

RAJYA SABHA

* SYNOPSIS OF DEBATES

(Proceedings other than Questions and Answers)

Thursday, December 22, 2005/ Pausa 1, 1927 (Saka)

ANNOUNCEMENT BY THE CHAIR

MR. CHAIRMAN: Hon'ble Members would be happy to know that India crossed another milestone in its space endeavour through the successful launch of INSAT-4 A satellite in the early hours of today morning from 'Kourou' French Guiana. The first of the 4th Generation communication and broadcasting satellite, INSAT-4 A is the heaviest built by ISRO so far and is expected to considerably enhance the broadcasting capabilities in the country, particularly Direct-to-Home transmissions. I am sure all hon. Members of this august House will join me wishing full success to ISRO in operationalising the satellite soon.

MATTERS RAISED WITH THE PERMISSION OF THE CHAIR

I. Problems being faced by farmers in border districts of Punjab

DR. M.S. GILL: The Partition, of India was, fundamentally, a partition of Punjab and of Bengal for geographical reasons. Since 1986, the Government started putting fence along the border districts of Punjab, in order to protect against the people coming in from the other side. That fence was unfortunately put on the *Dussi Bandh* on 500 metres or more back area there and the land of the small farmers on the other side was automatically taken away from them effectively. Even after 20 years, the position today is that no compensation has been paid and any help given to these farmers.

There are gates there. These farmers have to go to the picket. The picket takes their identification, takes it to the *chowki*, comes back after an hour. The official timing is 9.00 am to 5.00 p.m. But, the actual timing for the Havaladar is 10.00 am to 4.00 p.m. or whatever, and on Sunday, it is a holiday. Farming is not done like a Government office job for three-four hours. We have to irrigate the land in night and bring the crops from there. But, in that situation, they are being hurt; their land has effectively been put into jungle. They get no income. Nobody is

helping them. Should the border districts of Punjab always go on paying for the country? Why don't the Government spend a thousand crores or five hundred crores on them? I therefore, would appeal to the hon'ble Prime Minister that he should ask the hon. Defence Minister and the Home Minister with anybody else should sit together, listen to these people and take care of this problem in a reasonable way.

II. Comment by a U.S. Congressman on India-U.S. Nuclear deal

SHRI YASHWANT SINHA: We have had a nuclear deal with the U.S. on July 18th, and all the signals which are coming from the U.S., the U.S. Congress and from the U.S. officials suggest that the goal post is being shifted. Our Foreign Secretary, currently is in the U.S. to further negotiate the nuclear deal. But, a Member of the U.S. Congress, Tom Lantos has raised objection to this deal. We in the Parliament, are we going to be mute spectators to the kind of objection which is being raised? This deal has already become totally unequal and un-reciprocal.

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT (SHRI ARJUN SINGH): This deal that was concluded was presented to the House by the hon. Prime Minister, and in very clear terms he stated the basic parameters under which this Agreement was made and a crucial part of that was the reciprocity. If what the hon'ble Prime Minister has said in this House is being deviated from by anyone that is a cause for immediate attention and definitely, we have a right to object to it. But, as it appears from the statement of the hon. former Foreign Minister, there is a statement by a Member of the US Congress. A Member of the US Congress is entitled to make a statement as he deems fit. Neither I, nor you, nor anybody can object. But that does not become a policy and therefore, we need not take notice of it.

III. Death of 11 lakh sheep/goats in Andhra Pradesh

SHRIMATI N.P. DURGA: In a span of three months, 11 lakh sheep/goats have died in Andhra Pradesh, about 4 lakh sheep/goats have been sold for less than half of its price and the net loss to the 10 lakh cattle-growing families in the State, is to the tune of Rs. 260 crores. In two districts of Mahaboob Nagar and Nalgonda alone 5.2 lakh sheep died. The argument of Andhra Pradesh Government in this regard is that it could not give any compensation since never in the past any Government has given compensation for such deaths.

The death of sheep and goats are mainly due to 'Blue Tongue' disease, apart from other diseases. Earlier, under Janmabhoomi programme, the cattle-growers were given free medicines twice in a year and there used to be regular medical camps. But, now, the Government of Andhra Pradesh has abolished Janmabhoomi programme. There is also no vaccine to prevent 'Blue Tongue' disease. In view of this, I request the Department of Animal Husbandry and the Union Health Ministry to provide help to these cattle-growers by way of conducting medical camps, giving medicines and also advise them to take precautions when such diseases occur and give compensation to them sympathetically.

