

## CONSTITUENT ASSEMBLY OF INDIA

*Friday, the 26th August 1949*

---

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Nine of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

---

### DRAFT CONSTITUTION—(Contd.)

#### Article 296

**Mr. President :** Article 296.

**Mr. Naziruddin Ahmad** (West Bengal: Muslim): Mr. President, Sir, I rise on a point of Order. Amendment No.106 which the honourable Chairman of the Drafting Committee is proposing to move is a new amendment. It is again, like many others, an amendment to the Constitution itself and not an amendment to any amendment. Notice of it was first given on the 23rd of August and was received on the 24th and would, ordinarily, have been considered on the same day, but for want of time it could not be.

An honourable Member drew my attention to changes of a serious nature sought to be introduced by this amendment. By this amendment certain service rules are to be made applicable only to Scheduled Castes and Scheduled Tribes. In the original article of the Draft Constitution all minorities were sought to be covered. I would like to know what is the reason for this change and why this change should be made in this disguised form. It would have been straightforward for any Member to give notice that for “all minority communities” in the original article, the words “members of the Scheduled Castes and scheduled tribes” be substituted. Instead of that the whole clause was redrafted. It is only by chance that I noticed the change. My point of Order, therefore, is : first that it is an amendment to the Constitution itself; and second, it is not one of those subjects which, as I know, has ever been submitted for consideration by the House. Thirdly, it is not expressed to indicate the precise change to be effected on the original article. I wish to know how long this practice of facing the House at the eleventh hour with absolutely new articles containing vital changes which it is difficult to discover is going to be followed. One day recently I reminded Dr. Ambedkar that he had not complied with your request to explain the difference between the original article and the newly drafted article and the only thing he could say was that I must have read the original article and also the new article except the “commas and semi-colons.” He could not rise above indulging in a coarse joke of this kind. Are we to go on every day adding new articles and breaking our own rules ? How can we expect the people to follow the Constitution if we systematically break our own rules? I submit there should be a limit somewhere. There should be some recognised rules and recognised exceptions. I have never quarrelled with your ruling in particular cases that the change is regular. In this case, I submit with all humility, that a new article is sought to be introduced without the usual safeguard of giving the members clear notice of the exact change. If you allow this amendment I have other serious objections on the merits. but I do not wish to submit them now, At least we should have got some notice. There should have been consultation

[Mr. Naziruddin Ahmad]

with minorities, as Sardar Patel did in a similar context. This is highly unfair.

**Mr. President :** Will it meet your case if it is put off to some other date ?

**Mr. Naziruddin Ahmad :** I do not know, Sir, whether the House will be in a better mood to consider it on some other date, but I leave the matter entirely in your hands. In fact I think things would not very much improve by then. I object to this clause being put in this manner. My point is that the amendment should be rejected on technical as well as substantial grounds.

**Shri T. T. Krishnamachari** (Madras: General): May I submit, Sir, that my honourable Friend is wholly out of Order in raising this point of Order, because this matter was accepted by the House. The honourable Member had two clear days' notice of it and if he is not able to understand the significance of the amendment in two days, I am sure he cannot understand it in two months.

**Mr. President :** Is it suggested that when the question was reopened last time with regard to reservation of seats this also was one of the point considered and on this point also a decision was taken then?

**Shri T. T. Krishnamachari :** My suggestion is that since Muslims and Indian Christians are no longer to be treated as minorities this point does not arise.

**Mr. Naziruddin Ahmad :** Not at all. I submit that what was considered was the question of representation of minorities in the legislature. But this new article relates to a different matter, viz., the protection of the minorities in getting minor jobs in the Secretariats and districts etc. On the matter of representation in the legislature Sardar Patel was kind enough to consult us and we agreed not to have any reservation in the legislature.

**The Honourable Dr. B. R. Ambedkar** (Bombay: General) : Sir, the position is this. The report of the Minorities Committee provided that all minorities should have two benefits or privileges, namely, representation in the legislatures and representation in the services. Paragraph 9 of the report which was accepted by this House contained this :

"In the all India and provincial services the claims of all minorities shall be kept in view in making appointments to these services consistently with the consideration of efficiency in the administration."

That was the original proposition passed by this House. Subsequently the Advisory Committee came to the conclusion on the consent of the two minorities—Muslims and Christians—that they were not to be treated as minorities. When the House has now accepted that the only minorities to be provided for in this manner are the Scheduled Castes and the scheduled tribes, obviously the Drafting Committee is bound by the decision of the House and to alter the article in terms of such decision.

**Mr. President :** The point of Order taken is that what was decided at the time of reconsideration of the articles relating to minorities referred only to reservation of seats and that the question of services was not taken into consideration and that point was not decided.

**The Honourable Dr. B. R. Ambedkar :** As I understand it, the decision was that they were not minorities and therefore they are not to have either of the two privileges.

**Sardar Hukum Singh** (East Punjab : Sikh): Sir, I have with me the reports of the Minorities Advisory Committee as well as the sub-committee, and it is

nowhere even suggested that all safeguards will go or that the minorities are not to be treated as minorities. The only decision that was agreed to was :

“That the system of reservation for minorities other than Scheduled Castes in legislatures be abolished,”

That was the only decision agreed to by these minorities. But it was not the only safeguard. What Dr. Ambedkar read out related to reservation in the legislature. The claims of all minorities had to be considered under article 296 when making appointments to junior posts other than those to be recruited by the Federal Public Services Commission. So I am afraid the minorities would think that it is a breach of faith and a violation of gentlemen's agreement. If Sardar Patel were here I think he would not agree to this because what we agreed to was only about reservation of seats in the legislature. Therefore I think this proposal should be withdrawn. The original draft was a much better provision and only two articles, 266 and 299, are left for the safety of the minorities; and they are only wishful thinking. They are not fundamental, they are not even directive principles, they are not justiciable. The only comfort of minorities is that in some respects their interests will be cared for; if that is also taken away it will be a violation of a gentlemen's agreement.

**Mr. President :** I am afraid in view of the stand taken by some Members of the minority communities it would be necessary to let this matter stand over for reconsideration, when of course all points of view will be taken into account.

**An Honourable Member :** We can accommodate them and decide it here.

**Mr. President :** In matters relating to minorities we have always proceeded with their consent. And now when there is difference of opinion it is better that they should be ironed out in private discussion. That is why I suggest that it may stand over. We shall now take up the next article.

### Article 299

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

“That for article 299, the following article be substituted :—

‘299. (1) There shall be a Special Officer for minorities to be appointed by the Special Officer, Officer, Special officer or President. minorities.

(2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for minorities under this Constitution and to report to the President upon the working of the safeguards at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament.’ ”

The original article provided that there should be a minority officer both in the Centre and in each of the provinces. It is now felt that, as the number of minorities has been considerably reduced, it is not desirable to have a cumbrous provision like that for having an officer in each province. The purpose of the original article will be carried out if the Centre appoints an officer and makes him report to the President.

**Dr. Monmohan Das** (West Bengal: General): I rise to a point of Order. It has not yet been settled as to who these minority communities are. Minorities have been grouped for the provision of safeguards in respect of two matters; one is in respect of safeguards by means if reservation of seats in the legislatures and another is by means of reservation of posts in the services. Who these minorities are has not yet been settled.