

In view of the assurance given by the Minister and above all of course, in view of the judgment of the Supreme Court which is binding, I would seek leave of the House to withdraw my Bill.

The Bill was, by leave, withdrawn.

15.20 hrs.

ADVOCATES (AMENDMENT) BILL,
1965

(Amendment of sections 24 and 25)

Shri Parashar (Shivpuri): Sir, I beg to move:

"that the Bill further to amend the Advocates Act, 1961, be taken into consideration"

Through this Bill I have to raise a very substantial anomaly created by the passage of the Advocates Act, 1961. Under this Act, Mukhtars who were practising in criminal courts prior to the enactment of the Act have been conferred the title of Advocates, of course, with certain restrictions. But a very substantial class of Revenue Agents, who have been practising in revenue courts has been omitted. I would like to point out to the House that Revenue Agent is a class of Advocates who has been recognised as a legal practitioner, as good a legal practitioner as Mukhtars, under the Legal Practitioners Act. I shall refer to it later on and I shall also quote the definition of a legal practitioner....

This Revenue Agent comes in touch and contact with the peasants of this country, with the farmers or agriculturists of this country. The Revenue Agent advises and practises for the downtrodden people of our country who cannot afford to pay large sums to engage an advocate. This class of advocates, I mean the Revenue Agents, was entitled to practise up to the highest court, i.e., to the Revenue Board and even in some cases up to Darbar Peshi—that was equivalent to the Privy Council during those days. What happens when this class of practitioners is stopped from practising up to the Supreme Court? This class knows as much of the civil pro-

cedure as the civil side practising lawyers because according to the revenue law, it is the Civil Procedure Code that applies even to the revenue matters. Therefore, the Revenue Agent is of greatest assistance to the poor agriculturists. So he should also be allowed to go up to the highest judicial forum of this country as the Mukhtars have been given the right to do. Now what happens? When a poor agriculturist goes to consult a Revenue Agent, naturally he can, according to the present Act, advise him only to a very limited territorial jurisdiction. After that, the poor farmer has to depend on others. According to Article 19(g) of our Constitution, this discrimination which has been made between one class of citizens, i.e., the Mukhtars, and another class of citizens, i.e., Revenue Agents, is not proper. According to Article 13(ii) of our Constitution, the law which discriminates one class of citizens against another is void to the extent of contravention.

According to the Legal Practitioners Act, the definition of the legal practitioner is this: a legal practitioner means an advocate, a vakil or an attorney of any High Court, a pleader, Mukhtar or Revenue Agent. This is an Act which has been properly passed and it recognises the Revenue Agent as a legal practitioner. As I have already submitted, this is that class of legal practitioners who advise the poorer sections of our people. According to the present Advocates Act—of course, it has been amended later on in Section 24—the word 'Mukhtar' has been used, but Revenue Agent has been left out. My submission through this amendment is to seek recognition to this class of advocates to practise up to the highest court of the country; of course, only in revenue matters just as Mukhtars are allowed to practise up to the highest forum of this country only in criminal matters. Therefore, this discrimination should go away.

Secondly, the Revenue Agent is considered to be a specialist in his

[Shri Parashar]

branch of law just as an income-tax practitioner is considered a specialist in income-tax matters. Before the passage of the Advocates Act, the Revenue Agent was recognised to be a specialist in his branch, but now he has been debarred from practising his profession. Therefore, I submit that this amendment should be accepted by this House. This anomaly should be done away with and justice should be done to this class of advocates who serve the poor people. After all, the poor agriculturists cannot afford to pay very large sums and engage an Advocate; they should be in a position to take the advice of Revenue Agents. Therefore, I submit that the word 'Revenue Agent' should be allowed to be inserted in Sections 24 and 55.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Advocates Act, 1961, be taken into consideration."

