श्री विनायक प्रसाद यादव : मैं विधेयक पुर: स्थापित करता हूं ।

CONSTITUTION (AMENDMENT) BILL*

(Substitution of article 341)

श्री राम विलास पासवान मैं प्रस्ताव करता हूं कि भारत के संविधान का और संशोधन करने वाले विधेयक को पुर:स्थापित करने की अनुमति दी जाये ।

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

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15 15 hrs

ALIGARH MUSLIM UNIVERSITY (AMENDMENT) BILL

(Amendment of sections 2 and 5)—Contd

MR DEPUTY-SPEAKER We now take up further consideration of the following motion moved by Shri G. M Banatwalla on the 6th April, 1979, namely —

"That the Bill further to amend the Aligarh Muslim University Act, 1920 as passed by Rajya Sabha be taken into consideration"

SHRI NIRMAL CHAND JAIN (Seoni) I am on a point of order My point of order is that yesterday Aligarh Muslim University Bill has been considered and we have passed it The some objections were taken by Shri Banatwalla Many of these were old I read Rule 338—

"A motion shall not raise a question substantially identical with one or which the House has given a decision in the same session"

Because the decision has been given yesterday therefore, we cannot consider it now

MR DEPUTY-SPEAKER Shri Banatwalla, have you to say anything on this?

THE MINISTER OF LAW JUSTICE AND COMPANY AFFAIRS (SHRI SHANTI BHUSHAN) May I say something on the point of order that has been raised

MR DEPUTY-SPEAKER Let him ray first

SHRI G M BANATWALLA (Poonam) I will be very honest to my conviction Indeed, it is my reading of the Rule that the Bill now unfortunately attracts Rule 338 I am, of course, very much tempted to argue in order to see that the Bill proceeds but due to my conviction I have risen with a very heavy heart and I stand by the fact that as far as my humble reading of Rule 338 is concerned the Bill has attracted its mischief, I should say

*Published in Gazette of India Extraordinary, Part II, section 2, dated 4-5-79

[Shri G. M. Banatwala]

Rule 338 says, I quote—

"A motion shall not raise a question substantially identical with one on which the House has given a decision in the same session."

I accept that the most important question raised by my present non-official Bill is with respect to the minority character of the Aligarh Muslim University. There is, of course, one more clause. But this is the main thing that is asked for by my non-official Bill It is, therefore, with a very heavy heart that I have to agree with the point of order that has been raised However, I will be very happy if you in your wisdom, if the Minister for Law who wanted to intervene in his wisdom, if some hon. member of the House in his wisdom finds a way out to enable us to proceed with the Bill because the Bill, really speaking, reflects the strong sentiments and the aspirations of the Muslims

Since, yesterday the hope of crores of muslims has been shattered, however, I will not go much into that. I have only one or two points to make on the point that has been raised. At least I am happy that my non-official Bill has been of one great effect The official Bill to amend the Aligarh Muslim University Act was introduced on the 12th May, 1978, a year ago. After it was introduced, the Bill was almost in cold storage Again and again I have been rising in this House when the Government used to announce its business asking that the official Bill should come up for discussion at an early stage. However, a year went on. Rajya Sabha passed the non-official Bill. I took it up and pursued it here and then my Bill was discussed on April 6. Then the discussion was resumed on April 20th. The Government realised that it must do something to save its face. With my non-official Bill at least the Government was stirred to expedite the official Bill so that discussion there could also take place. However, that much work has been done though the main demand has not been accepted.

As I said, I never rise in this House without conviction. I feel that rule 338 has been attracted. The Government has proceeded in a very dubious manner While the non-official Bill was under discussion, they brought an official Bill and then put my position within rule 338. Government did not accept our demand for the minority character when the official Bill was under discussion. I am an innocent victim of this dubious procedure that has been adopted in respect of a very important matter which is at the heart of crores of Muslims all over India When the official Bill was moved, I myself raised the question about the fate of my non-official Bill The Chair then ruled that the two Bills are not identical. It was on that basis that the matter proceeded. Leave my conviction aside and uphold the decision of the Chair. That is a request that I would certainly make to you It is very unfortunate that a non-official Bill should be treated in this manner. The discussion was going on on my non-official Bill In between the official Bill comes and the Chair rules that the two Bills are not identical. The official Bill goes through and the non-official Bill is now sought to be attacked Sir, you would realise very honestly that a very unhealthy precedent is being created. I, therefore, appeal to you to uphold what the Chair had already ruled at that particular juncture when we had raised this question. Otherwise, there is one more appeal I would make and conclude. In case today also I have to fall a victim to these political manipulations, then I seek one protection. I request you that in case you feel inclined to apply rule 338—I hope and I am sure you must have thought out a way to uphold the ruling of the Chair that has been given—but in case you feel inclined to apply rule 338, my only request to you would be to hold over the entire discussion for the next session and to rule that it should be given the top most priority that it

deserves in the next session. The Bill has been passed by Rajya Sabha. We cannot deal with this entire matter like this. It cannot be barred, there is no provision for barring it.

There is no provision that it attracted to remove the Bill totally from the register of Bills, because the matter concerning removal of Bills from the Register of Bills is governed by rules 112 and 113. None of the provisions in rules 112 and 113 is attracted here. Therefore, as I said, I am sure you must have thought out a way to up hold the ruling of the Chair already given but in case you feel inclined to apply rule 338, then my request is that rule 89 may be invoked wherein it is provided that the Speaker may, if he thinks it fit, postpone the consideration. So, the question may not be put and the consideration from the stage at which we had stopped may be continued in the next session I say so with this hope that perhaps wisdom will dawn upon the Government during the intervening period and they would also be more inclined to favour the Bill and the restoration of the minority character.

