

SHRI PRAMOD MAHAJAN: Sir, I beg to move:

That the Bill be passed.

The question was put and the motion was adopted.

**The Salaries and Allowances of Officers of Parliament
(Second Amendment) Bill, 2002**

THE MINISTER OF PARLIAMENTARY AFFAIRS, THE MINISTER OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (SHRI PRAMOD MAHAJAN): Sir, I beg to move:

"That the Bill further to amend the Salaries and Allowances of Officers of Parliament Act, 1953, as passed by the Lok Sabha, be taken into consideration."

The question was put and the motion was adopted.

THE VICE CHAIRMAN (SHRI NILOTPAL BASU): We shall now take up clause-by-clause consideration of the Bill.

Clause 2 was added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI PRAMOD MAHAJAN: I beg to move :

"That the Bill be passed".

The question was put and the motion was adopted.

THE VICE CHAIRMAN (SHRI NILOTPAL BASU): Now, the House is adjourned till 2 O'clock.

The House then adjourned for lunch, at forty-nine minutes past twelve of the clock.

The House reassembled after lunch at three minutes past two of the clock
[THE VICE-CHAIRMAN (SHRI SURESH PACHOURI) in the Chair]

The Constitution (Ninety-Third Amendment) Bill, 2001

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Hon. Members, now, we take up the Constitution (Ninety-third Amendment) Bill, 2001. This Bill has to be passed by a special majority, as required under article 368 of the Constitution. Members should be present, at the time of

division, at various stages of the Bill. The first division will be at around 6.00 p.m. today. Dr. Murli Manohar Joshi.
मानव संसाधन विकास मंत्री, विज्ञान और प्रौद्योगिकी मंत्री महासागर विकास मंत्री (डा. मुरली मनोहर जोशी) : उपसभाध्यक्ष महोदय, मैं प्रस्ताव करता हूँ :

"कि भारत के संविधान का और संशोधन करने वाले विधेयक पर,

लोक सभा द्वारा पारित रूप में विचार किया जाए।"

उपसभाध्यक्ष महोदय, मैं यह भी प्रस्ताव करता हूँ कि विचार के पश्चात यह सदन इस विधेयक को सर्वानुमति से पारित करे। मैं इस संबंध में सदन का ध्यान इस ओर आकर्षित करना चाहता हूँ कि हमारे देश की यह मांग आज की नहीं है कि हमारे देश में बच्चों के लिए प्राथमिक शिक्षा पूरे तौर पर निशुल्क और अनिवार्य की जाए। इसका इतिहास यह है कि एक बार महात्मा गांधी ने यह चुनौती दी थी कि भारत अंग्रेजों के आने से पहले ज्यादा शिक्षित था और अंग्रेजों के कार्यकाल में इसकी शिक्षा की दर और शिक्षा की वृद्धि घटी है। इसको चुनौती दी गई। अंग्रेजी राज के जो हुक्मरान थे, उन्होंने भी और यहां जो उनके प्रतिनिधि थे, उन्होंने भी उसका ऐसा उपहास उड़ाया कि यह बात जो महात्मा जी को कह रहे हैं, वह तथ्यों पर आधारित नहीं है। मैं सदन के सभी सम्माननीय सदस्यों से अनुरोध करूंगा कि इस बारे में डा. धर्मपाल ने बहुत ही सुन्दर दो पुस्तकें हमारे देश के शिक्षाविदों के लिए प्रस्तुत की थी। एक थी "The One Teacher And One School" और दूसरी थी "Beautiful Tree" महात्मा गांधी ने कहा है कि हमारे देश की शिक्षा का जो सुन्दर वृक्ष था उसे भी अंग्रेजों ने समाप्त कर दिया, उन्होंने इसके बारे में कुछ चिन्ता नहीं की। मैं यह कहना चाहूंगा कि उन्होंने यह बात 1931 की गोलमेज कांफ्रेंस में कही थी। उन्होंने कहा था, मैं उदघृत कर रहा हूँ "We have the education of this future State i.e. India. I say without fear of my figures being challenged successfully that today India is more illiterate than it was 50 or 100 years ago and so is Burma, because the British Administrators, when they came to India, instead of taking hold of things as they were, began to root them out. They scratched the soil and began to look at the root. They left the root like that and the beautiful tree perished. The village schools were not good enough for the British Administrator. So, he came out with his own programme. Every school must have so much paraphernalia, so much building and so forth. Well, there were no schools at all. There are statistics left by the British Administrator, which show that in cases where they have carried out a survey, ancient schools have gone by the mode, because there was no recognition for these schools. And schools established after the European pattern, were too expensive for the people. Therefore, they could not possibly overtake the thing."

यह उन्होंने कहा था। जो इस बात का प्रमाण है कि भारत की शिक्षा में बहुत कुछ कमी हमारे यहां विदेशी राज के समय आई। क्योंकि हम यह जानते हैं कि एक समय ऐसा था जबकि दुनिया से, देश-विदेश से लोग यहां शिक्षा प्राप्त करने आते थे। मैं उस तमाम इतिहास में नहीं जाना चाहता जो तक्षशिला, नालन्दा और विक्रमशिला के साथ जुड़ा हुआ था, लेकिन जो

रिपोर्ट ऐडम्स ने हमारे देश के बारे में दी और जिसका इन दोनों पुस्तकों में से मैंने उल्लेख किया, इसमें उद्धृत हैं, वे बहुत महत्वपूर्ण रिपोर्ट्स हैं इसलिए मैं आग्रह करूंगा कि जिनकी भी रूचि हो वे इस विषय को अवश्य पढ़ें। वे यह कहते हैं, "ऐडम्स की रिपोर्ट" नाम से जो रिपोर्ट है, ऐडम्स भारत में मिशनरी, पादरी के रूप में आए थे, लेकिन बाद में जर्नलिस्ट हो गए थे। उन्होंने जो कहा है मैं उसी पुस्तक से उद्धृत कर रहा हूँ "This supposes that there are one lakh such schools in Bengal and Bihar. Assuming the population of those two provinces to be four crore, there could be an average school for every 400 persons." उन्होंने आगे यह भी कहा है कि "Therefore, 11 /30th of the above-mentioned 400 persons and 3/7th of the result, it will follow that in Bengal and Bihar, there is, on an average, a village school for every 63 children of the school-going age." अंग्रेजों के आने से ठीक पहले हमारे देश में शिक्षा का विस्तार था और आप समझ सकते हैं कि उस समय की बंगाल प्रेजिडेंसी में एक लाख स्कूल थे, वही हालत मद्रास प्रेजिडेंसी की थी, वही हालत मुंबई प्रेजिडेंसी की थी और वही हालत पंजाब प्रेजिडेंसी की थी। शिक्षा का कितना व्यापक जाल था। यह आज से लगभग दो सौ साल पुरानी बात है। शिक्षा का इतना व्यापक जाल तब था लेकिन यह जाल नष्ट किया गया, यह जाल तोड़ा गया और यह जो फैलाव था, हमारी शिक्षा का, उसे अंग्रेजों ने संकुचित किया। इसका एक कारण यह बताया गया कि उन्होंने जो अपने स्कूल खोले, उनको मान्यता दी थी और हमारे स्कूल, जो ग्राम सभा, पंचायत, लोग मिलकर चलाते थे, जिसके भवन अंग्रेजी मानकों के अनुसार शायद उत्कृष्ट नहीं थे, उन सबको उन्होंने अमान्य कर दिया। इसलिए धीरे-धीरे वे सब बंद हो गए और शिक्षा व्यवस्था अंग्रेजी सरकार ने अपने हाथ में लेनी शुरू कर दी जिसका नतीजा यह हुआ कि समाज से, कम्युनिटी से शिक्षा का प्रबंध हट गया। यह एक परिवर्तन अंग्रेजों के काल में शिक्षा के दौर में आया। मैं समझता हूँ कि इसने हमारे देश को काफी नुकसान पहुंचाया। आज जो यह शिक्षा की गिरी हुई हालत है इसके लिए हमें उन तमाम कारकों पर विचार करना पड़ेगा जो अंग्रेजी राज ने हमारे देश की जो स्वदेशी शिक्षा थी जो यहां के लोग शिक्षित करते थे उसको उन्होंने समाप्त किया। मैं यह भी कहना चाहूंगा कि उन पुस्तकों में इस बात का भी उल्लेख है कि कैसे हमारे यहां विशेषज्ञ तैयार किए जाते थे, एक्सपर्ट्स तैयार किए जाते थे और यह जो वन टीचर वन स्कूल है, इसमें उन्होंने बताया कि कैसे एक टीचर एक विशेषज्ञ को तैयार करता था। एक प्रकार की स्पेशलाइजेशन की शिक्षा देता था। लोग उसी के घर में रहकर पढ़ते थे और धीरे-धीरे इस तरह से गांव में, कम्युनिटी में, स्पेशलाइज्ड शिक्षा की भी व्यवस्था की जा रही थी। वह सब व्यवस्था नष्ट हो गयी। लेकिन जब अंग्रेजों के साथ हमारा संघर्ष चल रहा था तो उस समय हमारे बहुत से सम्माननीय राष्ट्रीय नेताओं ने जो आजादी की लड़ाई में अग्रणी थे, शिक्षा के बारे में बहुत महत्वपूर्ण विचार किए। महात्मा गांधी का ही मैं एक और उद्धरण करूंगा जो उन्होंने एक मराठी दैनिक आत्मोद्धार में किया था।

"The fifth requirement of national education is that it should be free."

यह निशुल्क होनी चाहिए। आगे चलकर उन्होंने कहा कि —

"Lastly, the people themselves must have control over the planning and carrying out of education."

[14 May, 2002]

RAJYA SABHA

उसी में आगे है कि कम्युनिटी में, समाल में, गांव में विलेज में, यह जो हमारा स्थानीय शासन है, इसको इस बारे में प्रबंध का स्थान मिलना चाहिए उनके हाथ में शिक्षा रहनी चाहिए —

"In the exercise of this control lies education too. The people will then have faith in education meted out to their children and feel their responsibility towards it."

तो शिक्षा का ढांचा कैसा हो उसकी तरफ उनका संकेत था और गोपाल कृष्ण गोखले जो शायद पहले व्यक्ति थे जिन्होंने 1911 में इम्पीरियल लेजिस्लेटिव काउंसिल में 16 मार्च को एक विधेयक पर बोलते हुए एक बहुत महत्वपूर्ण बात की थी। उसको भी मैं उद्धृत कर रहा हूँ —

"My Lord, an American legislator addressing his countrymen more than half a century ago once said that if he had the Orchendos's trumpet, the blast of which could startle the living of all nations, he would sound it in their ears and say, 'Educate your children, education all your children, educate every one of your children'. The deep wisdom and passionate humanity of this aspiration is now generally recognised and in almost every civilised country, the State today accepts the education of the children as the primary duty resting upon it."

अब यह बात 1911 में उन्होंने कही। वह बिल आगे चलकर पास नहीं हो सका। लेकिन उसके बाद सरदार बल्लभ भाई पटेल न उसका मुम्बई की म्यूनिसिपल कारपोरेशन में एक सीमित दायरे के लिए पास करा लिया था। फिर उसके बाद गोखले जी ने इसी भाषण में आगे कहा — इसे भी मैं उद्धृत कर रहा हूँ — वह उनका बहुत महत्वपूर्ण भाषण है

"Turning next to the systems of education adopted in different countries, we find that while in most of them elementary education is both compulsory and free, and in a few, though the principle of compulsion is not strictly enforced or has not yet been introduced, it is either wholly or for the most part, gratuitous. In India*—alone, it is neither compulsory nor free. Thus, in Great Britain and Ireland, France, Germany, Switzerland, Austria, Hungary, Italy, Belgium, Norway, Sweden, the United States of America, Canada, Australia and Japan, it is both compulsory and free, the period of compulsion being generally six years, though, in some of the American States, it is now as long as nine years.

In Holland, elementary education is compulsory but not free. In Spain, Portugal, Greece, Bulgaria, Serbia, Romania, it is free and in theory, compulsory, though compulsion is not strictly

enforced. In Turkey too, it is free and nominally compulsory and in Russia, though compulsion has not yet been introduced, it is for the most part, gratuitous."

तो इस तरह से आप देखें कि स्वीधीनता संग्राम के जितने भी अग्रणी लोग थे उन्होंने शिक्षा की निशुल्कता और अनिवार्यता पर बल दिया था। डा. ज़ाकिर हुसैन ने 1941 में बेसिक एजुकेशन कान्फ्रेंस में जो कहा था मैं उसको उद्धृत कर रहा हूँ -

"I think, basic education is the task the State must undertake and perform. It is a task so intricated and so vast that the private effort, by itself, cannot organise and control it".

महर्षि अरविन्द ने भी ये सब बातें कही थीं। उन्होंने एक लेख में कहा था, मैं उसे उद्धृत कर रहा हूँ :

"The problem, in a national system of education, is to give an education as comprehensive as European and more thorough, without the evils of strain and cramming. This can also be done by studying the instruments of knowledge and finding a system of teaching which shall be natural, easy and effective. The muscles of mind must be thoroughly trained by simple and easy means. Then, not till then, great deeds of intellectual strength can be required of them".

तो आप देख रहे हैं कि हरेक ने इस बारे में एक बल दिया है कि शिक्षा का स्वरूप कैसा होना चाहिए। मेरे सामने माओ का एक उद्धरण है,

"On the Current Handling of Contradiction Amongst People".

