

[Shri H. V. Pataskar]

breach of some principle in the administration of justice, or breach of certain principles which strike at the very root of administration of justice as between man and man. I think article 112 as it stands is a very right one and should be there.

The Honourable Dr. B. R. Ambedkar : I do not think there is anything for me to say.

Mr. President : The question is:

“That in article 112, the words ‘except the States for the time being specified, in Part III of the First Schedule, in cases where the provisions of article 110 or article 111 of this Constitution do not apply’ be deleted.”

The amendment was adopted.

Mr. President : The question is:

“That article 112, as amended, stand part of the Constitution.”

The motion was adopted.

Article 112, as amended, was added to the Constitution.

New Article 112-A

Mr. President : There is notice of a new article to be moved by Dr. Ambedkar, amendment No. 191.

The Honourable Dr. B. R. Ambedkar : Sir, I beg to move:

“That with reference to amendment No. 1932 of the List of Amendments, after article 112, the following new article be inserted :—

‘112-A. Subject to the provisions of any law made by Parliament or any rule made under article 121 of this Constitution, the Supreme Court shall have power to review any judgment pronounced or order passed by it.’ ”

Review of judgments or orders passed by the Supreme Court.

Sir, the Draft Constitution, as it stands now,.....

Prof. Shibban Lal Saksena : On a point of order, Sir, amendment No. 1932 has not been moved.....

Mr. President : That has not been moved : I am taking this as a fresh article.

Shri T. T. Krishnamachari : May I mention, Sir, that amendment No. 1932 is exactly the same as amendment No. 1928? Actually, if amendment 1928 is moved, amendment 1932 cannot be moved.

Mr. President : I have already said that I have taken it as a fresh article.

The Honourable Dr. B.R.Ambedkar : The Draft Constitution contains no provision for review of its judgments. It was felt that that was a great lacuna and this new article proposes to confer that power upon the Supreme Court.

The Honourable Shri K. Santhanam (Madras: General) : Sir, I am afraid that the drafting of this is not quite as happy as it should be. For one thing, I do not think it is right to put an article in the Constitution giving a power to the Supreme Court and say that that power shall be limited by rules made by the Supreme Court. I think it is bad law. If you give a power to

the Supreme Court, it must be real power; you cannot say that that power could be limited by the Court itself. Again, the article says that the Supreme Court's power to review its judgment shall be regulated by law made by Parliament. I think this is altogether contrary to the article 112 which we have adopted, where you have given the Supreme Court the power to review any judgment or any order coming from anywhere. Parliament has no right to interfere even with its ordinary power of review.

Mr. President : This refers to its own decisions.

The Honourable Shri K. Santhanam : I am coming to that. I think there is a greater reason why the Supreme Court should be left unfettered to review its own judgment. When it is allowed an unfettered freedom even in matters which are ordinarily dealt with by Parliament and State legislatures, why should the Supreme Court be fettered by law made by Parliament about the review of its own judgment? In these two respects, the thing is rather defective. I would suggest to Dr. Ambedkar to see if it should go in this form or whether the form should not be reconsidered.

The Honourable Dr. B. R. Ambedkar : I think my Friend Mr. Santhanam is completely mistaken in the observations that he has made. First of all, we are not conferring any power to the Supreme Court to make any rules. That power is being delegated by article 121. If he refers to that article he will see that it reads thus :—

“Subject to the provisions of any law made by Parliament the Supreme Court may from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court including, etc., etc.”

Therefore it is not correct to say that we are giving power to the Supreme Court. The power is with the Supreme Court and is to be exercised with the approval of President. Another thing which has misled Mr. Santhanam is that he has not adverted to the fact that I proposed by amendment 42 in List I to add one more clause to article 121 which is (bb) and which deals with the rules to be made with regard to review. Therefore, having regard to these two circumstances, it is necessary that the review power of the Supreme Court must be made subject both to article 121 and also the amendment contained in No. 42.

Mr. President : The question is:

“That new article 112-A do stand part of the Constitution.”

The motion was adopted.

Article 112-A was added to the Constitution.

Article 113

Mr. President : No. 113.

Shri T. T. Krishnamachari : The House has expressly excluded reference to State in Part III of the First Schedule all along and therefore this article may not be necessary. You can formally put it to the House so that the House can negative it.

The Honourable Dr. B. R. Ambedkar : That is so.