I am very sorry at such a dubious way in which the Government has proceeded. I hope, you will find some way. Sir, in case, you cannot find some way, my only request is to postpone the whole thing for the next session. There should be no bar on it. Rajya Sabha has passed this Bill. It is of utmost importance. And each and every Member who spoke while considering the Bill, has supported this particular Bill. This is another point that must be taken into consideration. I, therefore, hope that I will not be made a victim bleeding from these political manipulations.

PROF. P. G. MAVALANKAR (Gandhinagar): Mr. Deputy-Speaker, Sir, I am not at this stage, on the merits of the Bill at all. But I would like to submit for your consideration and for the consideration of the House. As my friend, Mr. Banatwalla, has pointed out, Rule 338 is attracted in a way. But I would like to suggest that it does not get attracted for a two-fold reason.

I have got with me the proceedings of Monday, the 30th April. After a long procedural debate over a point of order on this, it was ruled by the Chairman that the two Bills are not identical and it is only on that basis that the discussion started.

Secondly, it is not fair for the Government to assert itself in such a way that the Private Members' rights which are in any case restricted and limited—one Friday, Private Members' Bill and an other Friday, resolutions—are further restricted by reviving its own Bill which was introduced long back, get it passed and then argue that now the Private Members' Bill cannot be taken up.

Yesterday throughout the discussion, Dr. Chunder, my good friend, went on pleading that the question of minority character does not come in the discussion at all. In fact, he was suggesting that the question of minority character was something different and it had no connection with that Bill at all. If that is so, how can these two Bills be identical?

In a democratic set up, the attempt of the Government should be to encourage Private Members, people like us, non-governmental members, to introduce Bills, get them discussed and if possible, get them passed and become a part of the Statute Book. It happens rarely but it should happen. Instead, here comes a Government which surreptitiously brings its own Bill after a long time, gets it passed and then says, Rule 338 comes into operation.

I am pleading with you on behalf of Private Members of this House to kindly give guidance in such a way that our rights which are already limited, are not further eroded by the kind of the hanging sword which has been brought on the floor by the point of order of Mr. Nirmal Chand Jain and I think by my good friend, Dr. Chunder. Even if it is technically right, will it not violate the spirit behind it?

MR. DEPUTY-SPEAKER: The very fact that the non-official Bill as Mr. Banatwalla put it, stirred the Government to bring an official Bill and get it passed, is, I think, quite a success for Mr. Banatwalla. So, if you look at it that way, I do not think, anything wrong has been done. Actually, it has helped the Private Member to force the Government to bring an official Bill. To that extent, this serves its purpose. But as far as Mr. Banatwalla's bill is concerned, I am really in a difficulty because, I think, after the rejection of Mr. Banatwalla's amendment yesterday and all that, the Bills could be identical and same, although not exactly the same, but in substance it can be the same. But, at the same time, I think Shri Banatwalla should not be deprived of his right to continue with the discussion. So, what I would prefer to do is to ask the House to agree to postpone the discussion to the next session. I think it would serve the purpose of not breaking the rule. If anybody can move a motion to that effect we can do it.

चौधरी बलबीर सिंह (होशियारपुर) : उपाध्यक्ष महोदय, इस बिल के अगले सेशन में जाने का सवाल नहीं है । एक बिल पास हो चुका है । अगर वह लाना चाहते हैं, तो एमेंडमेंट टु दैट बिल आ सकता है ।

MR. DEPUTY-SPEAKER: No, that is not the position. The Bills are different. At the same time, the subject matter is the same. I think there is some confusion. So, I would prefer this procedure Is anybody moving this motion?

चौधरी बलबीर सिंह : एकबिल पास हो चुका है । अगर इसबिल को पोस्टपोन कर के अगले सेशन में ले जायेंगे, तो इस बिल की शक्ल बदल जायेगी ।

MR. DEPUTY-SPEAKER: There is also the observance from the Chair that it is not identical (*Interruptions*) I am sorry, I have taken that view

श्री ओम प्रकाश त्यागी (बहराइच) : इस पाइंट पर कल हाउस में डिविजन हो चुका है ।

MR. DEPUTY-SPEAKER: That is why I am postponing it. Otherwise, I would have asked the Member to go ahead.

SHRI SAUGATA ROY (Barrackpore): Sir, I move:

"That the further debate on the Aligarh Muslim University (Amendment) Bill, as passed by Rajya Sabha, be adjourned to the first day allotted to Private Members' Bill in the next session."

SHRI G. M. BANATWALLA: Sir, I want a clarification. If the discussion is adjourned to the next session, it should be given all the priority and it should be taken up on the very first day allotted for Private Members' Bills.

MR. DEPUTY-SPEAKER: It is partly discussed. So, naturally it gets priority. I will put the motion to the vote.

CHOWDHRY BALBIR SINGH: No, Sir.

MR DEPUTY-SPEAKER: Are you pressing it? Then I shall give a Direction from the Chair under rule 89. I could do it and postpone the consideration of the Bill Still, I would request the House to adopt the motion. The question is:

"That the further debate on the Aligarh Muslim University (Amendment) Bill, as passed by Rajya Sabha, be adjourned to the first day allotted to Private Members' Bills in the next session."

The motion was adopted.

CHOWDHRY BALBIR SINGH: "Noes" have it.

MR. DEPUTY-SPEAKER: Those who are against may raise their hands.

चौधरी बलबीर सिंह : डिवीजन का सवाल नहीं है । आई क्लेम डिविजन । आप घंटी बजा कर सब मेम्बरों को बुलाइये ।