श्री रामसेवक पाचव (बाराबंकी) :
उपाध्यक्ष महोदय, मैं इस बिल पर बोलना नहीं चाहता था। लेकिन मेरे मित्र श्री पाराशर जी को शिकायत होगी कि इस विधेयक पर कोई उनके समर्थन में बोलने के लिये खड़ा नहीं हुआ, इस वास्ते मैं ने यह उचित समझा कि मैं इसके समर्थन में बोलूँ।

जो तर्क अभी माननीय सदस्य ने दिए हैं, उन तर्कों से मैं सहमत हूँ। जो रेवेन्यू एजेंट होते हैं ये माल के काम में बहुत ही कुशल होते हैं। जिस तरह से एडवोकेट्स एक्ट के अन्तर्गत मुकतार को रियायत दी गई है और सब कहीं जाने की सुविधा दी गई है उसी तरह से मैं समझता हूँ कि रेवेन्यू एजेंट को भी दी जानी चाहिए। यह जो मांग पेश की गई है यह बहुत न्याय संगत है, उचित है और इसे मंत्री महोदय को स्वीकार करना चाहिए। किसी भी तरह का भेद भाव

दोनों में नहीं रखा जाना चाहिए। मैं तो यहां तक चाहूंगा कि किसी पर भी जो प्रेक्टिस करना चाहे, किसी प्रकार की रोक नहीं होनी चाहिये।

जहां तक इस संशोधन विधेयक का सम्बन्ध है, मैं इस का अनुमोदन करता हूँ और मंत्री महोदय से निवेदन करता हूँ कि वह इसे स्वीकार कर लें।

Shri A. T. Sarma (Chatrapur): I support the Bill introduced by Shri Parashar.

We are allowing Mukhtars and others, but we are neglecting the Revenue Agents. The benefit that the poorman gets is denied to him by this. Our country is full of poor men and they cannot approach the Advocates; they can approach only the Revenue legal practitioners. If the Revenue Agent is also included in these Sections, as Mr. Parashar suggested, it will be very beneficial to the poor people. It is essential that a legal practitioner like the Revenue Agent should not be deprived of his right when pleaders and others enjoy the same.

I wholeheartedly support the Bill.

Shri Hem Raj (Kangra): The Bill which has been sponsored by my hon. friend Shri Prarashar is a very wholesome measure.

The Legal Practitioners' Act defines a legal practitioner as an advocate, vakil or attorney of any High Court or a pleader or mukhtar and a revenue Agent. While all these persons have been categorised as legal practitioners and they have been allowed to enrol themselves as advocates, the invidious distinction that has been made in the case of the revenue agents is something which is discriminatory even under the Constitution. When the Advocates Bill was before the Joint Committee, there also this question was raised. I feel that the

lacuna which remains there needs to be filled up.

The revenue agent practise in the revenue courts. The procedure in the revenue court is mostly governed by the Civil Procedure Code. A mukhtar can practise in the revenue as well as in the civil courts. A pleader can practise in the revenue court, civil Court as well as the criminal courts. But a revenue agent, as I have said, practises only in the revenue courts; he can practise there both on the executive as well as on the judicial sides. Therefore, a revenue agent possesses knowledge of the civil law as well as the revenue law. I do not think that he should be discriminated against for purposes of being enrolled as an advocate. The amendment which my hon. friend has brought forward is a proper one, and I hope that the hon. Minister will accept it and include revenue agent also in the definition so that he can also enrol himself as an advocate.

With these words, I support this Bill.

Shri H. V. Koulgi (Belgaum): I rise to support the amending Bill brought forward by my hon. friend Shri Parashar. During the British regime, in the areas under their control, there were recognised pleaders or advocates and they were given the requisite training and they were allowed to practise throughout the country in all the courts, both civil and criminal. But in the native States, there were no qualified practitioners, such as pleaders or advocates because there was not so much litigation in those areas, and moreover those areas were also limited. So, the then rulers gave only sanads to mukhtars or revenue agents as they were called in some of the States, and they were allowed to practise in the particular area concerned. After the merger of the native States, a new question arose and only the qualified pleaders or advocates got the opportunity whereas the mukhtars or revenue agents could not get any scope to practise. But somehow or the other, they had a

right to practise and that continued till the Advocates Act was passed by this House. Somehow or other we find, however, that some differentiation has been made in the present Act. Even mukhtars in some of the States have been given sanads and they are allowed to practise on the ground that a right has accrued to them, and, therefore, they can continue to enjoy that right. But as pointed out by my hon. friend, in some of the cases, the revenue agents who are allowed to practise only in the revenue courts have been omitted. This is a sort of discrimination and they have not been allowed to enjoy the rights which they were enjoying prior to the reorganisation of the States. I would submit that they will have to be given some sort of sanad so that they could enjoy the rights which they were enjoying formerly. Further, they are engaged in the revenue courts or in smaller courts where the litigation is simple or less costly and it is conducted by ordinary or poor people. It would be very difficult for those ordinary and poor people to approach advocates or pleaders who will be charging more fees. So, even on that basis, it is better to maintain this class of persons. I would, therefore, request Government to consider this Bill favourably and make suitable amendments in the parent Act for this purpose.

