

[Shri Alladi Krishnaswami Ayyar]

contain the necessary exception and limitations to freedom of trade. There is one other thing also which you may notice in this connection. Article 274-C, far from abridging or restricting the scope of the right to freedom of trade, enlarges the scope of the Fundamental Right.

It says—

“Notwithstanding anything contained in article 274-B of the Constitution, neither Parliament nor the Legislature of a State shall have the power to make any law giving or authorising the giving of preference to one State over another or making any discrimination or authorising the making of any discrimination....”

This provision by restricting the power of the State Government and the Central Government enlarges the scope of the Fundamental Right, if you choose to call freedom of trade a fundamental right within the meaning of the Constitution.

Whether a particular provision is called a fundamental right or not, in regard to the point as to justiciability raised by my Friend Pandit Bhargava, it does not depend upon a particular provision finding a place in the Chapter on Fundamental Right or in other parts of the Constitution. So far as the jurisdiction of the Supreme Court is concerned, it has plenary jurisdiction with regard to the interpretation of the Constitution. The Supreme Court can be called upon to decide in every case whether a particular Statute or any law is in conformity with the terms of the Constitution or not.

I, therefore, submit there is no particular virtue in the article finding a place in the Chapter on Fundamental Rights. I think, when article 274 was before the House, my Friend Dr. Ambedkar pointed out the advantages of all the provisions relating to trade and commerce finding a place in a single chapter. On these grounds I submit there is absolutely no force in the objection to the proposition as moved by my Friend Mr. T. T. Krishnamachari.

Mr. President : Does Mr. Krishnamachari want to say anything?

Shri T. T. Krishnamachari : No, Sir. Mr. Krishnaswami Ayyar has answered all the points.

Mr. President : I shall then put it to vote. I mean amendment No. 393 asking for the deletion of article 16. The question is:

“That article 16 be omitted.”

The motion was adopted.

Article 16 was deleted from the Constitution.

Article 27

Mr. President : Then we take amendment No. 417.

Shri T. T. Krishnamachari : Sir, I would like to move amendments Nos. 394 and 417 together, because they both relate to article 27. I will first move No. 394:

“That in clause (a) of article 27, the word and figures ‘article 16’ be omitted.”

This is a consequence of the acceptance by the House of the previous amendment 393 to delete article 16.

Mr. President : Let us dispose of it now.

Shri T. T. Krishnamachari : Yes Sir.

Mr. President : This amendment follows upon the decision which has just been taken. The question is:

“That in clause (a) of article 27, the word and figures ‘article 16’ be omitted.”

The amendment was adopted.

Shri T. T. Krishnamachari : Mr. President, Sir, I move my amendment No. 417 which reads thus:

“That in the proviso to article 27, after the words ‘subject to the terms thereof’ the word ‘and to any adaptations and modifications that may be made therein under article 307 of this Constitution’ be inserted.”

Sir, this has become necessary because of the wording of article 307(2) which we have passed in which we have given power to the President to adapt and modify existing laws so as to fit them in with the provisions of the Constitution, as also the Fundamental Rights that we have passed.

Mr. President : There is no amendment to this. Does anyone wish to say anything about it?

Mr. Naziruddin Ahmad : There is no time for amendments at all.

Mr. President : Well, this has been there from the 15th inst.

Prof. Shibban Lal Saksena : No, we got it this morning.

Mr. Naziruddin Ahmad : At nine o’clock.

Mr. President : I think it is more or less a consequential amendment.

Mr. Naziruddin Ahmad : The effect of this amendment it is impossible to measure, unless one has the genius of Dr. Ambedkar.

Mr. President : I will put it to vote. The question is:

“That in the proviso to article 27, after the words ‘subject to the terms thereof’ the words ‘to any adaptations and modifications that may be made therein under article 307 of this Constitution’ be inserted.”

The amendment was adopted.

Article 42

Shri T. T. Krishnamachari : Mr. President, Sir, I beg to move:

“That in clause (1) of article 42, for the words ‘may be exercised by him’ the words ‘shall be exercised by him either directly or through officers subordinate to him’ be substituted.”

Sir, clause (1) of article 42, as amended, would read thus;

“The executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with the Constitution and the law.”

Sir, this has been found necessary, and it does not involve any serious variation. It is fairly.....

The Honourable Shri K. Santhanam : Sir. does it mean that a Bill passed by a Legislature could be signed by an officer subordinate to the President?

Shri T. T. Krishnamachari : The clause says, “in accordance with the Constitution and the law.” If the Constitution and the law permit that Bills could be authenticated by somebody else, appointed by the President, well, that will be possible.

The Honourable Shri K. Santhanam : The amendment permits such a thing. You are making the Constitution permitting the President to discharge his function through officers subordinate to him.

Mr. President : It relates to the executive powers and not the legislative powers. Signing of Bills, I suppose comes under legislative powers.