उसके लेख में उन्होंने सन् 1957 में जो कहा था, वह मैं कहता हूँ :

"Mao had expressed a similar sentiment. Now, there are two different attitudes towards learning from others. One is dogmatic attitude of transplanting everything, whether or not it is suited to our conditions. This is not good. The other attitude is to use our heads and learn those things which suit to our conditions, that is, to absorb whatever experience is useful to us. That is the attitude we should adopt. We have to learn from all the great thinkers and adopt a path suitable to the country".

तो आप देख रहे हैं कि हर चिंतक का मत यही है। महात्मा गांधी ने यही कहा कि यह अंग्रेजी तौर तरीके की शिक्षा हमारे देश के लिए उचित नहीं है। वे व्यवस्थाएं ठीक नहीं हैं। गोखले ने यही कहा, महर्षि अरविन्द ने यही कहा, डा. ज़ाकिर हुसैन ने यही कहा, हमारे पड़ोसी देश चीन के नेता स्व. माओ ने यही कहा। उन्हीं सब बातों को ध्यान में रखते हुए हमारे संविधान निर्माताओं

ने यह प्रयत्न किया था कि शिक्षा को निःशुल्क और अनिवार्य बनाने के लिए कुछ व्यवस्थाएं की जाएं। उन्होंने निदेशात्मक सिद्धांतों में, अनुच्छेद 45 में इस बात की व्यवस्था की थी और यह आशा प्रकट की और विश्वास भी व्यक्त किया था कि दस वर्ष के अंदर यह काम पूरा कर दिया जाएगा कि 6 वर्ष से 14 वर्ष तक के बच्चों की शिक्षा अनिवार्य और निःशुल्क हो सकेगी। इस संविधान का पारित हुए पचास साल से अधिक हो गए हैं लेकिन हम इस काम को अभी तक पूरा नहीं कर पाए हैं। अगर आप नियोजन को देखें तो शायद पहली पंचवर्षीय योजना में शिक्षा के बारे में जो आवंटन था वह सभंभवतः 7 से 8 प्रतिशत के बीच में था। लेकिन आज तो हम सरकारी खर्च अपने जीडीपी के 4 प्रतिशत से अधिक नहीं कर पा रहे हैं। सरकारी और गैर सरकारी खर्च मिलाकर 6 परसेंट के लगभग होते हैं। इसलिए यह देखने की बात है कि कहां चूक हुई। मैं आज उन सब मामलों में नहीं जाना चाहता। आज इस बात का सवाल नहीं है कि किसकी गलती से, कहां किसकी किम से क्या हुआ जो है वह परिक्षा हमारे सामने है। आज सवाल यह है कि 20-21 करोड़ के लगभग हमारे देश में बच्चे रहते हैं जो इस आयु वर्ग में, संवर्ग में आते हैं, उनमें से 20 प्रतिशत तो अभी भी शिक्षा के दायरे से बाहर हैं। वे शिक्षा के इस महान आलोक से वंचित हैं, वे मानवता की इस गरिमा से वंचित हैं। शिक्षा के अभाव में उनके मस्तिष्क और उनके व्यक्तित्व में बहुत कमियां रह गई हैं, जो देश के लिए बहुत मात्रा में हारिकारक हैं। अगर बच्चों की इतनी बड़ी संख्या अशिक्षित रह जाएगी, अगर वह कुपोषित रह जाएगी तो ऐसी जनसंख्या देश के लिए वर्षों-वर्षों तक भार बनेगी, देश की उत्पादकता में उनका कोई योगदान नहीं होगा और हम प्रगति की दौड़ में, खासतौर पर आज के इस प्रतिस्पर्धात्मक विश्व में, कंपीटीटिव बल्ड में हम बहुत पीछे रह जायेंगे। इसलिए बहुत गंभीर विचार के बाद, पिछली बार श्री बोम्मई ने, जो आज इन सदन में उपस्थित नहीं हैं, उन्होंने एक विधेयक इसी सदन के सामने रखा था। उस विधेयक को स्थाई समिति के पास विचारार्थ भेज दिया गया था। उन्होंने कुछ सुझाव दिए थे। उन सुझावों पर और फिर जो लॉ कमीशन ने हमारे सामने सुझाव रखे, उनको ध्यान में रखते हुए, हमने यह विधेयक सदन के सामने रखा है। जिसे लोक सभा ने पारित कर दिया है और अब यह आप के सामने विचारार्थ है उपसभाध्यक्ष महोदय, इस में हम ने स्थाई समिति की सिफारिशों के आधार पर एक छोटा सा महत्वपूर्ण परिवर्तन किया है और वह यह है कि पहले विधेयक में संविधान के अनुच्छेद 45 को पूरे तौर पर लोप किए जाने की सिफारिश थी और उस के स्थान पर एक नया अनुच्छेद जोड़ने की सिफारिश थी जोकि मौलिक अधिकार के रूप में आता। उस पर लोगों ने सब तरह से विचार किया और कहा कि यह बात ठीक है कि आप 6 से 14 वर्ष के बच्चों के लिए शिक्षा को अनिवार्य और निःशुल्क करना चाहते हैं, लेकिन 6 वर्ष के नीचे के बच्चों के लिए भी इस में एक व्यवस्था होनी चाहिए। इसलिए हम ने उस में संविधान के अनुच्छेद 45 का एक हिस्सा रखा कि **early child care** यानी प्राथमिक देखभाल और बच्चों की शिक्षा की तैयारी का काम अर्थात् जो 6 वर्ष से नीचे के बच्चों हैं, उन के लिए भी निदेशात्मक सिद्धांत के रूप में रहेगा। साथ ही 6 से 14 वर्ष के सभी बच्चों की शिक्षा को निःशुल्क और अनिवार्य करने के लिए हम एक मौलिक अधिकार प्रदान करेंगे। उस में जहां राज्यों के ऊपर सारी व्यवस्था पैदा करने का दायित्व रहेगा वहीं समाज और अभिभावकों का भी यह कर्तव्य होना चाहिए संविधान के अनुच्छेद 51(अ) जिसमें नागरिकों के कर्तव्य सन्निहित हैं, उस में हम ने यह जोड़ा है कि "ऐसे अभिभावक या माता-पिता को जैसी भी स्थिति हो, बच्चा उन के अभिभावकत्व में हो या उन की संतान हो, उन को भी इस दिशा में आगे आना होगा और वे इस काम को आगे बढ़ाने में शासन की और समाज की मदद करेंगे।" उपसभाध्यक्ष महोदय, मैं यह समझाता हूँ कि बिना शासन,

समाज, अभिभावकों और सभी के एक साथ आए यह काम पूरा नहीं हो सकता है। जैसेकि पिछले 50 वर्षों की स्थिति रही, केवल शासन तंत्र के भरोसे इस काम को हम आगे नहीं बढ़ाना चाहते हैं बल्कि उस में सामाजिक, सामुदायिक और खास तौर पर स्थानीय शासन को भागीदार बनाना चाहते हैं जैसेकि हमारे संविधान के 93 वें संशोधन की मंशा भी है। हम ने इसी रूप में इसे रखा है और चूंकि इस के एक प्रावधान में हम ने कहा है कि इस के बाद हम एक कानून बनाएंगे जोकि सदन के सामने आएगा और वह कानून सभी राज्य सरकारों और सभी राजनीतिक दलों के प्रमुख लोगों के परामर्श के बाद हम उस विधेयक को यहां प्रस्तुत करेंगे।

उपसभाध्यक्ष महोदय, अच्छा तो यह होता कि यह विधेयक दिसम्बर के सत्र में पारित हो जाता क्योंकि यह पहले वहां आ चुका था, लेकिन उस समय सदन ने इस को विचार में नहीं लिया। अब मैं समझता हूं कि इस बजट सत्र अवसान से पहले हम आज इसे पारित करें क्योंकि इस के बाद हमारी इच्छा है कि हम जल्दी-से-जल्दी कानून के मंदा प्रस्तुत करें और चूंकि वह हमें राज्य सरकारों की मदद से लाना होगा व उस के क्रियान्वयन की सब से बड़ी जिम्मेदारी राज्य सरकारों की है, केन्द्र और राज्य सरकारें मिलकर ही इस कार्य को पूरा कर सकती है। इस दृष्टि से हम ने इस नए संशोधन विधेयक को आप के सामने विचारार्थ रखा है। मेरा अनुरोध है कि आप इसे सर्व-सम्मति से पारित करें ताकि एक क्रांतिकारी विधेयक को हम आप के सामने रख सकें।

उपसभाध्यक्ष महोदय, हरेक नागरिक के लिए शिक्षा के अधिकार के बिना उस के मौलिक अधिकार का कोई महत्व नहीं रह जाता। मैं समझता हूं कि जितना मौलिक अधिकार "राइट टू वोट" है जो मौलिक अधिकार "एडल्ट फ्रेंचाइज" का है, उतना ही मौलिक अधिकार शिक्षा का है क्योंकि ये दोनों- एडल्ट फ्रेंचाइज और शिक्षित समाज या शिक्षित वोटर ये दोनों सवाल जुड़े हुए हैं। इसलिए इस तरफ हमें बहुत ध्यान देने की जरूरत है। महोदय, मैं समझता हूं कि जनतंत्र को मजबूत करने के लिए, आर्थिक समृद्धि के लिए, प्रगति की दौड़ में आगे जाने के लिए हमें इस विधेयक को यथा-शीघ्र पारित कर देना चाहिए। मैं तो चाहता था कि हमें इस विधेयक पर वास्तव में कोई विवाद होना ही नहीं चाहिए क्योंकि इस विधेयक में कहीं कोई असहमति की गुंजाइश ही नहीं है बल्कि इस को शीघ्रता से लागू करने की जरूरत है। ^T 11

The question was proposed

श्री बालकवि बैरागी (मध्य प्रदेश): महोदय, मैं माननीय मंत्री जी से इतना भर पूछना चाहता हूं कि आप ने इस विधेयक में "निशुल्क" शब्द की क्या व्याख्या की है? इस शब्द के दायरे में क्या-क्या चीजें हैं, अगर आप इसे प्रस्तावना में स्पष्ट कर देंगे तो हम लोगों को इस से समझाने में बहुत आसानी रहेगी।

डा. मुरली मनीहर जोशी: उत्तर के समय स्पष्ट कर देंगे।

SHRI MANOJ BHATTACHARYA (West Bengal): Sir,...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): You will get a chance to speak. Your name is there.

SHRI MANOJ BHATTACHARYA: I just want to mention one thing. The Minister was referring to article 45 of the Constitution, and he was

saying that article 45 mentioned the age-group as 6-14 years. I would like to mention that article 45 does not mention this. It clearly states, and I quote: "The State shall endeavour to provide within a period of ten years, from the commencement of Constitution, free and compulsory education for all children until they complete the age of 14 years." So, there is no mention of the 6-14 age-group that he has referred to.

उपसभाध्यक्ष (श्री सुरेश पचौरी) : आप बैठिए । इसमें आपका नाम है । जब आप बोलेंगे तो उस वक्त अपनी बात रख लें ।

डा. मुरली मनोहर जोशी : सर, मैं अभी बात देता हूँ । इस मामले में जितनी भी बहस हुई है और जहाँ भी इस विधेयक का उल्लेख हुआ है, उसमें हमेशा इसकी इंटरप्रीटेशन, इसका निर्वचन यही किया गया है कि 6 से 14 साल तक के लिए । यह बात दूसरी है कि इसके जो इंटरप्रीटेशन हैं, उसमें जीरो से छह को बाहर रखा गया है । इस कमी को हम महसूस करते हैं और इसीलिए हम इसको सुधार रहे हैं । जितनी भी अभी तक लॉ की इंटरप्रीटेशन आई हैं और जो भी इस मामले में बहस हुई है उसके सारे रिकार्ड मेरे पास हैं । आप देख सकते हैं कि उसका अर्थ केवल 6 से 14 वर्ष लगाया गया है । परन्तु, हम इस बात को मानते हैं कि शून्य से छह तक का भी ध्यान दिया जाना चाहिए और इसीलिए आर्टिकल 45 में जिसको लोप करने की बात थी, हमने इस रूप में रखा है ।

SHRI EDUARDO FALEIRO (Goa): Mr. Vice-Chairman, Sir, this side of the House is fully committed to universalisation of education. The Congress (I) is committed to improving the quality of education at every level. The Congress (I) is committed to education that builds citizens, with Fundamental Rights and Fundamental Duties, to strengthen and maintain their lives in the society. The Congress (I) is, in fact, committed to education that will unite the people and not divide them. It was, in fact, --if I recall on this occasion -- the then Congress (I) President and Prime Minister, Shri Rajiv Gandhi, who created this Ministry, the one which the Minister now presides. It was at the time of Shri Rajiv Gandhi's premiership that the Ministry of Human Resource Development was created. And it was not just that a Ministry was created, but a quantum jump was made in the expenditure on education. When Shri Rajiv Gandhi came in, the expenditure on education, to the best of my recollection, was not more than 2 per cent of the GDP, and it went up to 4.7 per cent of the GDP over a period of three to four years. It is unfortunate that this has slumped again to less than 4 per cent. Therefore, Sir, we are here to say that this has been our objective; this is what we have said in our Manifesto, and it is this that needs to be implemented. What is, however, objectionable is the manner in which this Government is going about this very noble objective. To begin

with, -- and this is my first point -- this Constitutional Amendment was totally unnecessary. It is a frivolous attempt at tampering with the Constitution just to get some political mileage. Sir, the Supreme Court, in which my colleague is also a lawyer, has held this in a series of cases; I will just quote one here. A Five-member Bench of the Supreme Court, which was presided over by the then Chief Justice, Justice L.M. Sharma, - that was the case of Unnikrishnan versus the State, AIR 993, quotation 2178 --has said in no uncertain terms that the right to education is a fundamental right, which already existed in the Constitution. It is implied in article 21, which is the 'Right to Life'. It went on to give a detailed description on how it is implied necessary and how the fundamental right to education existed in this country. So, we don't require this amendment. And, it went on to say, and I quote -- I am quoting from Paragraphs 145 and 80 of the Unnikrishnan case; it was a 1993 judgement -- "Citizens have a fundamental right to education. The said right flows from article 21. This right is, further, not an absolute right. The contents and parameters have to be determined in the light of articles 45 and 41."

