

## **Making a Mockery of Indian Democracy**

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While socialism is passing into the history books as a once-noble ideal that degenerated into an instrument of tyranny in most parts of the world, it continues to bedevil the Indian polity. Even though we have jettisoned a good deal of the licence-permit-quota regime which in India is the visible symbol of socialism, the word continues to disfigure the Indian Constitution and is making a mockery of Indian democracy.

In India a political party cannot register itself with the Election Commission of India unless it swears allegiance to socialism along with secularism and democracy. In other words, as the law relating to elections stands today only a socialist party can participate in the Indian political process.

When and how did this happen ?

In 1976, the preamble to the Constitution of India was amended. The words "Sovereign Democratic Republic" were amended to read "Sovereign Socialist Secular Democratic Republic". The amendment was adopted during the last days of the brief dictatorship imposed by Mrs. Indira Gandhi when she was the Prime Minister of the Government of India. She of course called it an 'Emergency' when most leaders of parties in the opposition were put in prison (without trial) and civil liberties suspended.

Based on the amended preamble, Parliament passed in 1989 an amendment to the Representation of the People Act which introduced the concept of registration of political parties for allotment of symbols and the entitlement to other facilities such as free copies of electoral rolls etc. A new section was added to the Representation of the People Act - Section 29 (A).

This new section stipulates among other things that a political party seeking registration should swear allegiance to the Constitution of India in general and to the principles of socialism in particular. Every party candidate filing his nomination paper has also to swear such an oath of allegiance to socialism. Strangely an independent candidate (i.e., a candidate who does not belong to any party) has only to swear allegiance to the Constitution of India without having to spell it out in terms of his or her allegiance to socialism.

The Swatantra Party, a liberal democratic party was founded in 1959 long before the enactment of Section 29 (A). The Party was founded by Mr. Minoo Masani a patron of the Liberal International and Mr. C. Rajagopalachari a close associate of Mahatma Gandhi.

The Swatantra Party split in 1974. One group to which this writer and Mr. Masani belonged decided to continue the Swatantra Party in the State of Maharashtra. And it was

this party that asked for registration under the new law. The other group in the split joined another party. In its application the Swatantra Party explained that while the party was prepared to swear allegiance to the Constitution and to the principles of secularism and democracy it was not prepared to swear allegiance to socialism for the simple reason that the Swatantra Party was sworn to oppose socialism and statism. The reply from the Election Commission was truly bureaucratic : 'Please complete the registration as stipulated by Section 29 (A)'.

Denied registration and in the context of the Maharashtra State assembly elections we sought justice from the Bombay High Court by filing a writ petition on 15th December, 1994 three months before the state assembly elections.

It took the High Court in Bombay 18 months and 20 days to take up the matter and that too only to set a date for the hearing. On April 4, 1996, a Division Bench consisting of the Chief Justice of the Bombay High Court and another judge ordered a hearing arguments in the first week of August (a clear 3 months after yet another election, this time to the Lok Sabha or the House of the People (India's lower house of Parliament)). Thus for the second time, the Swatantra Party was denied its right to participate in the democratic process because of its refusal to give up its liberal position and to falsely declare its adherence to socialism.

In our writ petition we clearly stated that the "Swatantra Party does not wish to circumvent by prevarication and falsehood" the provision in the election law which compels political parties to swear loyalty to socialism. The petition pointed that we were determined not to follow the example of "extreme revolutionary parties" who for the purpose of securing registration falsely swore that "they bear allegiance to democracy" or of communal (religion based) parties who falsely swore "allegiance to secularism".

Our petition pointed out that Section 29 (A) did not provide "for any verification of the truth" of a party's assertion that it was socialist, secular or democratic, "nor is there any instance of registration being denied to or withdrawn from any party on the basis of proven falsehood". In other words the Swatantra Party could easily have sworn loyalty to socialism merely to obtain registration and then gone on to attack this ideology in its manifesto. "But" said our petition, the Swatantra Party had "no wish to resort to such unconscionable procedure".

The petition clarified that its "grievance is not against the amendment to the Preamble to the Constitution incorporating therein a reference to socialism. The Constitution contains many dispositions not all of which need to be uniformly acceptable to any given individual or association of individuals. What is essential is that a citizen must have the right and the possibility at par with any other citizen to act and to canvass by constitutional means, for changing the dispositions of the Constitution in accordance with his inclinations however unreasonable they may look to others at a given point of time. Section 29 (A) of the Act prevents committed and sincere non-socialists from agitating as an organised force in favour of getting the Constitution modified in their

favour by entering the Legislature and influencing the persuasions of the other members of parliament”.

The petition pointed out that the “term socialism has been applied to a large spectrum of theories over the last two centuries. Saint Simonism based on compassion for the less fortunate and suffering fraternity; Owenism as a serious attempt at organisation of the weaker sections into economically viable units; Fabianism with its mighty intellectual prestige provided by George Bernard Shaw, Sidney and Beatrice Webb; Guild Socialism advocated by G.D.H. Cole; Welfarism providing a misplaced justification for equal distribution for wealth; the European type of liberal, democratic, welfarist socialism; the Keynesian model entrusting the responsibility of ensuring fuller levels of employment and investment; third world states resorting to planning as an instrument of accelerating growth and equality; the Soviet type of bolshevik scientific socialism based on dialectical materialism, historical determinism, class conflict, the theory of surplus value aimed at industrialisation nationalisation, planning and dictatorship of proletariat; and last but not the least, the Maoist, Guevarist, Castroist, Royist etc. provide only part of the spectrum of ideas that have been identified with the word socialism....Other schools of socialist thought are identified by the appendage of qualifications like democratic, christian, liberal etc.”

The petition went to refer to the dictionary meaning of the word “The Concise Oxford Dictionary defines the word socialism as political and economic theory of social organisation which advocates that the community as a whole should own and control the means of production, distribution and exchange; a policy or practice based on this theory. It is quite clear that the word socialism in its unmixed form means much more and much less than a system based on justice, liberty, equality and fraternity than is envisaged in the Constitution of India. It, therefore, follows that the oath of allegiance to both the Constitution of India and to socialism are in good part mutually contradictory.”

Drawing an essential distinction between socialism and liberalism, the petition observed: “The essential part of all brands of socialism is the notion of the paramountcy of society over the individual; of social decision-making over individual behaviour. This concept of paramountcy stands in ruins today. It is now accepted quasi-universally that mankind has not, till date, invented anything better than the market mechanism for arriving at the best decisions for the society as a whole”

The petition, as we mentioned earlier will be heard in the first week of August. But it will not erase the fact that a liberal democratic party has been denied its right for the second time to participate in the elections because of its refusal to accept socialism, as its creed.