

PROF. MADHU DANDA-VATE: Even on the basis of what has appeared in the agenda paper, 50 per cent of the name is mine only.

SHRI EDUARDO FALEIRO (Mormugao): He is the head of the family, Sir.

MR. DEPUTY-SPEAKER: Mr. Patil.

15.04 hrs.

CONSTITUTION (AMENDMENT) BILL*

(AMENDMENT OF SEVENTH SCHEDULE

SHRI BALASAHEB VIKHE PATIL (Kopargaon): Sir, I beg to move for leave to introduce a Bill further to amend the Constitution of India.

MR. DEPUTY-SPEAKER: The question is:

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

The motion was adopted.

SHRI BALASAHEB VIKHE PATIL: Sir, I introduce the Bill.

15.05 hrs.

PROHIBITION OF ALL FOREIGN MISSIONARIES FUNCTIONING IN INDIA ON RELIGIOUS BASIS BILL*

SHRI B. V. DESAI (Raichur): I beg to move for leave to introduce a Bill to prohibit all foreign missionaries from functioning in India on religious basis.

MR. DEPUTY-SPEAKER: Motion moved.

"That leave be granted to introduce a Bill to prohibit all Foreign Missionaries from functioning in India on religious basis."

MR. BANATWALLA: You want to oppose it?

SHRI G. M. BANATWALLA (Ponnani): Sir, I rise to oppose the motion to introduce this obnoxious Bill.

I want to draw your kind attention, Sir...

MR. DEPUTY SPEAKER: Mr. Banatwalla, it is better you may say 'objectionable Bill' instead of 'obnoxious Bill'. I think in all your goodness you may agree to it.

SHRI G. M. BANATWALLA: All right, Sir, this objectionable Bill.

MR. DEPUTY SPEAKER: Only just I want to help you.

SHRI G. M. BANATWALLA: I want to draw your kind attention to clause 3 of this Bill and I quote:

"Preaching of all religious and helping in conversion of the poor from one religion to another shall be immediately banned."

I have read out the whole clause. This is what it is. The Statement of Aims and Objects says that it really wants to have restrictions on foreign missions, so on and so forth. However, clause 2 of the Bill has travelled far beyond even the contemplated aims in the statement given. A total ban is sought on the preaching of all religions. I need not take much of your time because you know very well that this violates the fundamental rights given in Art. 25 itself. Art. 25 clearly lays down that all persons are

equally entitled to the freedom of conscience and the right freely to profess, practise and propagate religion. Here instead of using the word "propagate" the word used in the clause is 'preach'. But then that does not in any way remedy the situation.

I must point out to you. This is Basu's Commentary on the Constitution of India—5th edition, page 150, where it is very clearly stated:

"The State cannot....

That is, we cannot.

wholly deny the right to preach religious views by imposing taxes,

so on and so forth. Then the right cannot be wholly denied. Here there is a wholesale denial of the right to preach and to profess. I, therefore, submit to this House that the Bill is outside the legislative competence of this House. It violates the Constitution. There are various other things and I can speak about it, but at this introduction stage I will not go into all those details. That is one aspect.

Then, Sir, this clause also says that helping in conversion of poor from one religion to another shall also be immediately banned. What is the point—I fail to understand here. Whether conversions are banned or whether helping in conversions is banned—that is not clear.

Further, while helping in the conversion of rich is allowed, why the helping in the conversion of the poor is banned? Sir, I need not further comment about it. I may only add that preaching and propagation of religion is also for the purpose of soliciting others also to join the religion.

This is also amply borne out by Mr. Basu. In the same edition and, at the same page, he says:

"The freedom of religious propaganda, solicitation, may be regulated etc.,...."

But, then, he says the restriction cannot be arbitrarily excessive or be complete, wholesale, denial of the right. Further, placing restrictions with respect to the poor while leaving the rich will also attract the provisions of Articles 14 and 15 with respect to equality before the law and prohibition of discrimination. In every case there is a conversion of the poor, if he embraces some other religion, it does not however mean that there is exploitation of his poverty. If that is the case, then we have other laws to take care of that and those laws can be invoked in order to see that such a thing does not happen.

But the Bill, as it has been brought by the Members is outside the legislative competence of this House. It is a frontal assault, I should say, on secular democracy in so far as it wants to deny the basic freedom of religion, that is, the freedom of conscience and the right freely to profess and practise a religion. It is also highly objectionable, if not, obnoxious because you do not like this term, because it seeks to distinguish between the poor and the others who may wish to freely practise their freedom of conscience. You are trying to keep the poor always under certain restrictions and they are not being in a position to enjoy the freedom of conscience.

With these words, I strongly oppose the introduction of this Bill. I hope that the hon. Member will withdraw this Bill. Otherwise, I am sure, this House will throw out this Bill by giving no leave for its introduction.