In other words, every child or every citizen of this country has the right to free education, till he attains the age of 14. The fundamental right to education is inherent in article 21 of the Constitution. Then, you have a series of Supreme Court judgments; I will cite just one. There was a five-Judge Bench, presided over by the Chief Justice, which had gone into great detail of this.

Now, your Government constituted, sometime back, when you came to power, the National Commission to Review the Working of the Constitution, which was presided over by a former Chief Justice, Shri Venkatachalaiah. This Commission has released, fairly recently, a Consultation Paper on Literacy, in the context of the Constitution of India. This is what this very Commission which you have constituted, has got to say about this issue. In paragraph 2, Chapter 2, on Constitutional Provisions, it says, "There are 16 articles" - not one, not two, not three, but there are 16 articles -- and other mentions in the Constitution, and four specific amendments, to advance the cause of education". So, this is what is already there. There are a series of judgments of the Supreme Court, saying that the fundamental right to education exists in the Constitution. There are these 16 articles of the Constitution from which this fundamental right can be inferred. If you are not satisfied, and if you like to have more laws, you can have more laws.

Then, here, in the same Consultation Paper, we have it that there are even more laws that make this right to education a fundamental right. This is in paragraph 1.5 of this Consultation Paper, where the Commission quotes article 26 of the Universal Declaration of Human Rights, which says, "Everyone has a right to education. Education shall be free, at least, in the elementary and fundamental stages. Elementary education shall be compulsory". Then, it quotes, again, the UN Declaration on the Rights of the Child which seeks to ensure "a right to free and compulsory education, at least, in the elementary stages in education, to promote general culture...", and so on. Then, this is the conclusion of the Commission. In paragraph 1.5.2, it says, "India has ratified the above and have, thus, the power of domestic laws" -- and these are the laws which are already there -- "and the constitutional guarantees that arise automatically". So, this is what is being said here. You have a series of Supreme Court decisions saying that the fundamental right to education is already there in the Constitution, contained in article 21. You have, as the Paper says here...

SHRI SANGH PRIYA GAUTAM (Uttaranchal): What is that article? Can you just tell us?

SHRI EDUARDO FALEIRO: Article 21. I will give here the judgment, for my distinguished colleague's perusal.

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Please continue, Mr. Faleiro.

SHRI EDUARDO FALEIRO: Now, as I said, there are a series of Supreme Court judgments. And the Supreme Court, in one of the most comprehensive judgments, in the Unnikrishnan's case, said that this right was already there in the Constitution, implied in article 21 -- the right to life. The right to life is not the right to life like a non-thinking person, on four legs. The right to life implies the right to live a decent life, and the right to a decent life includes the right to education. That is what the Supreme Court has said in detail and in a much better language than I can put it here. But you do not want the Supreme Court judgment; you want laws. Then, this Paper says that there are, at least, 16 articles in the Constitution which, if read together, provide for this right to education as a fundamental right. But you are not satisfied with the Constitution. Then, it is pointed out that there are international conventions which we have ratified and which are part of the domestic laws, and which make education a fundamental right. Therefore, just because you had four Assembly elections, you thought

of this. This is not the way to deal with the Constitution. Why do I speak about the four elections? That is because, as the hon. Minister of Education has said, it was in 1986, when this was brought out as the Eighty-sixth Amendment. I am sorry; it was not in 1986; it was in 1997. The Eighty-sixth Amendment was brought by Mr. Bommai. That Government went out. Then, this Government came in. What did they do? They did nothing about this particular matter. They appointed a Committee -- with the pretence that they would scrutinise it - under the chairmanship of the Home Minister, Shri Advani. They had just one meeting. They never bothered. Only when the four elections came, in a great hurry, out of the blue, they brought in this Constitutional Amendment. They thought that they would get it passed in the same Session and then go to the people saying, "Well, we have done so much for you. We are not just sectarian. We are for everybody and we have given this Fundamental Right for all the children of this country We are not sectarian, as you call us." But, then, the people don't go in for these stories any more and, therefore, you lost. But that is a different matter altogether. The point is, the Constitution should not be tampered with in this manner. In this country, we have a lot of holy books. We have the holy books of the Christians, the holy books of the Hindus, the holy books of the Muslims and the holy books of others. But this is one sacred document which should be sacred for every citizen, independent of his religion, which every Indian must respect as a sacred document, and not tamper with it unnecessarily. This is an extreme example of how unnecessary amendments are brought to the Constitution. One of the most eminent commentaries on the Constitution is titled, "The Constitution of India - the cornerstone of a nation." That is the title of the book of Glandil Williams, one of the most eminent commentators on the Indian Constitution. In fact, the Constitution is the cornerstone of this nation. And like all cornerstones, you don't tamper with it. Because, when you start tampering with the cornerstone, the whole edifice will be in danger. I know what you think of edifices. But the Constitution must be safeguarded and this cornerstone of the nation should not be tampered with. This is my plea to you. This is what I urge upon you. I think the people of this country also urge this upon you, along with me. As my hon. friend has pointed out, it is our fundamental duty to respect the Constitution.

I am saying that this shows lack of seriousness. The Congress President, in a letter, to the Prime Minister had asked as to where from the money would be found to implement this. I mean, you pass this; everybody

claps and everybody goes home. But how are you going to implement it? Where is the wherewithal, where is the money, to implement it? The Bill, in its Financial Memorandum, says that you require, every year, Rs.9800 crores for universalisation of education. How much have you provided in the Budget? In the Budget, under the heading, *Sarvashiksha Abhiyan*, i.e. universalisation of education, you have provided Rs.1512 crores. This is the requirement of funds, that is what you say. The Tapas Majumdar Committee appointed by your Ministry said that more than Rs. 13,000 crores are required. I have the figures with me. The Tapas Majumdar Committee Report says that more than Rs. 13,000 crores are required. But what you have provided here is nowhere near even the figure of Rs.9800 crores, not to talk of Rs. 13,000 crores. What you have provided here under the *Sarvashiksha Abhiyan*, i.e. universalisation of education, is only Rs.1512 crores. How do you intend to go about it when you say in a most conservative estimate, which is half of everybody's estimate, Rs.9800 crores are required. You provide here only Rs.1512 crores. Wherefrom the rest of the money is going to come? Is it going to come from the States? The States have no money. The States are cash-starved and they have no money. And, most importantly, how do you expect the States to come in with any money, forget about what you • require, when you have not consulted them? I must mention here, Sir, that somewhere around last month, around 18th of April, the Supreme Court had indicted this Government. The Supreme Court stayed the operation of implementation of your curriculum, syllabus, textbooks, as far as new textbooks of social science -- History, etc. -- and Hindi are concerned. On what ground they have stopped you from doing what you wanted to do? They did it on the ground that you have not consulted the States. They have said that you cannot do it until you reconstitute, and have a meeting of, the Central Advisory Board on Education, i.e., CAGE; that is the body where all the State Governments are represented. Education is in the Concurrent List of the Constitution. It is, basically, a State subject. Until the Forty-Second Amendment of 1975, it was the exclusive domain of the States. It has now become a Concurrent subject. But you don't consult the States and you are going ahead with this! The questions, hon. Minister, Dr. Murlī Manohar Joshi, are the following: (1) When are you going to constitute CAGE and have a meeting of the CAGE? (2) The problem that even now the parents are telling me outside this House that now, in view of the Supreme Court decision, you can't have new textbooks on history, on religion and on Hindi, until you consult the State Governments through the CAGE.

Now you have to reprint the old textbooks. Textbooks are not available in the market for the children. What are you doing? The academic year has started in April. What are you going to do to print these books? What steps have you taken? When you print these books or reprint them, you have to print them without deletions, which you have effected. It is a matter of great urgency. I am raising this in Parliament so that the people don't blame us.

Now, the hon. Minister may kindly tell us what are you going to do to (a) reconstitute and summon the CAGE, and (b) reprint textbooks without any deletions, as directed by the Supreme Court? This is a matter of great urgency and please do the needful and please inform this House.

When such meagre amounts are being allocated, you may think, "Well, yes. It is true. Meagre funds are being allocated, because this country has no resources." But the second point I am raising here is even this little money is not being spent by this Ministry. There is total unconcern in implementation. There is only one concern, that is in bringing forth this legislation and having these great gestures. But implementation is disastrous, as far as this Ministry is concerned.

I will mention how it is. Just a few examples. The Education Guarantee Scheme, a programme which is central to the universalisation of education, last year, non-utilisation of funds was 75 per cent, utilisation very small percentage, but non-utilisation was 75 per cent under the Education Guarantee Scheme, which is central to the Sarva Shiksha Abhiyan, universalisation of education. This is what you have done. This is what you are doing. On the National Programme for Women, last year, you had the Finance Minister waxing eloquent on how that last year, 2001, was the Year of Women's Empowerment. He had said that some money was allotted to this Ministry under the National Programme for Women's Education. But 99 per cent of the money is not spent. What do you do with this Ministry? What are you doing with the Ministry?

We are all, including the Minister, talking about how the madrasas must be modernised. An amount of Rs.10 crores was allocated last year for modernisation of madrasas. It was revised to Rs. 2 crores and this year, there is zero allocation for madrasas in the Budget. This is talked about and this is what you do.

We are talking about the NCERT and textbooks. The NCERT, until February, 2000, had 48 per cent of non-utilised funds. The money is so little

and insignificant, even that amount is not being spent. Over the last three years, the NCERT has written off more than 25 per cent of the little money that is given to it, that remained unutilised and was returned. Talking about this, Mr. Minister, you have been speaking about terrorists, intellectual terrorism. Will you kindly see the type of terrorism that is going on in the NCERT. I had put you a question in Parliament on what basis all these transfers are being made. The question I am referring to, is Unstarred Question No. 2188, answered on 10th August, 2001, where you had told us in this House that twenty transfers of academic staff were made in two years. This is unprecedented. Why are these transfers made? You had said that the transfers were made on account of administrative exigencies or on promotion. Only administrative exigency or promotion and no other reason. Now, what I am saying here is, these transfers are made to terrorise the staff, to destroy their academic independence. I will give you examples of the transfers made a few days back, on the 19th April. Six transfers were made in the NCERT. Dr. Jayshree Sharma, Professor in Chemistry was transferred to Mysore Centre of NCERT, when already there was a Professor in Chemistry. What was the exigency? Was it on promotion? Dr. Dinesh Sharma, her husband, Reader in Sociology also was transferred to Mysore, where there is no Department of Sociology over there.

Dr. Akhtar Hussain, Reader in Geography here, whose father is ninety-five years old, and he is the only person and there is nobody else to take care of his father, who cannot move, has been moved to Bhopal where there was already a Reader in Geography! Why did you do this? You are terrorising people. I am accusing your departments. And, unless you take action, your Ministry itself would be accused of terrorising people. And, this is nothing but terrorism. This is academic terrorism, which we must take care of. I will just give you another example of how you are terrorising people. Sir, a group of students and teachers planned a two-day convention at Ayodhya for Hindu-Muslim unity and to recall the 1857 upswing. The permission was given. Then the students went there. When they had gone there on the 10th, about 1000 students were arrested and put in two jails - In Mao and Sultanpur -- for fifteen days. Prof. Sukendo of Delhi University was assaulted by the police and beaten with rifle. What are you doing? Is this not terrorism? If this is not terrorism, then what else is? You please tell us as to why are you doing all this kind of things.

I have just mentioned to you a point made by the Congress President, in her letter to the hon. Prime Minister. You have mentioned here

that the burden will be on the parents. The parents will be liable if the children do not go to school. I must tell you, Mr. Minister, one thing. I myself visited some primary schools in villages and found that the students in Government schools are as dedicated to their studies as those in private schools. There are no drop-outs in the Government schools. There are push-outs. These children are pushed out of schools because there are no teachers, there are no classrooms, and there are no facilities, whatsoever. And they are learning nothing there. The hon. Vice-Chairman has already ring the bell. So, I would like to refer what you had mentioned just now, from the Report of the Standing Committee. It was made very clear, and your Secretary has said very clearly, that the parents will, in no case, be punished and that the responsibility will be of the State and not of the parents. This is what is there in this book. I will just take a few seconds...

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Please conclude now.

SHRI EDUARDO FALEIRO: Sir, I will just make a point here. Because of the shortage of time, I will just mark this page. He said, 'the responsibility will be of the State to have all the children in the schools and not of the parents.' This is in para 15.3 of the Report of the Standing Committee, on the Eighty-third Amendment. It is there.