The Minister of State in the Ministry of Law and Department of Social Security (Shri Hajarnavis): This question of enlarging the area of practice to the revenue agents has been carefully considered both by the Bar Council of India as well as by the Bar Council of West Bengal. The committee which had sat upon this question reported that they should not be enabled to enrol themselves as advocates.

The question of the mukhtar and the question of the revenue agent are different. Mukhtars had a right to go to any court, civil, criminal or revenue, whereas the revenue agent's jurisdiction was restricted only to

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revenue courts; the revenue agents are only concerned with questions relating to revenue as between the State and the citizen, and their controlling disciplinary authority was the Chief Controlling Revenue Authority.

So far as the mukhtars are concerned, they have been given the right to practise as before, and that right has been preserved for them under section 55 of the Advocates Act. What the proponent of this Bill desires to do is to enlarge their right so that they can appear in all the courts.

As we know, under the scheme of the Advocates Act, once a person is enrolled as an advocate, he can practise before any court right down from the Supreme Court to the lowest possible court, before any authority which by law can receive evidence on any said question. The question now is whether such persons are likely to be engaged for matters either before the Supreme Court or the High Court or the District Court. I would submit that that is very unlikely, and in any case, the ground put forth that the revenue agent would be much cheaper than the rest of the advocates is something which is contrary to the practice good advocates are available for a reasonable enough fee. Further, it is better that the litigant should have a well-qualified adviser rather than a counsel merely because he is cheap. These were the considerations which weighed with the Bar Council which is the guiding voice and the conscience of the profession. They have said 'No' to the question of enlarging the definition so as to include revenue agents, and Government find themselves in agreement with the Bar Council.

Therefore, I would request the hon. Member to withdraw the Bill, but if he does not, then we shall oppose it.

श्री रामसेवक घाबर : मंत्री महोदय ने कहा कि अगर उनको सभी कहीं जाने की

प्राज्ञा होगी तो वे बड़े सस्ते पड़ जायेंगे। मैं कहना चाहूंगा कि ऐसा होगा तब तो अच्छा ही होगा।

दूसरे मैं यह कहना चाहता हूँ कि अगर माननीय मंत्री यह नहीं चाहते कि वे दीवानी और फौजदारी के मामलों में सब अदालतों में जा सकें, तो क्या वे इस प्रमोडमेंट के साथ इस को स्वीकार कर सकते हैं कि माल के मामलों में वे सब अदालतों में जा सकें। क्या इसके लिये वह तैयार होंगे ?

श्री हजरतबीस : मैंने नहीं कहा कि सस्ते होंगे। यह तो उन माननीय सदस्य ने कहा है कि जिन्होंने विधेयक उपस्थित किया है। इसका उल्लेख मैंने किया था। मैंने तो यह कहा था, कि जो कानून की सलाह दे वह अच्छा हो। फीस लेने की बात तो इससे बिल्कुल असम्बद्ध है। कितने ही मामलों में अच्छे वकीलों ने कम फीस ले कर काम किया है। तो सवाल तो यह है कि वह धादमी जो सलाह देने वाला हो वह अच्छा हो। उस धादमी ने जिसके बारे में कहा गया है केवल माल के मुकदमे का तजुर्बा किया है, उसको दीवानी और फौजदारी का अनुभव नहीं होगा।

श्री रामसेवक घाबर : माल के मामलों में वह सर्वोच्च अदालत तक जा सकें इतना ही प्राप स्वीकार कर लें।

श्री हजरतबीस : जहां तक वह धापी जा सकता है वहां तक जाने का उसका हक कायम रहेगा।

श्री पाराशर : श्रीमान् जी, मुझे खुशी है कि इस बिल का सिवाय मिनिस्टर साहब के सभी भाइयों ने समर्थन किया है। मुझे अफसोस है कि इस बात पर ध्यान नहीं दिया गया कि जब तक कि एक मुह्तार को प्राप सुप्रीम कोर्ट तक जाने देने के लिये सहमत

