

Article 35

Mr. Vice-President : Now, we come to article 35.

The Honourable Dr. B. R. Ambedkar : Sir, I have to request you to allow this article to stand over for the present.

Mr. Vice-President : This article is allowed to stand over for consideration later. Is it agreed to by the House?

Honourable Members : Yes.

Article 36

Mr. Vice-President : Then, the motion before the House is that article 36 do form part of the Constitution. Amendment No. 961 is a negative motion. So we come to amendment No. 962—Shri L. K. Maitra.

Pandit Lakshmi Kanta Maitra (West Bengal: General): Mr. Vice-President, Sir, I beg to move:

“That in article 36, the words ‘Every citizen is entitled to free primary education and’ be deleted.”

Sir, I will strictly obey the injunction given by you regarding curtailment of speeches. I will put in half a dozen sentences to explain the purpose of this amendment. If this amendment is accepted by the House, as I hope it will be, then the article will read as follows:—

“The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.”

It will thus be seen that this article 36 will be brought into line with the preceding and the subsequent articles, in form, at any rate. The House will observe that articles 30, 31, 32, 33, 34, 35, 37 and 38 all begin with the words—“The State shall..... so and so”. But article 36 alone begins with—“Every citizen is entitled to.... etc. Therefore if we delete the words I have referred to, this article also will come into line with the other articles. Besides the question of form there is also a question of substance involved in this. Part IV deals with directive principles of State policy, and the provisions in it indicate, the policy that is to be pursued by the future governments of the country. Unfortunately, in article 36, this directive principle of State policy is coupled with a sort of a fundamental right, *i.e.* “that every citizen is entitled..... etc.” This cannot fit in with the others. Here a directive principle is combined with a fundamental right. Therefore, I submit that the portion which I have indicated, should be deleted.

Now, there is another point, and I particularly want to draw the attention of the Drafting Committee to it. You will see that in the original draft, in the margin of this article there is a note, “provision for free primary education.” But in article 36, we are not making any distinction between primary and secondary educations. That is to say, to every citizen, up to the age of 14 years, the State shall provide, within ten years of the commencement of this Constitution, free and compulsory education. In other words, the education need not be confined to the primary but it may go up to the secondary stage, so long as the person is upto the age of 14. Therefore, the marginal note should be amended accordingly. Sir, I move.

Mr. Naziruddin Ahmad : (West Bengal: Muslim): Sir, I beg to move:

“That in article 36, for the word ‘education’, the words ‘primary education’ be substituted.”

Sir, this article, as has been clearly pointed out by the previous speaker, deals with primary education.

It begins with primary education and the marginal note also makes it clear. But as has been pointed out, towards the end what is said is that the State shall provide within a period of ten years from the commencement of this Constitution for “free and compulsory education.” I believe from the context and from other internal evidence that what was intended was compulsory ‘primary’ education. The State cannot undertake to give compulsory education of a secondary character.

Pandit Lakshmi Kanta Maitra : As far as possible !

Mr. Naziruddin Ahmad : But then if you enlarge the scope of the Government’s duty, it will be making it innocuous. I think it would be better to confine it to primary education and that should be a directive principle of the State. I think that is what is meant. The word, if introduced, would, I submit, fill up an obvious lacuna.

Mr. Vice-President : It would be as well if you move the other amendments in your name as that would save the trouble of your coming up again.

Mr. Naziruddin Ahmad : Sir, I move:

“That in article 36, a semi-colon be inserted after the word ‘education’.”

As this relates only to punctuation. I am asking the Drafting Committee to consider it.

Mr. Vice-President : Article 36 is now open to general discussion.

Shri B. Das (Orissa: General): I have never been enamoured of these directive principles. They are just pious hopes and pious wishes laid down there occasionally to create trouble for the provincial Ministries and very seldom the Central Government will be affected by criticisms of this House. Yet article 36 deals with primary education, which article 23 on Fundamental Rights which we have not yet discussed, ignores to provide for. I am not yet satisfied from the speeches what free and compulsory primary education will be like. Will it be in one language, or will it be in two or three languages if a province has two or three kinds of people making up the province?