The Congress President, in her letter to the hon. Prime Minister, had made two other points - one is quality of education; now, the quality of education is disastrous. As I pointed out earlier in many primary schools which I visited there are no classrooms. In my own area, in my own State, which is one of the most developed areas in the matter of education in the country, teachers take eight classes simultaneously. There is one teacher who takes four primary classes in Konkani, which is the Official Language, four primary classes in Marathi. They take all together. What type of education is this? And, when there are more than thirty students, there are two teachers. Sir, two teachers in the same classroom! One teacher is teaching from North to South and the other teacher is teaching from East to West! It is disastrous, Mr. Minister, and I have no doubt that the position is as bad, maybe, even worse, in your State, in your district, in your village. Therefore, what we must do now is to take effective steps. Please tell us also when you are going to make education compulsory up to the age of six? What is the date? Now, Mr. Minister, this is not the way to go about it. Let us be serious about this. If you are serious, you have the cooperation of all of us. I would, specifically, mention, as a humble

backbencher, here, that we have the MPLADS fund, from which we should allocate a substantial amount to education and health. If we can do it, it would be a great thing. Let us, together, work out to improve the quality of education. Let us together work out to universalise education. Let us together work out to throw out these terrible agendas, divisive agendas, which have led to cataclysms and carnages like in Gujarat. Let us not have that. What we really need in education is something that unites, not something that destroys. Thank you for your attention.

SHRI B. P. APTE (Maharashtra): Sir, I am grateful for this opportunity given to me to participate in this debate on the Constitution (Ninety-third Amendment) Bill, 2001, which will, ultimately, become the Constitution (Eighty-sixth Amendment) Act. While I heard my predecessor, I again and again reminded myself that we are discussing a constitutional amendment, and while doing that I remembered an exam-going student who, on the previous day, was told that he will have to write an essay on 'A Donkey'. So, he makes all possible preparations. Next day, he goes to the examination hall and finds that the subject matter for the essay is not a 'donkey', but a 'tree'. So, what happens is, he starts his essay saying, "I have a courtyard. In that courtyard, I have a tree. My neighbour brought his donkey and tied it under the tree." And, then, he starts his essay on 'A Donkey'. I was reminded of this when I heard all that usual NCERT-bashing, while we are discussing a constitutional amendment. I, therefore, wondered as to what we were discussing. We are discussing a constitutional amendment of far-reaching consequences of fundamental importance to the future of this country. This amendment was mooted in 1997, when this set of people were nowhere near power. Another set of people had moved this amendment. I don't know where the hon. Member was at that time. I am not sure about his side. But the amendment was mooted by the earlier Government; not by this Government. It went to the Standing Committee. The Standing Committee did not say, "Don't make this law." The Standing Committee accepted this, and made certain positive suggestions, which were accepted, and now this Bill has come. The Bill, as I see, has three distinct clauses - One, introduction of a new article, article 21(A), in the Chapter on Fundamental Rights; second, recasting of article 45 in the Directive Principles of State Policy -- which directed the State to make all arrangements to make free and compulsory education for all - by putting a new responsibility on the State to take up early-childhood care, third, in the Chapter on Fundamental Duties, a Fundamental Duty for the parents has been introduced by adding a new

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clause, clause (k) to article 51(A). This was a long-standing need. Personally, I may say that I am having a sense of fulfilment because, way back, 30 years ago, I, as a student activist with the *Akhil Bhartiya Vidyarthi Parishad*, had made a demand in our 'National Charter of Demands' that the youth of this country need 'Right to Education', 'Right to Work', "Right to Participation -- vote at 18". In the year 1985, when the world celebrated the International Year for the Youth, again, these demands, namely, 'Right to Education', 'Right to Work', "Right to Participation -- vote at 18", were reiterated. Insofar as 'Right to Education' is concerned, insofar as 'Vote at 18' is concerned, these two aspects stand fulfilled today. Therefore, I do have a personal sense of fulfilment. Sir, people in a democratic polity, particularly of a welfare State, the world over, are entitled to certain civil and political rights which, all of us are aware, are enumerated in the Chapter on Fundamental Rights and certain social and economic rights, which are included in the Chapter on Directive Principles of State Policy. After we provided for this in our Constitution, these social and economic rights, along with cultural rights, were recognised by the United Nations, and an International Convention on Economic, Social and Cultural Rights was adopted in 1996. Where, as per article 13 and I quote : "The State Parties to the present covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms." Article 13(2) states: "The State Parties to the present covenant recognize that, with a view to achieving the full realisation of the right: (a) primary education shall be compulsory and available free to all;" Sir, our framers of the Constitution also considered these two rights. But, while considering them, they had advisedly put these civil and political rights in the Chapter on Fundamental Rights and economic and social rights in the Chapter on Directive Principles of State Policy. Shri B. N. Rao, Constitution Advisor, and the one who is credited with most of the drafting of the Constitution, has said this and I quote: "There are certain rights which require positive action by the State and which can be guaranteed only so far as such action is practicable, while others merely require that the State shall abstain from prejudicial action. It is obvious that the rights of the first type are not normally either capable of, or, suitable for, enforcement by legal action, while those of the second type may be so enforced." Therefore, the Fundamental Rights became enforceable at law, but the Directive Principles remained unenforceable. It is

another matter that constitutional lawyers do not agree with this. In fact, one Constitutional Writer, Shri Rajiv Dhawan, has very strong feelings about it. He says: "Excluding the economic and social rights from the enforceability clause is a fraud on the people." I am not going into the genesis of why the Directive Principles of State Policy were so mentioned in the Constitution. And, therefore, I will not go into that. What I am trying to point out is the framers of the Constitution devised a Constitutional mechanism for the realisation of social and economic goals. It is not merely a matter of rights, it is a matter of goals, and for those goals they enacted part III with entrenched and justiciable fundamental rights, which really, sometimes, are described as inalienable. Here, I would like all of you to forget the trauma of the Emergency, and a deliberate attempt to crush these rights, which attempt, of course was unsuccessful.

Secondly, the Directives for the realisation and effectuation of the ideology of Part III, namely, the directives contained in Part IV, which are non-justiciable, yet, they permeate the ethos of Part III, namely, the Chapter on Fundamental Rights. I would not read the articles which show this. I will merely mention articles 38 and 39 in so far as education is concerned, particularly, clause (f); and articles 41, 44, 45, 46 and 48. Sir, the Directive Principles of State Policy were enacted with a firm hope that the State, within its limits, will do something about this. But, when the Supreme Court found that nothing was done, the Executive failed in its duty, at a time, when, I would like to remind my hon. predecessor speaker, that these people were nowhere near power when you were there. When the judiciary found that you are doing nothing about it, the judiciary intervened. In so far as interpreting the Constitution is concerned, it was in the earlier 50's that certain unremunerated rights were given the status of fundamental rights by judicial pronouncements.

For example, freedom of the Press, right to travel abroad. These rights were given the stamp of fundamental rights by judicial process, immediately after the Republic was born. It was only the post-emergency judicial activism which read several things into article 21, and enhanced the scope of the rights which the people enjoyed under Chapter-III. Somebody said that the post-emergency judicial activism, in fact, synthesised the fundamental rights with Directive Principles and constitutionalised social and economic rights. Mr. Vice-Chairman, Sir, article 21 is the repository of the right to life and personal liberty. The courts expanded this right saying that right to life is meaningless without human dignity and honour. Thus

freedom from torture, right to compensation, right to privacy, right to clean environment, right to free legal aid, and right to education were recognised as Fundamental Rights. In Mohini Jain's case, the Supreme Court invoked article 21 as the source of right to education, and in Unnikrishnan's case, it determined its parameters by referring to articles 41, 45 and 46. Pausing here for a moment, Sir, I would point out that mere judicial pronouncements do not make a law. Judicial pronouncements tend to be erratic, tend to be going beyond the scope of definition. Mohini Jain's case is an example of this. The Supreme Court read into article 21 'Right to Education' but did not confine it to the Directive Principles of State Policy. Therefore, according to the Supreme Court, even going to a medical college, going to an engineering college was the fundamental right of every citizen. This was to be tempered by the Supreme Court subsequently in Unnikrishnan's case. Therefore, judicial pronouncements do not make a law, law-making function has been assigned to this body, and this body cannot say that since the Supreme Court has made the law, we should do nothing. In fact, this decision of the Supreme Court is the provocation, and may be the foundation of the present amendment, with its three components. Universalisation of education, everybody is aware, is not an easy task. The task is stupendous, because the challenge is daunting. Even today, with the *Serva Shiksha Abhiyan* and the most dynamic efforts by the present Government, literacy rate is at 66 per cent. Sixty-two per cent of the primary school entrants reach Grade-V. This proportion is 90 per cent in Indonesia, is 94 per cent in China, and it is 98 per cent in Sri Lanka. Therefore, in '*Pioneer*' dated 5th June, 2000, Shri A.K. Prasad, wrote "India has 90 million nowhere children. They are neither in the school nor in the work force. There are 11.28 million working children, in the age-group of 5-15,. When we consider the Right to Education, we consider these children. We need 2.85% of the GDP to achieve this goal.

[THE VICE-CHAIRMAN (SHRI RAMA SHANKER KAUSHIK) in the Chair]

The Tapas Mazumdar Committee has estimated that for achieving universal elementary education, an additional expenditure of Rs.1.37 trillion is required, spread over 10 years. Sir, we must remember that there are 21 crore children in the age-group of 6-14, out of which 20% do not go to school, apart from the problem of drop outs. And there are 14 crore children in the age group of 0-16. The State has to consider and care for this entire population.

And, yet, where is the money, is not the question; in spite of the constraints, the task must be undertaken, for which this Constitutional injunction is being self-imposed by the Government. Why? Because, it is rightly said, "If you find education expensive, try ignorance; it is far more expensive; and, this expenditure is not mere social security; it is an investment which yields high returns." Sir, the courts intervened when the State failed. That applies even to the 'National Programme for Nutritional Support'. When food was not being served, the Supreme Court intervened and directed that cooked food should be served. I do not know what has happened to that, but I will not digress into it. While article 21A makes education a fundamental right for children between the age group of six and fourteen, those who are below the age of six are not covered by that, and, therefore, for early childhood care and education, 'ECCE', as it is termed, two provisions are made. One is, the new article 45, and the other is addition of a new clause in article 51A-Fundamental Duties. Sir, the Chapter on Fundamental Duties was added later; in fact, by the notorious, Forty-Second Constitutional Amendment, during the Emergency. But that Chapter was retained, even after the Emergency regime was defeated. In that Chapter, a new clause is added, a clause which makes it a duty for the parents -- by the addition of clause (k) - to provide education to their children. It says, "Who is a parent or a guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years." An apprehension was expressed that the parents will be punished. I find it ridiculous. The Chapter on Fundamental Duties does not punish anybody. It is a higher law, which invokes duty. For example, the Chapter on Fundamental Duties, article 51A in clause (a) says, 'it shall be the duty of every citizen of India to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem'. But, unfortunately, in this country, we have a judicial pronouncement that you need not sing the National Song, to respect it. Therefore, Fundamental Duties are not enforced. Nobody is punished, because Fundamental Duties are not enforced. But if you look at them from a holistic point of view, when the Constitution enjoins the citizens with certain Fundamental Duties, the citizens must respect that injunction and do everything to comply with it. In fact, this duty flows directly from the Universal Declaration of Human Rights which was made as far back as on 10th December, 1948. By Article 29 (A) and, I quote, "Everyone has duties to the community in which alone the free and full development of his personality is possible." There are no rights without duties. In fact, the original Sanskrit word *Adhikar* conveys

both; intact, more of duty than of right. In a way, these are in the nature of higher laws. Sir, now, we have entered into a new millennium which is fraught with complex challenges and civilisational conflicts, cultural confusions, and, of course, globalisation and global disparities. Preparatory to meeting these challenges, insofar as education is concerned, the UNESCO established, in 1993, the International Commission on Education for the 21 st Century, headed by Mr. Jacques Delors, with 14 other members. One of them is Dr. Karan Singh, who very ably contributed to the formation of the official report. He is now the hon. Member of this House. That report was published in 1996. That report talks about the rights of the child. That report talks about both the things, which this Constitution Amendment provides for. Firstly it talks about the basic education. Here I would quote from the report. It says:

"Basic education for children can be defined as an initial education - formal or non-formal - extending in principle from around the age of 3 to at least the age of 12. The basic education is an indispensable passport to life. That will enable people to choose what they do to share in building the collective future and continue to learn. Education is a human right and an essential tool for achieving the goal of equal development and peace."

The same report talks about the early childhood education.

"The Commission wishes to emphasise the importance of early childhood education."

In our amendment, we have added the word 'care'.

"Apart from the socialisation process that early childhood centres and programmes are allowed to begin, there is an evidence that children, who receive early childhood education, are more favourably disposed towards school and less likely to drop-out prematurely than those who do not."

Sir, this report calls education a treasure within. And there, the report concludes with a fable, with which I would also like to conclude. The report refers to one of La Fontains the fable - The Ploughman and his children", is quoted : "Be sure", the ploughman said: "not to sell the inheritance our forebears left to us. A treasure lies concealed therein." The report says, readopting slightly the words of the poet, who was lauding the virtues of hard work and referring instead to education, that is

everything that humanity has learnt about itself, we could have him say, "But the old man was wise, to show them before he died, that learning is the treasure."

This treasure of learning is being made possible by this Constitutional Amendment. Therefore, I support the Bill and request that all of you also support it. Thank you.

SHRI RAVULA CHANDRA SEKAR REDDY (Andhra Pradesh): Sir, I rise to support the Bill.