SHRI EDUARDO FALEIRO (Mormugao): Mr. Deputy-Speaker, Sir, this Bill which is brought before here attracts the provisions of Art. 25 and 26 of the Constitution, which guarantee the fundamental right to freedom of religion and the right freely to profess, practice and propagate the religion. This is also included. Apart from attempting

[Shri Eduardo Falçiro]

violation of the fundamental right as contained in Articles 25 and 26, this is also against the basic tenor of the Constitution which established the secular State here. So, this is against the trend of secularism.

I would like to say that apart from the constitutional limitation of which this Bill suffers—I am sure this has not been overlooked by the hon. Member—I am quite confident that he will not press his Bill once these things are brought to his notice. Sir, we had a familiar legislation during the previous Lok Sabha, namely, Freedom of Religion Bill. It came to be known as a notorious piece of legislation. We do not want to repeat that. In the Bill it is said:

“Preaching of all religions and helping in conversion of poor from one religion to other shall be immediately banned.”

The impression seems to be that only the poor got themselves converted and they get converted because of material incentives. I would like to point out that by poor if you mean the weaker sections the position is that as long as they remain in majority, that is, Hinduism or Sikhism they get lot of benefits in the shape of reservation etc. but as soon as they convert to Christianity or Muslim religion all benefits are lost. So, no benefit accrues and only loss accrues.

Sir, I would not be the right person to say but if there is a movement of mass conversions then one should rather—instead of bringing the Bill—try to understand why conversions take place. It is not because of benefits but because of the desire to get away from social disadvantages. Whether they get away or not is a different matter. Another unfair thing happens. If a

person from the weaker section belonging to Hindu religion converts to Muslim religion then he not only loses all his benefits but on re-conversion he gains back all benefits. So, the incentives the other way round. That is how the benefits operate. Sir, there should be right to profess, propagate and practice every religion and also to profess or practice no religion. So, I request for the withdrawal of the Bill.

SHRI XAVIER ARAKAL (Ernakulam): Sir, I am thankful to you for giving mean opportunity to air my views on this issue. This is a very sensitive matter. Apart from Constitutional aspect we have to understand the socio-economic and moral aspects as well. Earlier speakers have pointed out and I request the hon. Member to reconsider and withdraw for the sake of everybody because this is a subject which goes very deep into the culture, civilisation and everything that India stands for. As Mr. Falçiro said there is right to profess a religion and also not to profess, right to believe and not to believe. So, I honestly and sincerely request the hon. Member to withdraw it.

SHRI OSCAR FERNANDES (Udipi): Sir, I only appeal to the hon. Member to withdraw his Bill. I am sure that he will do it.

SHRI B. V. DESAI (Raichur): Mr. Deputy Speaker, Sir, the hon. Members have just now spoken on the subject. I never meant anything to wound the feelings of the Members. Mr. Banatwalla said that it is obnoxious.

MR. DEPUTY SPEAKER: No. I changed it. He said ‘objectionable’.

SHRI B. V. DESAI: Sir, he read from the Bill saying:

“Preaching of all religions and helping in . . .”

In fact, there is a mistake. In the original one I had said:

"Preaching of all religions and in the garb of helping in conversion of poor...."

Now the words 'in the garb of' are not there. I am a secular man. I never oppose propagation and anything but when money comes into play it is that which is being attacked. If the hon. Members feel that it is not a Bill which is to be taken care of here I will definitely withdraw it but my hon. friend Mr. Faleiro quoted Section 25. Section 25 also says:

"(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic financial, political or other secular activity which may be associated with religious practice;"

Anyway I do not want to go into the substance of this Bill.

I would like to withdraw my motion seeking leave for introduction of the Bill, in deference to the wishes and views expressed by hon. Members.

MR. DEPUTY SPEAKER: Does the hon. Member have leave of the House to withdraw his motion, seeking leave for introduction of a Bill to prohibit all foreign missionaries from functioning in India on religious basis?

SEVERAL HON. MEMBERS: Yes.

MR. DEPUTY SPEAKER: Leave is granted.

The motion, was, by leave, withdrawn.

15.21 hrs.

PROHIBITION ON CHARGING CAPITATION FEE FOR ADMISSION TO MEDICAL AND ENGINEERING COLLEGES, AND OPENING OF NEW INSTITUTIONS BILL*

SHRI B. V. DESAI (Raichur): I beg to move for leave to introduce a Bill to provide for a prohibition on charging of capitation fee from students for admission to medical and engineering colleges and for opening of new institutions to provide seats for all eligible candidates.

MR. DEPUTY SPEAKER: The question is:

"That leave be granted to introduce a Bill to provide for a prohibition on charging of capitation fee from students for admission to medical and engineering colleges and for opening of new institutions to provide seats for all eligible candidates."

The motion was adopted.

SHRI B. V. DESAI: I introduce the Bill.

15.22 hrs.

PROVIDING OF EMPLOYMENT TO ONE ADULT MEMBER OF EVERY FAMILY BILL*

SHRI B. V. DESAI (Raichur): I beg to move for leave to introduce a Bill to provide employment to one member of every family.

MR. DEPUTY SPEAKER: The question is:

"That leave be granted to introduce a Bill to provide employment to