I will talk of Orissa, where we have some of the Andhra people and some Bengalee people, for whom I think free primary education up to a certain stage should be provided by the State. The same demand I make from the provinces of Madras, Bengal and the Central Provinces, where education in the mother tongue of the Oriyas has been denied. My friend, Premier Shukla, is looking at me. It is not his Ministry’s fault. It is a tradition that has grown. No one bothers about giving free primary education in the mother tongue of any race that has a language and a script of its own. In Bengal in the Midnapore district, in the 1881 census, five lakhs of Oriyas existed. In the last census only a few thousands and perhaps in the coming census they will be completely wiped out. But yet primary education gives individuals the chance to be in communion with their God and in communion with the textbooks of their religion. The Oriya children of Midnapore have at present to study Bengali. They have changed their names into Bengali names. So is the case in Madras in the Vizagapatam district where very large numbers of Oriyas live and it was their misfortune that the area could not become part of Orissa Province in 1936. But I do want in bi-lingual areas where there is a large population of another race, the Provincial Ministry and the Government concerned should not deny those children their right of knowledge in their own mother tongue so that when they become literate they may have been able to undertake some study of their religious texts. It is not the policy of this House or the contemplation of this Constitution that every province as it is constituted now should make all the people of one language. That is a problem on which I have had discussions in private. I understand that the

[Shri B. Das]

Drafting Committee will take this up in article 23(1). So that is the reason why I did not move my amendment No. 970 which asked for free and compulsory primary education for all children in their respective mother tongue. It is a very primary and essential problem that we should not denationalise those people who have a mother tongue of their own and compel them to learn the mother tongue of someone else, however suitable it may be.

The Honourable Dr. B. R. Ambedkar : Sir, I accept the amendment proposed by my friend, Mr. Maitra, which suggests the deletion of the words “every citizen is entitled to free primary education and”. But I am not prepared to accept the amendment of my friend, Mr. Naziruddin Ahmad. He seems to think that the objective of the rest of the clause in article 36 is restricted to free primary education. But that is not so. The clause as it stands after the amendment is that every child shall be kept in an educational institution under training until the child is of 14 years. If my honourable Friend, Mr. Naziruddin Ahmad had referred to article 18, which forms part of the fundamental rights, he would have noticed that a provision is made in article 18 to forbid any child being employed below the age of 14. Obviously, if the child is not to be employed below the age of 14, the child must be kept occupied in some educational institution. That is the object of article 36, and that is why I say the word “primary” is quite inappropriate in that particular clause, and I therefore oppose his amendment.

Mr. Vice-President : The question is:

“That in article 36, the words ‘Every citizen is entitled to free primary education and’ be deleted.”

The motion was adopted.

Mr. Vice-President : The question is:

“That in article 36, for the word ‘education’ the words ‘primary education’ be substituted.”

The motion was negatived.

Mr. Vice-President : The question is:

“That article 36, as amended, stand part of the Constitution.”

The motion was adopted.

Article 36, as amended, was added to the Constitution.

Article 35

Mr. Mohamad Ismail Sahib (Madras: Muslim): Sir, I move that the following proviso be added to article 35:

“Provided that any group, section or community of people shall not be obliged to give up its own personal law in case it has such a law.”

The right of a group or a community of people to follow and adhere to its own personal law is among the fundamental rights and this provision should really be made amongst the statutory and justiciable fundamental rights. It is for this reason that I along with other friends have given amendments to certain other articles going previous to this which I will move at the proper time.

Now the right to follow personal law is part of the way of life of those people who are following such laws; it is part of their religion and part of their culture. If anything is done affecting the personal laws, it will be tantamount to interference with the way of life of those people who have been observing these laws for generations and ages. This secular State which we are trying to create should not do anything to interfere with the