Gandhi has warned way back in 1939 that "illiteracy of the masses was India's sin and shame and must be liquidated". This was, perhaps, a virtual indictment of the handful of the educated elite. Who had the privilege of access to the education, but who never thought of sharing it with community. Literacy is a basic minimum need for the vast masses in rural and urban areas continues to be a cause for concern. In terms of literacy, India ranks 59th in the world and nearly 50 per cent illiterates of the world are in India.

It is most unfortunate that after 55 years of our independence, we are now having some initiatives to make education a Fundamental Right.

It was stated in Article 45 of the Constitution that free and compulsory education would be provided to all the children up to the age of 14 years within a definite period.

I quote from Article 45. It states:

"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 14 years".

But, according to this Article, if good initiatives had been taken, then, definitely by the year 1960, this dream could have been realised. But, it was deferred to 1970, then to 1980, again to 1990 and then to 2000.

Recently, we heard the Minister for Human Resource Development declaring that India would achieve this target at least by 2010.

In this way, the time is going away. If we look back, there were several Committees and Commissions to look into the different aspects of education, right from elementary to higher education. There was no dearth

of Committees and Commissions in our country so far as education is concerned. More than 120 Committees and Commissions have been constituted to look into different aspects of education, right from elementary to higher education.

Some of the Commissions gave their reports also. The 70-member Education Commission headed by Dr. D. S. Kothari, which is one of the most important commissions that was set up long back, submitted its report on 29th June, 1956. It states: "The destiny of India is being shut in her classroom. This we believe is no more rhetoric in a world based on science and technology. It is education that determines the level of prosperity, welfare and security of the people." But, even after 55 years of Independence and even after four decades of submission of report by this Commission, this could not be realised till this date.

Let us have a look at the strength of our country so far as education is concerned and the place we are occupying in the world. It has been referred to by the Government that our position is not at all happy. According to the World Education Report, India shares 32.3 per cent of the illiterates. The share will go up to 34 per cent in the year 2004. Sir, we know that India is having a share of 16.9 per cent only in the global population. These data are enough to describe the sorry state of our country so far as education and literacy are concerned.

Unless we concentrate on our education, we cannot eradicate poverty since they are inter-linked. We feel that in many of the backward States, educational facilities are not properly organised and it is because of poverty. Hence, unless we eradicate poverty, you cannot get people educated. By making the proposed amendment to the Constitution and bringing out a new article 21 A, we will put the responsibility on the States alongwith the Central Government. Now, the Union Government wants to take the burden of Universal Education. It is a welcome sign and everyone should welcome it.

Sir, this Bill also seeks to insert a new article and to amend article 51 A. This is being done with a view to providing an obligation to parents. As is stated, it is a partnership among the Central Government, the State Government and the parents or the guardians. Unless you bring about a movement in the society, particularly in the villages, it is very difficult to achieve the target of Universal Education at the elementary level up to the age of 15 years.

It is a fact that infrastructural facilities like school buildings and teachers are not available in many villages. Both these are indeed very important. Unless you have a building and a teacher, you cannot run a school. Providing school teachers is becoming a problem because it is a financial commitment.

Creation of infrastructure in the field of education should be given the highest consideration. We are very enthusiastic to make right to education a fundamental right and insert it in article 45 of the Constitution. We have to compulsorily implement it in the letter and the true spirit of this amendment. Unless the Government makes primary education compulsory, no village can prosper. To overcome the difficulty in appointing teachers, the Government of Andhra Pradesh, under the leadership of Shri Nara Chandrababu Naidu, has appointed voluntary teachers apart from regular teachers. It is a fact that parents want their children to go to school, but the problem is that they do not have food and shelter in our country, even after so many years of our Independence, though we have so many Yojanas and so many other schemes.

Sir, the drop-out rate is so high, especially in respect of the girl child. In Andhra Pradesh, we are having Education Committees. If there are any drop-outs, the Committee will go to the parents and find out the reason why the children have dropped out.

The Government of Andhra Pradesh has taken many steps in providing access to primary education, including a number of habitations in the tribal pockets. By the beginning of the academic year 2000-2001, all the habitations with 10 or more primary school age children would have access to elementary education and in order to achieve Universal Elementary Education and in response to the recommendations of various Commissions and Committees set up by the Government of India right from the Vardha Education Conference in October, 1937, reflecting the philosophy of Mahatma Gandhi, the Secondary Education Committee on 3rd October, 1952, the Kothari Commission, the Ishwaribai Patel Review Committee, the National Policy on Education, 1986, followed by the Programme of Action, 1992, the Yashpal Committee, etc., the Government of Andhra Pradesh, with the support of the Government of India, has introduced many novel schemes to improve the literacy rate.

About 500 residential schools, specially, for the Scheduled Castes, the Scheduled Tribes, the Backward Classes and other minority students

have been established. Textbooks are provided free of cost to all children belonging to the Backward Classes, the Scheduled Castes and the Scheduled Tribes, right from class-I to class-X. About 90,05,129 students were benefited under this scheme during 1999-2000.

In a phased manner, all the schools are provided with two teachers, additional classrooms and educational kits. Single-teacher schools were converted into double-teacher schools, and, now, the emphasis is on providing, at least, three teachers in every primary school, where enrolment exceeds 100. In the past six years, the Government of Andhra Pradesh has appointed about 1.5 lakh regular teachers. Under the Audio-Visual Scheme, about 20,000 schools were supplied with colour TV sets with VCP and about 50,000 schools were provided with RCCPs.

Sir, the Government of Andhra Pradesh is working on achieving total literacy by 2005, the target year, exploring all the possible resources, mobilising manpower and providing infrastructure, apart from a detailed training strategy. In consonance with its commitment to child's right to education, the goal and objectives envisaged in Vision 2020, the Government of Andhra Pradesh has taken many initiatives, some of them being pioneering initiatives, to promote access, quality education, participatory management and smart governance. The Government of Andhra Pradesh is the only State in the country to have DPEP or Sarvashiksha Abhiyan in all the 23 districts.

We need to make education a dynamic and vibrant sector, keeping pace with the changing needs of the country's economy and society. This will call for strengthening, transforming and expanding the elementary education, including the revamping of their management, curricula and teaching methods.

To achieve our goal, I request the Government to concentrate on certain aspects like, societies endorsement of "the child's rightful place being a school"; the weak link between the Government, the society at large, local community and the school; socio-economic factors, including poverty, gender discrimination, impacting access to education for a large number of children; widespread prevalence of child labour; high drop-out rate; inadequate school infrastructure, coupled with an unattractive school environment; unsatisfactory quality and standards of education; need for providing access and quality education to disadvantaged groups, including girl child, Scheduled Castes, Scheduled Tribes, Backward Classes,

minorities and children with special needs; inadequate funds, untimely sanction and untimely release of funds; ineffective and inefficient administrative mechanism and procedures; inadequacies in teaching-learning environment, teacher training for updating teacher competency to meet emerging standards; lack of adequate motivation and commitment among some teachers.

Sir, while supporting this Bill, I want that instead of 6 to 14 years, it should be 15 years so as to help the child to get, at least, the Secondary School Certificate, which will be useful for earning his livelihood. Thank you.

श्री मती चन्द्रकला पांडे (पश्चिमी बंगाल): उपसभाध्यक्ष महोदय, माननीय मानव संसाधन विकास मंत्री जी संविधान (तिरानवेवां संशोधन) विधेयक, 2001, जो लोक सभा में पहले ही पारित हो चुका है, आज राज्य सभा में लाए हैं, इसके बारे में मैं आरम्भ में यह कहना चाहूंगी कि पता नहीं मेरे संशोधनों को मानने में मंत्री जी को कितनी सुविधा होगी, कितनी असुविधा होगी, किन्तु यदि मेरे एक भी संशोधन को मान लिया जाए तो मैं इस बिल का स्वागत और समर्थन दोनों करूंगी।

उपसभाध्यक्ष जी, मेरे से पूर्व वक्ताओं ने ऐजुकेशन से संबंधित अनेक रिपोर्टों और कमीशनों को उद्धृत करते हुए अपनी बातें कही हैं लेकिन मैं बहुत संक्षेप में, क्योंकि मेरी पार्टी का समय भी कम है, शिक्षा से संबंधित और इस विधेयक से संबंधित कुछ बातें रखना चाहूंगी।

महोदय, दुनिया के किसी भी समाज में शिक्षा की भूमिका सर्वाधिक महत्वपूर्ण है, क्योंकि शिक्षा ही मनुष्य को सच्चे अर्थों में मनुष्य बनाती है। महोदय, जीवन के आरंभ में जब मनुष्य, शिशु के रूप में कच्ची मिट्टी का लोड़ा मात्र होता है, उस समय शिक्षा ही उसे रूप आकार और दिशा देती है। मैं अपनी बात विश्व कवि श्री रवीन्द्रनाथ टैगोर की एक उक्ति से शुरू करना चाहूंगी। उन्होंने कहा था कि -"Education is to control or to liberate the people's mind".

महोदय, श्री रवीन्द्रनाथ टैगोर एक कवि ही नहीं थे, बल्कि एक बहुत बड़े शिक्षाविद भी थे और प्रारंभिक शिक्षा के बारे में उनके विचार बहुत तुलको हुए थे। बच्चों को विद्यालय की चारदीवारी से बाहर निकालकर उन्मुक्त शिक्षा देने का प्रांगण सबसे पहले उन्होंने ही प्रस्तावित किया। भारत में किस प्रकार की शिक्षा कारगर हो सकती है, इस पर भी उन्होंने अपने विचार रखे थे। उन्होंने लिखा है कि -"Behind the placid surface education is an arena of struggle between two forces. There is, on the one hand, the process of reproducing ideas and attitude and indeed an entire culture appropriate to the preservation of certain hegemonies; the hegemony of classes, the dominance of particular groups like certain castes in India and, of course, the privileged position of the male over the female and on the other hand, the resistance of the hegemonized against the system of their domination by the instrumentality of education system, *inter alia*, finds expression in challenges to the *status quo*."

उपसभाध्यक्ष महोदय, श्री रवीन्द्रनाथ टैगोर ने भारतीय परिदृश्य के अनुकूल जिस शिक्षा व्यवस्था का सपना देखा था, वह तो सपना ही रह गया। यह बहुत ही खेदजनक है। हमारे देश में शिक्षा को लेकर अनेक समस्याएं हैं। हमारे समाज में औपनिवेशिक विरासत से लेकर नाजुक कंधों पर लदी किताबों का भीषण बोझा तक बहस का विषय रहे हैं। यह सही है कि माध्यमिक शिक्षा के पाठ्यक्रम में बहुत कुछ ऐसा है जो बच्चों के दिमाग पर बहुत भारी पड़ता है, जो अव्यावहारिक और अनुपयोगी है और इससे बच्चे रंटत विद्या के जरिए ही पार पाते हैं। हमारा पाठ्यक्रम अभी तक इस पुरानी धारणा पर चल रहा था कि माध्यमिक स्तर पर बच्चों के भीतर सारा ज्ञान टूस दिया जाना चाहिए, जब कि बदलते समय ने कुछ दूसरी जरूरतें पैदा की हैं। दुर्भाग्य से हमारी जो वर्तमान सरकार है, उसने नए यथार्थ के अनुरूप पाठ्यक्रम को बदलने के बजाय उसे बहुत पुरानी मानसिकता के हिसाब से बदलने का जो अभियान शुरू किया है, उसके चलते इस नए सत्र में अभी तक बच्चों को किताबें नहीं मिली हैं। मैं माननीय मंत्री जी से अनुरोध करना चाहूंगी कि वे इस तरह की पहल न करें, जिससे बच्चों को किताबों से वंचित रहना पड़े।

उपसभाध्यक्ष महोदय, आजादी के 54 वर्षों बाद सच्चे अर्थों में पूर्वाग्रहों से, किंतु ओर परन्तु से, if and buts से मुक्त होकर शिक्षा को मौलिक अधिकार बनाने की पहल अभी तक नहीं की गई। आज जो पहल की गई है, यह एक स्वागत योग्य पहल है लेकिन इसमें बहुत सारी खामियां हैं। मुझे उम्मीद है कि मंत्री जी उन्हें जरूर दूर करेंगे।

उपसभाध्यक्ष महोदय, लोक सभा ने शीतकालीन सत्र में शिक्षा को मौलिक अधिकारों में शामिल करने से संबंधित विधेयक पास कर दिया था। यह बिल आज अगर राज्य सभा में पास कर लिया गया तो वर्षों का प्रतीक्षित लक्ष्य डॉयरेक्टिव प्रिंसिपल्स ऑफ स्टेट पालिसी, एक सच का रूप धारण कर लेगा। किंतु इस बिल को गंभीरता से बढ़ने से लगता है कि इसमें अनेक खामियां हैं, जिनको दूर किए बिना जिसे मंजिल समझा बैठे हैं, वह बसेरा है, वाली बात हो जाएगी।

महोदय, हमारे संविधान की 45वीं सूची के बारे में हमारे पूर्व वक्ताओं ने क्वोट किया है। मैं भी उसे उद्धृत करना चाहूंगी। उसमें कहा गया है कि -"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 14 years."