THE CONSTITUTION (ONE HUNDRED AND FOURTH AMENDMENT) BILL, 2005

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT (SHRI ARJUN SINGH), moving the motion for consideration of the Bill, said: This amendment Bill requires amendment in the Constitution. I am happy to say that the Lok Sabha has passed it with consensus. Keeping in view the importance of the subject, there was consensus in the Lok Sabha over it. I am sure, there will be the same consensus in passing this Bill in Rajya Sabha also, so that we may take appropriate steps in future to achieve the aims of this Bill.

SHRI BALAVANT ALIAS BAL APTE: About 20 years ago, some entrepreneurs in Karnataka, first, started to run unaided and capitation-oriented professional colleges, in the fields of medicine and engineering. When students from Maharashtra and Andhra Pradesh started going there, those States permitted such colleges to be opened in these States. Later, some other States have also joined. Even though these colleges were opened to make money, there was a central admission system by which meritorious students could get admission in these colleges, because the colleges run by and aided by the State were not adequate to satisfy the need for professional education. About 15 per cent or 10 per cent seats were given as management quota because, they finance the institutions.

In view of the earlier decision of the Supreme Court in the St. Stephen's case, almost every college went to the High Court or the Supreme Court, sought the copy of that case and got 50 per cent seats reserved for itself designating itself as a minority college. If 50 per cent seats are allotted to a minority institution, 50 per cent students, belonging to the community, may not be available. So, the remaining seats were used as donation seats and lakhs and crores of rupees were earned thereby. Thus, their business flourished. The other problem was since 50 per cent seats were available in the minority institutions and the students wanted to seek admission there, a large-scale convergence took place, particularly in Prakasham, Karim Nagar and Nizamabad District. Thus, there emerged a craze to earn the distinction of a minority status. That also became a kind of a status symbol. In Mumbai, more than 70 per cent majority institutions claim a minority status. Those institutions which had ignored this aspect in their existence of 25-30-40 years, suddenly became alive that they are a minority institution. Still the States, in all fairness, in all these areas tried to control this so that the meritorious students could get admissions. But, then, the Supreme Court again intervened in the case of T.M.A. Pai. The 11-Judge Bench considered the question of minority rights, and said that minorities have a right to establish and administer their own institutions. It further went on and said that running an educational institution is in the nature of a business or trade. So, officially, running a college became a business. Therefore, both majority and minority, private un-aided colleges had an unhindered right to do their business without any Government interference. The Supreme court made, in a way, two concessions that there can be a monitoring committee for the purpose of determining the rationale of fees charges by these colleges, and another monitoring committee for the purpose of controlling fairness in admissions. Both committees were to be headed by a retired High Court

judge. In all these cases, what the Supreme Court has said again and again is what we are saying now for the purpose of present arrangements that Parliament should enact a law to control this situation.

When a comprehensive legislation comes, it will have to consider the aspect of merit students who don't get an opportunity because they don't have money. Even these unaided colleges have a duty to the society to provide certain seats to such merit students. There is a serious lacunae in this because the amended article expressly excludes the application of this provision to minority educational institutions referred to in clause (1) of Article 30. This exclusion is not necessary because this contemplates that reservation cannot be provided in minority institutions and this is wrong. According to the TMA Pai case, the framers of the Constitution contemplated two basic principles, that is equality and secularism. Therefore, while providing a guarantee to the minorities for their independence, equality should not be given a go by. Furthermore, the principle of equality must, necessarily, apply to the enjoyment of such rights. No such law can be framed that will discriminate against such minorities with regard to the establishment and administration of educational institutions.

No one type or category of institutions should be disfavoured, or, for that matter, receive more favourable treatment than others. Law of the land, must apply equally to the majority institutions, as well as to the minority institutions. The Supreme court has given a clear answer to the question as to whether reservation can be given in such aided minority institutions. It has stated that it would be open to the State authorities to insist on allocating a certain percentage of seats to those belonging to the weaker sections of the society from among the non-minority seats available in a minority institution. In a way, these institutions are run by these people, not for their communities.

