

RAJYA SABHA

***SUPPLEMENT**

TO

SYNOPSIS OF DEBATE

(Proceedings other than Questions and Answers)

Monday, July 31, 2017/ Shravana 9, 1939 (Saka)

GOVERNMENT BILLS

- 1. The Constitution (One Hundred and Twenty-Third Amendment) Bill, 2017 - *Contd.***
- 2. The National Commission for Backward Classes (Repeal) Bill, 2017 - *Contd.***

SHRI V. VIJAYASAI REDDY: This Amendment is historic for the reasons that 52 per cent of the total population did not have permanent Commission which had constitutional power. Powers under Article 338(5) are being vested with the National Commission. The Hon. Supreme Court delivered the judgement in 1992 directing the State Governments, the Central Government and the Union Territories to constitute a permanent body for OBCs. Under Article 342A(2) whatever procedure is applicable under Article 341(2) is to be applied for future inclusions or exclusions from the OBC list. An exclusive socio-economic Caste Census has been conducted by the Registrar General of India is not yet made public. If that data is made available to this Commission, probably, more justice can be done to the socially, educationally and economically backward classes. There

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could be one social scientist and two persons having specialised knowledge in the Commission. These amendments can be incorporated in this Bill. There is a long-pending demand for a separate Ministry for OBCs. Reservation in promotions for OBCs will have to be considered. Reservation in Judiciary and judicial appointments also may be considered for OBCs.

SHRI D. RAJA: We should provide the mandatory powers to these Commissions. These Commissions do not have adequate staff and adequate infrastructure. My Party stands for casteless India. My 'new India' should be free from caste system and should be free from class-based exploitation. Manusmriti is the hurdle. It is the evil for the mankind and the humanity and this should go. We have to move towards a new society. The greatest scholars of India have all spoken in favour of casteless society and against untouchability. We should strive for a new India. This is the question of social justice social empowerment. Shri V.P. Singh issued the first order for implementation of Mandal Commission Report. Let us remember Mr. V.P. Singh, who was our former Prime Minister. What I am trying to say is, when the Minister proposes to give constitutional status to the commission the State Governments should have liberty and right to decide and define the socially and educationally backward communities. The State Governments and the State Commissions must be consulted.

SHRI P.L. PUNIA: I am happy that this Bill has been brought as Constitutional Amendment. I support and welcome it. There are mainly four amendments in the Bill. One amendment is in Article 338. Besides, Article 342A is also being inserted in Article 342. I would like to give thanks to Hon'ble Minister that he has provided for Article 366, which defines socially and educationally backward class. National Commission for Backward Classes has got no rights to initiate any proposals therein. It has got Constitutional status but the right which should vest in it, is not there. Similarly, the recommendations are not implemented. Therefore, it must be somewhere prescribed that whatever the findings are, they will be responded to within 15 days or one month and efforts will be made to

implement the recommendations. One more thing I would like to add about the constitution of the Commission. Select Committee has also mentioned that it should have OBC members only and also a woman member. I think that you will certainly make a provision for this under the rules. At the same time, there should also be a provision for a judge to head the Commission. I support this Bill.

SHRI SAMBHAJI CHHATRAPATI: I welcome this Constitution Bill, which seeks to accord constitutional status to the National Commission for Backward Classes. After this Amendment Bill is passed the National Commission for Backward Classes will itself be empowered to look into the complaints and welfare measures of backward classes. I would like to apprise this House that my forefather Chhatrapati Shahu Maharaj had introduced 50 per cent reservation for the under-privileged communities in the year 1902. Shahu Maharaj wanted to eradicate the caste system. I am in favour in reservation, but there should be a time when this casteism should be eradicated. Sir, Marathas are basically farmers and as 70 per cent of them are socially, educationally and economically backward, they are demanding reservations. They do not want to disturb the 50 odd per cent reservation. The demand for reservation has been raised by a number of communities under the OBC status. By making this amendment, the Government gets the opportunity to hear and examine the grievances of other communities.

SHRI ANANDA BHASKAR RAPOLU: The OBC people have been waiting to have an Official OBC Commission for decades. I belong to OBC category, so I better understand the problems being faced by OBCs. Our UPA Government got conducted the caste-wise census in the country. During the UPA regime, the Congress President had accorded and the UPA Government had initiated to have a parliamentary committee to look into the issues of backward classes. Still we are not having a separate Ministry for the OBCs. But we are having a parliamentary committee to look into the issue of the OBCs. There is an urge for creating a separate sub-plan for Other Backward Classes. There is an urge for the removal of creamy layer. This creamy layer is stalling all the employment processes. Instead of

making it empowered commission, it is being made a centralized commission. You are depriving the States of their basic rights with regard to the consultation and concurrence process of the welfare of backward classes and inclusion of the same in the list. These challenges have to be addressed. A complete system should be established in spite of giving it a Constitutional status. Its members should only belong to backward classes and its chairman should have the status of a Judge of the Supreme Court.