उपसभाध्यक्ष महोदय, यह कितनी विसंगति है कि आज आजादी के 54 वर्षों बाद जब संशोधन लाया गया, तो उसमें कटौती करके 0-5 वर्ष उम्र तक के बच्चों को हाशिए पर डाल दिया गया। गत सप्ताह माननीय अर्जुन सिंह जी ने कवि दिनकर की कुछ पंक्तियां यहां सुनाई थी। वे भी राज्य सभा के सदस्य थे। आजादी के 8 वर्ष बाद आधी-अधूरी आजादी को देखकर वे अत्यंत आहत हुए थे और उनकी वेदना कविता बन गई थी। महोदय, उसी कविता की कुछ पंक्तियां मैं यहां उद्धृत करना चाहूंगी। भारत में शिक्षा के क्षेत्र में जो वैषम्य था, वह दिनकर को अत्यंत पीड़ादायक लगा था और उन्होंने लिखा था कि -

“फूलों के परदों के पीछे
मखमल के उस पार
ज्यों का त्यों है खड़ा रो रहा
मरंगट सा संसार।

पूछ रहा है चकित जहां जन
 पग-पग देख अकाज
 आठ बरस हो गए,
 बता दे अठका कहां स्वराज ?
 आठ वर्ष हो गए,
 बोल दिल्ली तू क्या कहती है ?
 तू रानी बन गई,
 वेदना जनता क्यों सहती है ?
 सब के भाग दबा रखे हैं,
 किसने अपने घर में ?
 उत्तरी थी जो विभा,
 बता वंदिनी हुई किस घर में ?”

यह विभा, यह रोशनी शिक्षा का प्रतीक थी, जो पहले घर-घर में नहीं पहुंच पाई, इसका दुख दिनकर को बहुत अधिक था। आज हम सब को दुख है। अगर आज दिनकर होते तो वह कहते कि 54 वर्ष हो गए, यह विभा भी किस घर में वंदिनी है। माननीय शिक्षा मंत्री जी, आप अगर उस विभा को सलाखों से बाहर लाकर मुक्त करेंगे, तो यह बहुत ही अच्छी बात होगी।

दिनकर का यह प्रश्न यहां का तहां खड़ा है। संवैधानिक प्रतिबद्धताएं तक पूरी नहीं हो पाई है। आज भी 6.5 करोड़ बच्चे स्कूल का मुंह नहीं देखते, यह काम सन् 1960 तक ही पूरा कर लिया जाना चाहिए था, पर संवैधानिक दायित्व भी टाले जाते रहे हैं। पहले सन् 1970, फिर सन् 1980, फिर 2000 और दसवीं पंचवर्षीय योजना का अनुमान है कि सर्वजनित प्राथमिक शिक्षा का लक्ष्य 2007 तक पूरा किया जा सकेगा, लेकिन माननीय मंत्री जी ने तीन वर्ष और अधिक की घोषणा करते हुए, इसे 2010 तक पूरा करने की बात कही है।

माननीय उपसभाध्यक्ष महोदय, मैं उल्लेख करना चाहूंगी कि एक 17 सदस्यीय एजुकेशन कमेटी डा. डी. एस. कोठारी की अध्यक्षता में बनी थी, जिसने 29 जून, 1966 को अपनी रिपोर्ट पेश कर दी थी। रिपोर्ट में स्पष्ट शब्दों में लिखा था "The destiny of India is now being shaped in her classroom. This, we believe, is no more rhetoric. In a world based on science and technology, it is education that determines the level of prosperity, welfare and security of people." यह अत्यंत चिन्ताजनक है कि आजादी के बाद शिक्षा को विविध आयामों और कोणों से जांचने, परखने के लिए कमोवेश 119 कमेटियां और कमीशन बने। परन्तु उनकी रिपोर्टें कागजों में लिपटी रह गईं और संविधान निर्माताओं का हर बच्चे को शिक्षा देने का ख्वाब पूरा नहीं हो सका। हम विश्वस्तर पर अपने देश का चित्र देखें तो घोर निराशा होती है, सारी दुनिया के घोर निरक्षरों का 32.3 प्रतिशत भारतीय है। वर्ल्ड एजुकेशन रिपोर्ट में अनुमित है कि 2004 तक यह प्रतिशत बढ़कर 34 सरसेंट हो जायगा। जबकि विश्व जनसंख्या का 16.9 परसेंट भारतीय हैं। एक ओर जहां निरक्षरों की भीड़ निरन्तर बढ़ती जा रही है, वहीं शिक्षा पर पब्लिक एक्सपेंडीचर औसतन विश्व में सबसे कम है। विकसित देशों की बात तो छोड़ दें। भारत और दक्षिण अफ्रीका का अगर आंकड़ा देखें, तो नेल्सन मंडेला ने अपने यहां प्राथमिक शिक्षा को बहुत ही बुनियादी तरीके से उन्नत करने की कोशिश की है, वहां 16.99 आंकड़ा है, जबकि हमारे यहां 11.9 है।

प्रति विद्यार्थी पब्लिक एक्सपेंडीचर, पर-केपीटा ग्रेस नेशनल इनकम की दृष्टि से भी विश्वस्तर पर सबसे कम है। विश्व आंकड़ा 23.3 की तुलना में भारत में यह मात्र 16.3 है। विश्व का शिक्षा पर टोटल पब्लिक एक्सपेंडीचर 1386.8 बिलियन यू.एस. डालर है, जबकि भारत में 12.9 मिलियन यू.एस. डालर है, जो शिक्षा पर वर्ल्ड पब्लिक एक्सपेंडीचर का केवल 0.9 वां भाग है।

हमारे देश के पहले शिक्षा मंत्री मौलाना अबुल कलाम आजाद ने पहला शिक्षा बजट पेश करते हुए कहा था, "The expenditure on education should be at par with the defence." डा. कोठारी कमीशन से सुझाव दिया था। महोदय, मैं आंकड़ों में नहीं जाना चाहूंगी, क्योंकि मेरा बोलने का समय खत्म हो चुका है। मैं माननीय शिक्षा मंत्री जी से अपील करना चाहूंगी कि वे अत्यंत विद्वान व्यक्ति हैं, वे केवल बीजेपी ओर आर.एस.एस. के मंत्री नहीं हैं, वे भारत के शिक्षा मंत्री हैं और उन्हें अपना समय इतिहास के परिष्कार वैदिक ज्योतिष के पाठ्यक्रम में प्रवेश आदि पर व्यर्थ न करके, यह जो हमारी प्रि-प्राइमरी एजुकेशन जीरो से सिक्स तक की हैं, उसके बारे में कुछ सोचें, ऐसा कुछ सकारात्मक कार्य करें कि पार्लियामेंट के इतिहास में उन्हें हम लोग स्मरण कर सकें। अभी तो हम लोग उन्हें स्मरण करते ही हैं, बाद में भी स्मरण कर सकें।

कल 13 मई को जो पार्लियामेंट की स्वर्ण जयंती मनाई गई, उसमें हमारे प्रधानमंत्री जी ने कहा था कि संसद के माध्यम से हम प्रत्येक व्यक्ति में, आम आदमी के आंसू पोंछने की कोशिश करें और यह एक ऐसी पहल होगी, जिसके माध्यम से सचमुच आम जनता के बच्चों के बीच शिक्षा की रोशनी ले जा कर, हम उनकी आंखों में छलकते हुए जो आंसू हैं... और जो अभी तक वह सोच रहे हैं कि शायद उनके घरों के कभी शिक्षा की रोशनी नहीं पहुंचेगी, उससे, उस निराशा से वे मुक्त हो सकें। मैं अंत में यह कहना चाहूंगी कि हमारे बहुत सारे कवियों ने जो याद किया और बार-बार कहा:

कहां तो तय था चिराग हरेक घर के लिए,
कहां चिराग मयस्सर नहीं शहर के लिए।

वैसा न हां। हर नगर के लिए चिराग मयस्सर नहीं हो रहा, यह दुख हमें और न भुगतना पड़े, हर घर के लिए एक चिराग हो ओर हर बच्चे के लिए एक किताब हो, इस आशा के साथ मैं अपने संशोधनों को मानने की अपील करूंगी। धन्यवाद।

श्री जनेश्वर मिश्र (उत्तर प्रदेश):माननीय उपसभाध्यक्ष महोदय, बोलना तो मैं बहुत कड़ा चाहता था लेकिन हमारे नेता प्रोफेसर राम गोपाल यादव ने हम लोगों को निर्देशित किया कि इस बिल का समर्थन करना है तो हमारी भाषा थोड़ी मुलायम हो गयी।...(व्यवधान)... डा. साहब, आप विद्वान आदमी हैं, पढ़े-लिखे आदमी हैं, आप भी मानते हैं कि आपने जो संविधान संशोधन इस सदन में पेश किया है, यह हिन्दुस्तान के बच्चों में साथ न्याय होगा, आप खुद सोचिए। यह प्रस्ताव देवेगौड़ा जी की सरकार के जमाने में आया था जब बोम्मई साहब मानव संसाधन मंत्री थे। उस प्रस्ताव में लिखा गया था कि 14 साल के बच्चों के लिए - 0 से 14। उन्नीकृष्णन के मुकदमे के फैसल में सुप्रीम कोर्ट ने यह लिखते हुए कि अनुच्छेद 21 और 45 को साथ साथ पढ़ा जाए - उसमें 14 साल तक के बच्चों हैं, उसमें 0 से 6 कहीं नहीं लिखा है कि यह

नहीं रहेंगे। एक बार सरकार ने संयुक्त राष्ट्र संघ के प्रस्ताव पर दस्तखल किया, बच्चों के अधिकार संबंधी प्रस्ताव था जिसमें 18 साल तक के बच्चों के लिए निशुल्क और अनिवार्य शिक्षा की बात कही गयी थी। एक तरफ 18 साल और दूसरी तरफ 6 साल के नीचे कट गया- 18 साल से 14 साल, चार साल कटा और 0 से 6 साल, 6 साल कटा। उपसभाध्यक्ष महोदय, लड़कपन में मैं एक किरसा जो मुझे बहुत प्यारा था, वह सुना करता था कि एक लाला था। वह एक ताड़ के पेड़ पर चढ़ गया और जब नीचे देखा तो हाथ पैर फूलने लगे। उसने कहा हे भगवान अगर जमीन पर उतर गया तो सौ ब्राह्मण खिलाउंगा। आधे पर आया तो बोला, सौ नहीं तो पचास को जरूर खिलाउंगा और जमीन पर उतर गया तो कहा कि एक को तो खिलाउंगा ही। गांधी और गोखले की चर्चा करते हुए डा. मुरली मनोहर जोशी, मैं चाहूंगा कि आप लाला अशरफी लाल मत बनिए। सरकार ने एक बार 18 साल तक मान लिया, दस्तखत करके। सरकार कोई भी हो, उसका एक कमिटमेंट होता है। सरकार ने ओर ज्यूडीशियरी ने 0 से लेकर 14 तक कहा, आपने 18 से 4 साल घटा दिये, आपने 0 से 6 साल घटा दिया, लाला अशरफीलाल की तरह कि ब्राह्मण तो ब्राह्मण है, एक को भी खिलाएंगे तो पुण्य मिल जाएगा। मैं चाहूंगा कि सरकार लाला अशरफीलाल न बने। यह बहुत ही खतरनाक बात हो जाएगी। हिन्दुस्तान के बच्चे कल के हिन्दुस्तान हैं, हम लोग नहीं रहेंगे। यह सच है कि पिछले तीन साल पहले हमने राष्ट्रपति महोदय को सेंट्रल हॉल में बोलते हुए सुना था कि बच्चों को मुफ्त और अनिवार्य शिक्षा दी जाएगी। हम उम्मीद करते थे ओर तीन साल में अब प्रस्ताव आ रहा है। 54 साल हो गये, कितने साल हो गये, वह छोड़ दिया जाए पर यह तो संसद का रिकॉर्ड है कि राष्ट्रपति महोदय ने कहा था कि लेकिन बाद भी यह 6 साल से लेकर 14 साल के बच्चे — क्या समाज के साथ न्याय होगा? समाज के दलितों के बच्चों, समाज के पिछड़ों के बच्चे — मैं जानता हूँ कि 14 साल की उम्र के बाद पढ़ने नहीं जाएंगे। वे स्कूल नहीं जा सकते हैं। जो शुरू से स्कूल नहीं जाता, उसको आप पढ़ाई का मौका दे भी दें तब भी वह स्कूल नहीं जाएगा। कोई भी काम करने के लिए दसवीं कक्षा का सर्टिफिकेट जरूरी होता है, चपरासी बनने के लिए भी, सिपाही बनने के लिए भी। यहां बहुजन समाज के लोग नहीं हैं जो दलितों की बहुत बातें किया करते हैं। महिलाएं हैं।.....(व्यवधान)...

उपसभाध्यक्ष (श्री रमा शंकर कौशिक) : आर्य जी बैठे हैं।

श्री जनेश्वर मिश्र : तो हमारे लिए यह जानना जरूरी होगा कि हमारी बेटियां 14 साल के बाद पढ़ने नहीं जा पाएंगी, गरीब की बेटियां तो बिलकुल नहीं जा पाएंगी और जब वे नहीं जाएंगी तो किसी काम की नहीं रहेंगी। दलित कहीं पढ़ने नहीं जाएगा और नहीं जाएगा तो उसका जीवन सफल नहीं होगा, वही भैंस चराना, घास काटना। हिन्दुस्तानकी जो हकीकत है, उसी हकीकत पर ले जाकर आपने हमारे बच्चों को छोड़ दिया है।

उपसभाध्यक्ष महोदय, इस प्रस्ताव में कहा गया है कि राज्य विधि द्वारा यह सुनिश्चित करेगा कि कैसे इस प्रावधान को लागू किया जाए। जब एक बार आपने कह दिया कि हम निशुल्क और अनिवार्य शिक्षा देंगे तो इसे राज्य के हाथ में क्यों छोड़ा जा रहा है? महोदय, मैं अपनी बात जल्दी-जल्दी इसलिए कह रहा हूँ क्योंकि मैं जानता हूँ कि आप जल्दी घंटी बजा देंगे। हमसे हमारे नेता ने कहा था कि आप ज़रा जल्दी बात खत्म कर देना। तो यह राज्य के जिम्मे क्यों?

