on the life of our beloved Prime Minister.