The main problem is not of religious minorities, but of linguistic minorities. They hardly have the presence of their community in a particular region, but because their language is different, they establish an institution and claim such a minority status and that really gives them an opportunity to earn money. Recently, last year, there were Income Tax raids on some of such institutions in Maharashtra and Pune. Large amounts of unaccounted money were collected from there. Therefore, exclusion of minority institutions is unjust and has to be removed. I believe, there will be an amendment to look after the interests of the merit students who are in large numbers, but they don't have the money.

SHRI JANARDHANA POOJARY: I rise to support this Bill. When the judgement was pronounced on 12th August, 2005 eighty per cent of the population was shocked. I must congratulate the Government for bringing out this Amendment and thereby giving the relief to the major chunk of the population. As I belong to the backward class, I know the sufferings of this class. I had to pass through various sufferings and difficult conditions to complete my education. I used to drink public pipe water on the road-side and for some days, even I did not have the meals. We were treated as untouchables and were not allowed to drink water even from a well and entry in temples. At that time, one great saint reformer, Brahmashri Narayan

Guruswami came and established one temple in Kerala and he gave us entry into the temple. He called the people to educate and organise themselves. Now, the education is the most important thing, but what is happening in the States? Education is commercialised; it is sold like a product in the market. The higher education is not within the reach of the poor people. I congratulate the hon. Minister, Shri Arjun Singh who has got the commitment. When he was the Chief Minister of Madhya Pradesh, he brought so many programmes for the upliftment of the weaker sections. Now, he has brought this legislation. This Bill will pave the way for reservation for Scheduled Castes, Scheduled Tribes and OBCs in all the educational institutions.

This Bill has widened the scope of reservation by extending it to all aided and un-aided private educational institutions. Then, States have to come up with enabling legislations to enforce the Constitution Amendment in any private educational institution. The reservation has given a special status under Article 31 of the Constitution, It is a Fundamental Right given to these minorities. It has got its own value.

Minority Institutions will have to give reservation, and if they don't give, if they misuse it, then the Government should be open taking corrective action, whatever mistakes they are going to commit. Every single advantage, that has accrued to the country after the Mandal Commission, would accrue to the country in real terms after this Bill is passed in terms of admission and in terms of advantages which backward classes should get.

In order to provide education, we must have some infrastructure in the rural India, particularly in the colonies where the Scheduled Tribes and minorities live. At so many places, they don't even have drinking water; they don't have schools, and they don't have basic amenities. My submission is that the MPLAD Fund, which is being used for this section of the people, who are in dire need of water, education, and building of educational institutions, should be there.

SHRI SITARAM YECHURY: I support this Constitution Amendment Bill because of two essential elements, which constitute the essence of the Republican character of the country and that is the question of equality and secularism. But in our country's context, equality and secularism cannot be separated from each other. Reservation for the Scheduled Castes, the Scheduled Tribes and the OBCs is only a part measure in our opinion, but it is not the final solution for the upliftment of these sections without whose upliftment, we cannot really preserve even the political democracy we have, forget the question of equality.

The privatisation and commercialisation of higher education in our country is taking place precisely because of the abdication of the State and the Central Government in spending in this sphere. During the last ten years, the amount that is being spent on higher education is less than 0.5 per cent of the GDP. Where as it was stated in the National Common Minimum Programme to spend six per cent of the GDP for education as a whole. Unless we achieve this target we will not be in a position to actually tackle the problem of privatisation and commercialisation in our country.

Unless we treat our young population as an asset, unless we educate them, unless we empower

them, only then, India can not be an emerging country in the world. When we want to empower our youth, we have to invest in it. And it is that investment in our country's future that is lacking today. In spite of our meagre resources and decline in spending, we still have intellectual manpower. This Government should give an assurance that we will spend six per cent of our GDP on education. We will not be able to solve this problem of privatisation and commercialisation unless we are able to expand our financial allocations for education. The Government often says that there are no resources and they do not want to enter into a fiscal deficit. Government have huge foreign exchange reserves; Government have huge amounts of food in its godowns. Why is this Government afraid of spending on a sphere like education? We support this amendment because we think that all these educational institutions must be brought under social control. We want the Government to bring under the ambit of legislation the element of social control, where by not only the question of reservation and admission policy, but the question of meritorious students being admitted, the question of fee structure and the salary structure of the teachers, and the question of course contents are included. No delay must be brooked to bring a legislation so that by the time the next academic session begins, we have this law in action.