अगर मूल अधिकार हो गया, मौलिक अधिकार हो गया तो यह राज्य और सरकार के जिम्मे नहीं जाएगा, वह लेना हमारा हक होगा। यह सच है कि कुछ परिस्थितियाँ हैं, जैसे हमको मौलिक अधिकार है कि हम मंदिर में जाकर पूजा करें लेकिन हम उसका इस्तेमाल न करें तो आप क्या करेंगे ? हम पूजा न करें तो आप क्या कर सकते हैं ? हमारा मौलिक अधिकार है कि हम वोट दें लेकिन अगर हम उसका इस्तेमाल न करें तो आप क्या करेंगे ? यह निशुल्क और अनिवार्य शिक्षा, हम तो समझदार हैं लेकिन बहुत से लोग हैं जिनको बहुत से अधिकार हैं, जो नागरिक हैं इस देश के, वे इसका इस्तेमाल नहीं करते और ये बच्चों, ये तो नासमझ होते हैं। अपने मौलिक अधिकारों का यदि इन्होंने इस्तेमाल नहीं किया तो आप क्या करेंगे ? कौन सा विधान बनाएंगे ? और जब मौलिक अधिकारों का इस्तेमाल नहीं होगा तो ये बातें केवल बहकी-बहकी बातों की तरह रह जाएंगी, इसके अलावा कुछ नहीं होगा। या तो आप यह सुनिश्चित कर दीजिए कि हिंदुस्तान में जो कोई भी बच्चा पैदा होगा, उसको यह मौलिक अधिकार होगा। 6 साल से 14 साल ही रख लीजिए जो आप मानना चाहते हैं, लोक सभा से प्रस्ताव लेकर आए है कि हम इसी को मान रहे हैं, लेकिन वह लागू कैसे होगा ? बहुत से मौलिक अधिकार हैं जिनका हम इस्तेमाल नहीं करते हैं, हमारे ऊपर कोई प्रतिबंध नहीं है। एक माननीय सदस्य कह रहे थे कि मौलिक अधिकारों को किसी कानूनी दायरे में नहीं घेरा जा सकता। ये बच्चे हैं, उनके मां-बाप से बच्चों का कुछ रिश्ता होता है। कभी भी इस समाज को अमानवीय और गैर-जज्बाती नहीं सोचा जा सकता, उनके ऊपर दबाव होते हैं। अगर उन मौलिक अधिकारों का इस्तेमाल बच्चों के लिए नहीं हुआ तो सरकार की क्या जिम्मेदारी बनती है, यह कहीं नहीं लिखा है। मैंने जान-बूझकर कहा था कि ये जो दलित हैं, पिछड़े हैं, लड़कियाँ हैं क्योंकि पूरे विधेयक में बार-बार "बालकों" शब्द लिखा गया है, एक बार भी "लड़की" या "बालिका" शब्द का प्रयोग नहीं हुआ है। "बालक-बालिकाएं", दोनों नहीं कहा गया है। लिखते समय भी तो थोड़ा अपनी कलम को ठीक से रखना चाहिए कि देश की बच्चियों को भी यह संदेश जाए कि यह संशोधन हमारे लिए भी हो रहा है। यानी दो साल का बच्चा होगा और आठ साल की बच्ची होगी तो वह अपने भाई को केवल खिलाने का काम करेगी, मन बहलाव का काम करेगी, वह स्कूल नहीं जाएगी। ऐसे तो उसका अधिकार तो धरा का धरा रह जाएगा। केवल "बालको" शब्द लिखा गया है, मैं चाहूँगा कि इसका संशोधन किया जाए, "बालक", "बालिका" दोनों शब्द लिखे जाएं

महोदय, दूसरी बात मैं यह कहना चाहता हूँ कि अगर यह संशोधन पास हो जाता है और पास होने के बाद राष्ट्रपति महोदय अगर उस पर हस्ताक्षर कर दें तो एक साल के भीतर उसको लागू कर दिया जाए, यह मैं सरकार से मांग करूँगा। क्योंकि मैं जानता हूँ कि सरकारें आएं-जाएं और इस तरह के मुद्दों को टाला करेंगी। यह मैं बहुत अच्छी तरह से जानता हूँ। बच्चों को फुसलाने के लिए मा-बाप बहुत से तरीके निकाल लिया करते हैं, आटा घोलकर दूध समझाकर पिला दिया करते हैं। यह प्रस्ताव भी कहीं आटा घोलकर दूध बताकर बच्चों को न पिला दिया जाए इसलिए मैं चाहूँगा कि इसे एक साल के अंदर लागू कर दिया जाए। लेकिन आप लागू करेंगे कैसे ? कैसे कर सकते हैं, यह मैं नहीं समझ सकता। इसमें वित्तीय ढापन छापकर नहीं दिया है लेकिन हमें बताया गया है कि 9,800 करोड़ रुपये का इसमें खर्च आएगा। अभी हमारे मित्र ने मजूमदार कमेटी की रिपोर्ट के बारे में बताया। लेकिन स्थिति यह नहीं थी। उस रिपोर्ट में 14,000 करोड़ रुपये बच्चों की पढ़ाई के लिए खर्च करने का प्रावधान है। कहां से पढ़ाएंगे ? मानव संसाधन मंत्री जी कह रहे थे कि जनता से सहयोग लेंगे। एन.जी.ओज. रुपये को जिस तरह से दुरुपयोग करते हैं क्या उसके बारे में हम लोग नहीं जानते। ये जो निजी संस्थाएं

है, इन निजी संस्थाओं में सभी संस्थाओं को मैं ले रहा हूँ, चाहे इसे हमारे लोग चला रहे हों या सरस्वती शिशु मंदिर चला रहे हों, बच्चों की कौन-सी पढ़ाई होती है, क्या मैं नहीं जानता। किनके जिम्मे देंगे ? जनता के सहयोग पर जाएंगे। जब मौलिक अधिकार दिया है तब सीधे-सीधे इसकी जिम्मेदारी सरकार को लेनी पड़ेगी कि हम इस उम्र तक के बच्चों को पढ़ाएंगे। हम मांग करते हैं कि वह अठारह साल तक की उम्र हो ताकि गरीब का बेटा कम से कम दसवीं, बारहवीं पढ़ने के बाद नौकरी या ओर कोई धंधा करने लायक बन सके, इतना समझदार हो सके। दूसरी मांग जो मुझे करनी है वह यह है कि निःशुल्क, अनिवार्य शब्द बड़े अच्छे लगते हैं लेकिन क्या चल सकता है। अगर हिंदुस्तान के बच्चों की तालीम गैरबराबरी की बुनियाद पर चलेगी, एक तरफ समाज के जो महाप्रभु लोग रहेंगे उनका बेटा नैनीताल, ऊटी, देहरादून जैसे स्कूलों में पढ़ेगा, जिन स्कूलों में हिन्दी फिल्म देखने पर बेंत से पीटा जाता है और दूसरी तरफ गरीबों के बच्चों पता नहीं किस तरह के स्कूलों में पढ़ पाएंगे ? दो तरह की पढ़ाई क्यों ? बच्चों के लिए दो तरह की तकदीर की लकीर क्यों खींची जाए। पूरा हिन्दुस्तान बनेगा तो दो तरह के आदमी क्यों बनाए जाएं ? हिम्मत है तो उसमें जोड़ दीजिए निःशुल्क, अनिवार्य के साथ-साथ समान शिक्षा। मैं जानता हूँ कि यह बहस बहुत पुरानी है। मुल्क आजाद हुआ था तब बहस छिड़ी थी। उस समय हमारे नेता डा. लाहिया ने कहा था कि बच्चों के लिए एक जैसे स्कूल कर दो। तब उस समय के मालिक लोगों ने कहा था कि एक जैसे स्कूल लायक और मुरादाबाद, इलाहाबाद, आजमगढ़, बलिया, देवरिया, झाबुआ, आरा के बच्चे नालायक। मैं उनकी नालायकी जानता हूँ। वे स्कूल में एक-दूसरे को चिकोटी काटते हैं, गाली बकते हैं, चांटा मारते हैं, छुट्टी होने पर धूल फेंकते हुए चलते हैं। उस समय के मालिक लोगों ने कहा कि नालायकों के बीच में इन लोगों को कैसे भेज दिया जाए। मैं इन लोगों को बेईमान नहीं कहता जो सत्ता में थे। उनका सोचना था कि थोड़े से लोगो को चुनकर लायक बना दो बाकी को नालायक छोड़ दें। हिन्दुस्तान की शिक्षा पद्धति की यह तस्वीर थी। हमारे जैसे लोग यह मांग करते हैं कि लायक हो या नालायक, सभी तरह के बच्चे एक जगह पढ़ें, चाहे वह राष्ट्रपति का बच्चा हो, प्रधानमंत्री का बच्चा हो(व्यवधान)....चाहे सेठ का बच्चा हो, एम.पी., एम. एल.ए. का बच्चा हो, चाहे रिक्शा चलाने वाले का बच्चा हो। बड़े लोगों के बच्चे, गरीब लोगों के बच्चों के बीच में पढ़ेंगे तो यह तय है कि गरीब के बच्चे, बड़े लोगो के बच्चों को चिकाटी काटेंगे, तडी मारेंगे, गाली बकेंगे, उनके मुंह पर थूक देंगे। शाम को वह बच्चा जब अपने राष्ट्रपति बाप – सेठ या रिलायंस सेठ की गोद में जाएगा या कलेक्टर बाप की गोद में जाएगा तो गोद में बैठे-बैठे उन्हें भी चिकाटी काट देगा। उनकरे तडी मार देगा, गाली बकने को मजबूर हो जाएंगे कि अब हिंदुस्तान भर के बच्चों की पढ़ाई ठीक करो वरना मेरी भी औलाद बिगड़ जाएगी। जब तक यह रास्ता नहीं चुना जाएगा तक तक निशुल्क, अनिवार्य शिक्षा, मूलभूत अधिकार हमको लगता है कि निरर्थक हैं। फिर भी इतने लम्बे अर्से के बाद यह प्रस्ताव आया है, हम समझाते हैं कि सही दिशा में यह पहला कदम है। जो हमने कड़ी मांग की है, हम मानव संसाधन मंत्री महोदय से मांग करेंगे कि वे उस पर पुनर्विचार करेंगे। हमने किसी कड़वी भाषा का इस्तेमाल जानबुझकर नहीं किया है। इस प्रस्ताव को तो हम लोग पास करा ही देंगे मैं चाहता हूँ कि आप हम लोगों की भावनाओं की भी कद्र करेंगे अगर नया और बढ़िया हिंदुस्तान बनाना है

* Expunged as ordered by the chair.

जिसमें गैरबराबरी खत्म करने का सपना देखा गया है। तो मैं उम्मीद करता हूँ कि एक नये सिरे से न केवल निशुल्क, न केवल अनिवार्य बल्कि समान शिक्षा जोड़कर दूसरा प्रस्ताव संसद में आप पेश करेंगे। धन्यवाद।

श्री एस.एस. अहलुवालिया(झारखंड) : मेरा एक व्यवस्था का सवाल है।

उपसभाध्यक्ष(श्री रमा शंकर कौशिक) : इसमें क्या व्यवस्था है ?

श्री एस.एस.अहलुवालिया : एक मिनट। जनेश्वर मिश्र जी बहुत अच्छे वक्ता हैं और बड़ी सूझ बूझ से बोलते हैं। उन्होंने जो...सेट कहा है तो यह शब्द निकाल दें(व्यवधान)....

श्री एस.एस.अहलुवालिया: नहीं, वे धन्ना सेट कहें।

उपसभाध्यक्ष(श्री रमा शंकर कौशिक) : आपकी बात सही है वह हटा दिया जाएगा। लेकिन यह किसी व्यक्ति का नाम नहीं है

श्री एस.एस.अहलुवालिया : नहीं, नहीं, ऐसी बात नहीं है(व्यवधान)...धन्ना सेट बोलें कोई दिक्कत नहीं है।

उपसभाध्यक्ष(श्री रमा शंकर कौशिक) : मैंने आपकी बात मान ली है, वह नाम हटा देंगे।

श्री एस.एस.अहलुवालिया : *...हमारे यहां मेम्बर थे। लेकिन मैंने भी एक बात बतायी

उपसभाध्यक्ष(श्री रमा शंकर कौशिक) : आपकी बात ठीक है।

श्री एस.एस. अहलुवालिया : नहीं, वह सड़क पर भाषण में ठीक है। लेकिन संसद में ठीक नहीं है।

SHRI KAPIL SIBAL (Bihar): Sir, I consider it a privilege to rise in support of the Constitution (Ninety-third Amendment) Bill, 2001, moved by the hon. Minister, albeit with the heavy heart and with a lot of caveats. We have had some eloquent discourses in this House. But there are some fundamental questions that are required to be asked. And, since my time is short, I will ask them very succinctly so that the hon. Minister can explain those issues when he responds to the debate. What is interesting here is that the Constitution (Ninety-third Amendment Bill, 2001, stipulates, in clause 1, that it shall come into force on such date as the Central Government „ may, by notification, in the official Gazette, appoint. In other words, even if we pass this Bill and it becomes an Act, it shall only come into force as and when the Government so chooses. This is rather intriguing. Because, if

* Expunged as ordered by the chair.