SHRI PRADEEP TAMTA: The biggest problem in this country is caste system. This country cannot become a democratic and equitable society in real sense till the caste system is existing in this country. This country should move into the direction of a casteless society. Till the caste system is existing, the right of reservation should also be there; however we have to think about creating a casteless society by moving ahead of this right which was the dream of the Baba Saheb Dr. Bhimrao Ambedkar. We are bringing it so that the National Backward Commission gets the same constitutional status as has been given to the National Commission for scheduled castes and National Commission for scheduled tribes. All the reports of the National Commission for scheduled caste should get the binding base and if this strong base is provided to that commission, then we will move towards a meaningful direction. It should be considered that whether the rights of the States will be compromised through it. The Articles 341, 342 and 342(A) are being added which contain a list for the SC/ST. That is a National list which is applicable for the Central Government as well for State Governments. It should be taken care of that the rights of the states are protected, because in case of backward commission, it has two lists, a separate list for the Central Government and another list for State Government. The states are having a right to prepare a list of backward classes. It seems that efforts are being made to take away the rights of the OBC through this bill.

SHRI SHARAD YADAV: I am in support this Bill but would like to put my points as well on this issue. We have a caste-based society in our country. All the Commissions, be it National

Commission for Scheduled Castes and Scheduled Tribes or National Commission for Backward Classes, are toothless. None of these has been able to take any effective step for these classes. Criteria of "creamy layer" is unconstitutional. I request the Government that the criteria of "creamy layer" and awarding of work on contractual basis in all the PSUs be done away with immediately.

SHRI C.P. NARAYANAN: On the basis of taking the responsibility of educating the public by the Travancore queen in June, 1917 the backward communities demanded that this right should be extended not only for the forward classes, but also for the backward classes. So, the newly-constituted National Commission for Backward Classes must ensure that good education is given to women and the most backward, among the backward classes and they are made socially forward so that the reservation is not for all periods. It should also be ensured that there is adequate representation from the most backward communities and from the minorities in the Commission. I hope that this constitutionally-created Commission does what is expected of it, what the earlier NCBC was unable to do.

SHRI DIGVIJAYA SINGH: Whatever Shri Sharad Yadav has said, that is very correct. There is no concept of Creamy Layer in constitution. We have only followed the judgement of Supreme Court in this regard. When Mandan Commission was set up, Advani Ji and Atal Ji used to oppose it. Mahant Ji, you are not a political person, you are Mahatma. We respect you. I request you not to politicise it. We fully support it. But you have taken away the rights of the State Governments. Entire governance is being centralised in the hands of the PMO. That is why we oppose this.

SHRI RIPUN BORA: I fully support this Bill. But, before that, I want to highlight some issues and bring them to the notice of the hon. Minister. I strongly feel if a particular community is classified and notified as an OBC, it should not be reviewed and it should not be deleted. I request the hon. Minister to include one woman and one from minority community in the Commission. I would like to request the Government that after the passage of this Constitutional

(Amendment) Bill, They should implement this in letter and spirit. The recommendations of the NCBC must be binding on the Government. Government should ensure that no Government would misuse this provision for political purposes in the days to come. There should be a provision that the President would consult with the Leaders of Opposition of both the Houses while appointing these five members so that justice can be done.

SMT. CHHAYA VERMA: As per the census of the year 1931 the population of OBC was 52 percent and even today it is 52 percent only. Would the population of OBC not have increased during this many years? In NEET examination total reservation for OBC, SC and ST was 49.50 percent and for general category candidates it was 50.50 percent. I would like to ask Government to whom reservation has been provided? Whether it has been provided to OBC, SC and ST or to the general category? I would like to inform the House that either the rule of creamy Layer is to be removed or it should be implemented properly otherwise persons from OBC will oppose it. There are only 3 members in OBC commission. It is requested that there should be one female member and one more committee should be constituted and one person from each community should be member of it. Form a Committee with one member each from every state. At the end, I would like to say a new consensus should take place and people of OBC should be given reservation in all state assemblies on the line of SC/ST reservations. Then only this community will be benefitted in real terms.

THE MINISTER OF SOCIAL JUSTICE AND EMPOWERMENT (SHRI THAAWAR CHAND GEHLOT), replying to the debate, said: All hon'ble members supported the Bill. Our government supports the reservation. 4 major amendments are being done in the Constitution. One amendment is related to the right to hear the complaints of OBC community. 338 B seeks to constitute a Commission for OBCs with a constitutional status. A new Article 26 (c) is being inserted which deals with the definition of OBC casts. The rights of the states will not be infringed. A number of states had, on the basis of Mandal Commission, constituted such commissions. We

are neither amending Article 15 nor 16. So, this will not effect the state list of OBC. We just want to make this Commission empowered. Present central list shall be notified by presidential order and remain as it is. There is a formula for deciding Creamy layer. I can say with proud that all members of SC/ST association had requested Shri Atal ji, the then Prime Minister to reinstate the provisions of reservation.

As for taking no action on the States' proposals by the Central Government, the fact is cases relating to these proposals have been subjudice in the Supreme Court. After these cases get settled, State Governments will send proposals to the Central Government, which will be forwarded to this new Commission and finally the Parliament's decision on the Commission's report on these proposals will be implemented in the entire country or the concerned state. The same provision for inclusion or exclusion of any caste in case of SC-ST Commission has been retained in the new Commission. The State Commissions and the rights of the States will remain unaffected by these amendments.

(1) *The motion for consideration of the Bill was adopted by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members of the House present and voting.*

The clauses etc., as amended, were adopted by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members of the House present and voting.

The Bill, as amended (without Clause 3), was passed by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members of the House present and voting.

- (2) *The adoption of the motion for consideration of the National Commission for Backward Classes (Repeal) Bill, 2017 was not taken up.*

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Secretary-General.

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ERRATA TO THE SYNOPSIS OF DEBATE DATED

31st July, 2017

Page No.	Line No.	Correction
167	3	Read 'separte' as 'separate'.