Misusing the provision of article 31 of the Constitution, is a matter of concern to which we must apply our mind. I am urging the Government now that it should think about the genuine concerns, and how this amendment should not be allowed to be misused, this thing must be kept in mind, this provision of the minority institutions, and adequate legal position must be taken up in that regard. The reservation alone is not the final solution for the actual social empowerment and economic empowerment of the backward classes and the Scheduled Castes and Scheduled Tribes. There should also be a provision whereby, these sections can be drawn towards the educational system. Certain amount of monitoring or a certain amount of economic support would also have to be conceived in order to achieve this purpose, which is very crucially needed in our country. Our youth are our asset that has to be socially, economically and intellectually empowered. We will have to take adequate measures through a legislation. I urge that our aim should be to implement all these noble ideas that are there in the Directive Principles.

SHRI SHAHID SIDDIQUI : The founding fathers of our Nation had a vision for equal opportunities, equal rights for all of the Countrymen. It was also envisaged that the backward classes, the down-trodden people would also get equal opportunities at par with others. I am proud to be an Indian. The Basic question that arises here is that why a provision for reservation in minorities run institutions be made? At present whole of the world is looking up towards India in regard to its Muslim population. In India, Muslims find themselves in far far better position compared to their position in other countries. A number of scientists, Doctors, writers come from the Muslim Community. Our society has accorded an equal opportunity to all the sections. But it is necessary for a balanced development that all backward classes, all down trodden people should be taken proper care of. There is a need to strengthen the minority institutions in the country. It will help the country to grow further. Government must empower such institutions by way of providing reservations there. A time bond programme for reservations in favour of

minorities, especially the Muslim minority institution of advanced studies such as IIT's, Medical colleges etc, is the need of the hour.

SHRI P.G.NARAYANAN: The other Backward Classes, Scheduled Castes and Scheduled Tribes constitute 80 per cent of the population. No party can survive without their support. There is a total consensus in our State in favour of reservation for backward Classes. So, the reservation for weaker sections is settled issue in Tamil Nadu. I also want to place on record the historic move of the All India Anna DMK in protecting the 69 per cent reservation for the weaker sections in spite of the Supreme Court judgement fixing 50 per cent ceiling on all reservations.

It is our consistent stand that reservation should be provided in the earmarked quota in all educational institutions to the extent of 69 per cent. The State Government should be enabled to follow its own reservation policy. In the case of Tamil Nadu, such a law already exists due to the untiring efforts of our hon. Chief Minister. We insist that the States should be given full powers in this regard. We also insist that whatever law is drafted following this amendment to the Constitution, it should protect Tamil Nadu's reservation policy of 69 per cent. The Government of India, when it implemented the Mandal Commission report in 1990, gave quota for OBCs only in Government jobs and not in educational institutions. This historical injustice should be corrected immediately. I demand reservation for OBCs in IITs, IIMs, NIIT, AIIMS, JIPMER, Central Government Law Universities and Centrally funded educational institutions. Therefore, I support this Bill.

SHRI RAVULA CHANDRA SEKAR REDDY: There is an apprehension in the minds of people that in the name of linguistic minority institutions, there is every possibility of the provision being misused. Having enjoyed the privileges and facilities given by the respective Governments, they might deprive the legitimate rights of the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes. This aspect should be taken care of. Right from the beginning, my party has been committed to reservations not only for the Scheduled Castes and the Scheduled Tribes, but also for the Other Backward Classes. We are also interested in reservations for minorities in educational institutions. I would like to request the Government to see to it that no private institution, whether aided or unaided, is permitted to get affiliation unless this provision is implemented in letter and spirit. I support the Bill with a suggestion that there should be a provision for reservation for the Scheduled Caste, the Scheduled Tribes and the Other Backward Classes, and if possible even in linguistic minority institutions.

SHRI RAASHID ALVI: Backward Classes, Scheduled Castes and Scheduled Tribes has been facing discrimination in this country for past five thousand years. Our Constitution provided them equal rights but we could not give them equal opportunities. Had they been given equal opportunities, there would not have been any necessity of such reservation. Congress appointed Dr. Ambedkar as chairman of the Constituent Assembly to ensure reservation for Scheduled Castes and Scheduled Tribes in the Constitution itself. In our country, whenever atrocities were committed on Scheduled Castes and Scheduled Tribes, people belonging to Minority Community

Page 410 : line 1, for 'it' read 'to'.

* **This Synopsis is not an authoritative record of the proceedings of the Rajya Sabha.**