4.00 p.m.

this Government has any commitment to grant the status of right to education as a fundamental right, then, surely, there was no need to give the discretion to the Government itself that it shall come into force as and - when they decide so to do. It worries me because, I believe, that, perhaps, this Government is merely paying lip-service to giving status to the right to education as a fundamental right, without having applied its mind as to what is required to be done. And I do not say that without any reason. I believe that in clause 1(2) itself there is an inherent element of insincerity, an element of double speak and duplicity. In fact, I am a little worried, because the original content of the right of article 21 has been whittled done by this Bill. Article 21, as is in the Constitution, said that no person shall be deprived of his right to life and liberty in accordance with the procedure established by law and, as has been eloquently stated by my colleagues in the disclosures earlier, in *Unnikrishnan's case* in February, 1993, decided that the right to education is inherent in article 21. Now, what does article 21 say? I will read it to my colleagues. This is what it says.

"The State shall provide free and compulsory education to all children of the age of 6-14 years. Kindly note the words that come hereafter, "in such manner as the State may, by law, determine." In other words, what was inherent in article 21 as a fundamental right, namely, Right to Education has been whittled down in article 21 (A) by stating that the right to free and compulsory education will be dependant on the State when it makes a law. In other words, what was originally the status of a fundamental right has been denuded of its status, and today, we have to await a statutory enactment to find out what that right is all about. And the . hon. Minister, when moving the Bill, has not explained to us as to what that means. And, kindly, mark the words "in such manner as the State may, by law, determine." What does that mean? In other words, the State shall determine the manner in which this fundamental right shall be enforced; what is the manner and what is the content of that right? And, in fact, I was a little worried when the hon. Minister introduced the Bill. What did the hon. Minister say? He talked of history, he talked of the past, he talked of one teacher one school, he talked of the beautiful tree, the two books, which he said, we ought to read. He took us back to ancient scriptures; to ancient schools, and told us that we must bring back that *sabhyata*. Unfortunately, Mr. Minister, I believe, in the process, you glorify the past, you seek to destroy the present, and you will leave our children

unprepared for the future. It is the obligation of this Government to tell us what that law will be. Indeed, I would have thought that this Government should have already had a draft enactment in place, circulated to everybody else, so that you could have got our comments on it. This is why I say, this constitutional amendment has inherent insincerity in it, double speak and duplicity of purpose.

Now, I come to article 45 of the Constitution. Article 45 of the Constitution, as it Originally stood, stated the following: "The State shall endeavour to provide, within a period of ten years from the commencement of the Constitution, for free and compulsory education for all children until they complete the age of fourteen years. " What does article 45 now say? It says: "The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years." Again, Mr. Vice Chairman, even the content of article 45 has been denuded because article 45, as it Originally stood in the Directive Principles, made it an obligation on the State for compulsory and free education till the age of 14, which was given effect to by the Unnikrishnan case on February 4, 1993. My friend, Mr. Faleiro, rightly said, 'you don't need a law for that'. Once there was a declaration by the Supreme Court that all we required was a statutory amendment.

What you do is, you take away the content of article 21, you denude the content of article 45, you reduce the right under article 45, you reduce the right under article 21, and tell us that you will enact a law in the future in such a manner as you like, and you will notify it, as and when you like. This is what you call giving effect to the expressed intention of the Constitution. What else is it, but an exercise of complete duplicity? Sir, I might remind you that as far as back as in 1990, in the Zhomtiang Declaration of 1990, what was stated -- this was the Declaration of the World Conference on Education for All -- was, I quote, "Learning begins at birth". This expression 'learning begins at birth' is a pregnant phase. Pregnant with so many obligations of the State. What does it mean? It means, when, in the mother's womb, there is a child in place, you need to take care of the mother because on the health of the mother, depends the good health of the child. Therefore, there is an interrelationship between the health of the mother and the health of the foetus. Further -- and it is axiomatic -- 80 per cent of every child gets fully developed by the age of 4. By the age of 6 or 8 he is fully developed. In other words, between the age of zero, that is, when the mother is pregnant, and the age of 4, eighty per cent of the mental development of the child already takes place. Now, what

kind of constitutional obligation do we have? If, between the age of zero or, rather, when the foetus is in the mother's womb, and the age of 4, there is no constitutional obligation, what are they bringing? The hon. Minister has told us that he has whittled down the content of article 45. He has told us that the State shall endeavour to provide early-childhood care and education for all children, until the age of 6. What does that mean? I don't mean to point fingers at anybody. The fact is that we have failed this country. We, as a class, have failed this country. We have been here for 50 years. Do you know how many children are there in this country of one billion people that we have? 375 million children! Out of these 375 million children, 200 million children are girl. And, of the 375 million children, about 160 million children are required to go to school. The hon. Minister, in his opening statement, has said, "In fact, 20 per cent of the children who go to school, actually, are out of the school net." Twenty per cent of those who should be going to school are out of the school net. And, Janeshwarji rightly said, "The sections who are poor, who cannot look after their daily living, the girl child is looking after the sibling, while the *majher* goes to work." That is the reality of rural India. And you have whittled down that content, which was provided in the Unnikrishnan Case, on 5th February, 1993. What do we make of it? ...*(Interruptions)*... So, what is it? What is it that we are trying to do? Mr. Vice-Chairman, Sir, I want to state this, through you, to the hon. Minister. We are trying to make a declaration before this country so that when we go to the elections, we can tell the people of this country that, "Look! We have brought a law for you." Which, of course, will not be notified because, by that time, you will fall. ...*(Interruptions)*... You will tell the people that you are bringing a law in the country, giving a law to this country, and these are their Fundamental Rights, they must go and claim them. I do believe, Sir, that there is no sincerity in this law. Let me now factually point out why there is no sincerity. You say - by virtue of article 21(A), which reduces the content of article 21 -- you have made it into a fundamental right for the children between the age of 6 and 14. Sir, you know - this has already been referred to -- the Tapas Majumdar Committee has said, "You need Rs. 1,40,000 crores for those who are between the age of 6 and 14, who are outside the school system, for a period of ten years, to bring universal education to that age group." That is what the Tapas Majumdar Committee has said. Rs. 1,40,000 crores means, 14,000 crores every year. You have made a budgetary allocation of Rs. 9,800 crores. Factually, that is not correct, but that is your intention.

In other words, you are giving less than what the Mazumdar Committee suggested, because your original allocation is Rs.3800 crores. You are giving an additional allocation of Rs.6,000 crores to make it Rs.9,800 crores. But it is less than Rs. 14,000 crores which is required even for the children who are between the age group of 6-14. If this is the state of affairs, and you do not have the financial resources, how is it that you are going to give effect to this right under article 21 (a). You must explain that to the people of this country. We will support it. We will support even a half step forward, even a false step forward, even an insincere step forward, because something is better than nothing. But we must tell the people of this country that these steps are insincere. There is another reason why I say so. Let me give you an example of what is happening at the ground level. I will give you an example of Maharashtra. In 1998, — I will give you some figures -- Thane district should have built 700 class rooms, instead only 72 were built. In Akola, the target was 500, only one was built. In Wasim-II, only one class room was built as against the target of 670. Every district has a huge shortfall between the target and the actual performance. Even funds provided by the State have not been utilised. I will give you an example. For instance, in 1993-94, under the schemes sponsored by the Centre, Rs. 10.40 crores were sanctioned by the State Government to buy 8,000 colour TV sets for primary schools that are run by Zilla Parishads, but during an audit inspection of December 1996-October, 1997, it was found that out of a total of 880 TV sets which were to be distributed in seven districts, 520 sets costing Rs.66 lakhs could not be used. Why? Here is what the report states, and I quote: " The CTV sets in 42 schools of Thane district were not used due to absence of electricity. About 246 schools of Sindhurg, Sangli and Ratnagiri were not in the limit of transmission. In 162 schools of Ratnagiri, Aurangabad, Raigarh, Sattara and Thane, TV sets were defective or damaged. Further, in 70 cases in Ratnagiri and Aurangabad, the sets were not used as the schools did not provide the boosters." Sir, these are the ground realities. So, you are giving us a framework - a wonderful Constitutional framework- I mean you should be applauded for it, but you cannot be applauded with the insincerity behind it, because you know that at the ground level, you cannot enforce it. Ultimately, it will be passed. May I tell you, Sir, that in this country, we have all failed here. No political party is to be blamed. In this country, what we need is a national commitment across party lines, on the social development sector, on health and education, and one cannot be divorced from the other. In health sector, an expenditure of 0.9 per cent of GDP has'

been incurred, in education it is 3.2 per cent of the GDP whereas your commitment was 6 per cent of the GDP. You have not given it so far. And, you have no resources. The point is that it is all very well to make the statement and amend the Constitution, but what does it involve at the ground level. The hon. Minister must assure us that some steps will be taken, and a law will be put in force, at least within the period of next three months. That you will make a commitment on the floor of this House that the moment it is before Parliament, this Constitutional notification to article 21(a) will be made within the next three months, so that we can realise that you mean business. We know that you are sincere. We can, then, take you to the court. One hon. Member of this House mentioned about the court system and said that the courts have been over active because of judicial-activism. In fact, he used a very strange word. He said, and I will quote him, : "it is this decision of *Unnikrishnan's case* that provoked", he used the word 'provoked'; "the Government to bring this constitutional amendment." I am sorry, Sir, that the Member used such hard expression. In fact, it is courts which have highlighted this issue. It is courts alone which have, in fact, told the politicians of this country that it is time for them to act. If we were acting, courts would not be over active. It is because of our inaction that courts are active. So. Mr. Vice-Chairman, Sir, I am concluding, because there are many friends of mine who want to speak. I close by saying that this is all very well. This is a great exercise in politics, but, in reality, there is no sincerity behind it.

And you have to assure this House, you have to convince this House, you have to inform this House, that you will indeed enforce this law and bring a statute and tell us the manner in which it will be done. Because, as you know - I will finish by saying just a couple of words - in the Approach Paper to the Tenth Plan, Sir, the ratio of teacher to students has been reduced from 1 : 30 to 1 : 40, i.e., from one teacher to 30 students to one teacher to 40 students, despite the fact that the Yashpal Committee had said that it should be 1 : 30. Why are you doing that? Further -- and that is most interesting -- they are wanting to have "para teachers. What does para-teachers mean? That is where I go back to history and the ancient scriptures. What the hon. Minister has in mind is *pracharak* teachers. I know that, because we have seen it, as far as the curriculum and other things are concerned. You have a school in the village. He says, 'one teacher, one school.' That is why he wanted us to read the book. Who is going to be that one teacher? A *pracharak* who

himself has passed only 8th class. He will be a para-teacher. And what will he teach? He will teach what you are teaching the people in Gujarat. Thank you very much, Sir.

INFORMATION TO THE HOUSE

Suicide Attack at Jammu

श्री गुलाम नबी आज़ाद (जम्मू और कश्मीर): उपसभाध्यक्ष महोदय, आज जम्मू में एक बहुत गंभीर टेरेरिस्ट अटैक में 32 फौजी, फौजियों के परिवार और सिविलियन मारे गए हैं और 44 लोग जख्मी हुए हैं, वह भी क्रिटिकल। मैंने अभी राजभवन बात की थी, इन 44 लोगों में कुछ और लोगों के मरने की भी आशंका है। अभी एक घंटा पहले तक संख्या 32 और 44 थी। महोदय, यह एक बहुत भयंकर हादसा है, इसलिए हम सोचते हैं कि चेयर की तरफ से इस पर एक लेटेस्ट स्टेटमेंट आए।

श्री सुरेश पचौरी (मध्य प्रदेश): उपसभाध्यक्ष महोदय, यह बहुत गंभीर मामला है। आतंकवादियों ने यह जो सुसाइड अटैक किया है, जैसे आज़ाद साहब ने बताया, उसमें काफी लोग हताहत हुए हैं, काफी लोग मारे गए हैं और सरकार को इस संबंध में वक्तव्य देना चाहिए। %«TI

THE LEADER OF THE OPPOSITION (DR. MANMOHAN SINGH): Mr. Vice-Chairman, Sir, this is a ghastly tragedy, and as my colleague, Shri Ghulam Nabi Azad has said, it is such a serious development that requires an immediate response from the Government, by way of a statement. Therefore, we would urge that before the House rises for the day, the Government should come out with a statement.

श्री नीलात्पल बसु (पश्चिमी बंगाल): हमारी इन्फारमेशन है कि अब तक 54 लोग मारे जा चुके हैं।...(व्यवधान)...

SHRI GHULAM NABI AZAD: This has happened in Jammu district.

प्रो. रामगोपाल यादव (उत्तर प्रदेश): हमारा यह कहना है कि सरकार के पास अभी जो सूचना है, वह सरकार सदन को बताए और उसके बाद बयान दे।...(व्यवधान)...

श्री बलबीर के. पुंज (उत्तर प्रदेश): इस पर एक स्टेटमेंट तो आनी ही चाहिए, उसके बाद सदन उस पर चिंता प्रकट करे, सहानुभूति प्रकट करे, निन्दा करे।...(व्यवधान)....

उपसभाध्यक्ष(श्री रमा शंकर कौशिक): चिंता तो है ही।

श्री खान गुफरान जाहिदी (उत्तर प्रदेश): स्टेटमेंट तो आए कि अभी स्थिति क्या है।...(व्यवधान)...

उपसभाध्यक्ष (श्री रमा शंकर कौशिक): आपकी बात सही है।...(व्यवधान).....