हैं जो कि दीवानी के कानून की एक पंक्ति तक नहीं जानता, तो इस रेबेन्यू एजेंट को जो कि माल के कानून का विशेषज्ञ है क्यों सुप्रीम कोर्ट तक जाने देने के लिये सहमत नहीं है। इस प्रश्न का उत्तर नहीं आया है, इसका मुझे भ्रमसोस है।

श्रव श्रीमान् मंत्री महोदय ने कहा कि बार काउंसिल ने इसको प्रपोज किया है, लेकिन मेरा कहना है कि केवल प्राल इंडिया बार काउंसिल ने धीर बंगाल बार काउंसिल ने इसको प्रपोज किया है। मेरा निवेदन है कि मंत्री महोदय अन्य बार काउंसिलज का मत जानने की कोशिश करें। बिहार वगैरह में इसको समर्थन मिला है।

मंत्री महोदय इस बात से सहमत नहीं हैं कि न्याय को इतना सस्ता कर दिया जाए। मैं भी यह नहीं कहता कि न्याय को बहुत सस्ता कर दिया जाए लेकिन मैं इतना जरूर चाहता हूँ कि जो न्याय की भीख मांग रहा है न्याय उसके काबू की चीख हो, इतना सस्ता नो ध्वष्य हो।

मेरा तो निवेदन यही था कि रेबेन्यू एजेंट को माल के मामलों में सुप्रीम कोर्ट तक जाने की इजाजत दी जाए। यह बात गलत समझी गयी कि मैं ने यह प्रस्ताव किया है कि रेबेन्यू एजेंट को फौजदारी और दीवानी मामलों में भी सुप्रीम कोर्ट तक जाने की इजाजत दी जाए। मैं ने यह हरगिज नहीं कहा। मेरा तो कहना यही है कि रेबेन्यू एजेंट को रेबेन्यू के मामलात में सर्वोच्च प्रदालत तक जाने की स्वीकृति धीर सहमति होनी चाहिए जैसी कि फौजदारी के वकील को है।

मंत्री महोदय ने एडवोकेट्स ऐक्ट की धारा 55 का हवाला दिया धीर कहा कि वह जहाँ तक पहले जाते थे वहाँ तक भाज भी जा सकते हैं। ऐसा है तो मेरे संशोधन को मान लेने में उनको क्या आपत्ति है। मैं यही कहता हूँ कि जहाँ तक पहले जाते थे वहाँ तक

जाने की स्वतंत्रता दी जाए। मेरी बात का मंत्री महोदय ने समझने की कोशिश नहीं की इसका मुझे भ्रमसोस है।

मैं चाहता हूँ कि वह अपने निर्णय पर पुनर्विचार कर लें। मेरा निवेदन है कि उनको जनता के लिये न्याय को सस्ता करने में सहायक होना चाहिए। उसे धीर महंगा न करें, वह तो पहले से ही महंगा है।

Mr. Deputy-Speaker: What does he do with the Bill? Does he want me to put the motion to vote?

श्री वाराणसी : मैं विदग्धा करने को तैयार हूँ लेकिन मेरा निवेदन है कि वह पुनर्विचार कर लें।

श्री हजरतबीस : जो मैं ने पहले कहा है उससे आगे जाने के लिए तैयार नहीं हूँ।

Mr. Deputy-Speaker: He is not accepting it. I will put the motion to vote.

The question is:

"That the Bill further to amend the Advocates Act, 1961, be taken into consideration".

Those in favour may kindly say 'Aye'.

Some hon. Members: 'Aye'.

Mr. Deputy-Speaker: Those against may kindly say 'No'.

Some hon. Members: 'No'.

Mr. Deputy-Speaker: The 'Noes' have it....

Shri Hari Vishnu Kamath (Hoshangabad): The 'Ayes' have it.

Mr. Deputy-Speaker: Is he pressing for a Division?

Shri Hari Vishnu Kamath: Yes.

Mr. Deputy-Speaker: Let the bell be rung—

There is no quorum. The House stands adjourned to meet on Monday. 15.47 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Monday, November 22, 1965/Agrahayana 1, 1887 (Saka).