

A LIBERATION STRUGGLE--A CONSTITUTIONAL MONSTROSITY BY LAWLESS CORRUPT COMMUNAL CONSPIRACY

Half a century back a horrendous abuse of the fundamental federalism of the fundamental federalism of the Constitution was practiced by an exercise of central authoritarianism under the guise of liberation struggle, a contradiction of the non-violent liberalism of the Republic—A la feudalism. An egregious construction outrageously violating a constitutional Government by the Union Cabinet has marred the history of Federal India but perpetrated by the Congress Rule in 1959 July, an act of miscarriage of constitutional rule.

Privatization of hospitals, schools and colleges while it has showered blessings when fees for admission and large sums for appointing teachers is collected, health and education become a source of profitable investment. This commercialization has priced out the poor from their primary right to free education and right to life in good health. The fundamental right to free and compulsory education by a recent Constitution Amendment is a mere paper mandate because no State is enforcing this obligation and nullified the constitutional compulsion through

prosecution or other punitive procedures. Even the Leftist Governments despite brazen violation by Christian, Nair and other communal organizations have not made nay legislative penalty for violation. With this shocking context a new Education Bill was brought into force by the EMS Government with Prof. Mundassery, the Education Minister pioneering the sanitizing process and depriving the Christian, Muslim and Nair schools charging extortionate fees for admission to primary classes and levying secretly large sums for appointing teachers whose salaries are eventually made by the State.

When the new Education Bill became a threat to rackets by commercialization the communal forces, the church with its considerable influence allied with other communal forces like a Muslim League and the NSS to overthrow the Government. Privatization with the soul object of overthrowing an elected Government became a furious campaign with violent methodology. Since the Hindus were in a majority they made the Nair Society leader Mannath Padmanabhan, the commander of a terrorist movement with the avowed object of using force to demolish the EMS Government. The church supplied the youth power with para-military training for the purpose of violent

destruction of Government property and forces. The resources were obtained from the USA. Under various pretexts donations were sent to the church which were used to finance para-military forces and para-military organs to resist the police and even occupy Government offices. I was the Home Minister and instructed my police never to use the gun and if compelled to use extreme force, use the gun below the hip to avoid killing. In spite of violent convulsions and unprovoked terrorism the State never used violence except on a very few occasions. EMS told me to meet Nehru, the Prime Minister to appraise him of the communal parties together with Opposition parties hell-bent on ceasing power with the broad silence support of the Central Government. When I met Nehru and briefly informed him about the savagery of the lawless communal attack on the Government he was appalled and asked Indu, his daughter and President of the Congress Party to listen to me. He promised to condemn this movement and put forward three issues which he wanted Government to agree. We promised to give him an answer two days later. Ultimately we agreed to all that Nehru wanted. What were the three issues in concrete terms and what did eventually

result from Nehru's meeting with us? I had explained this in my Autobiography:

The Prime Minister had raised the issue of Ashok Mehta's thirty two charges and I had dealt with them in detail in the reply to the Home Minister. I assured the comrades gathered that there was no merit in any of the charges and we could come out creditably if they were enquired into. So it was informally agreed that Panditji be told that we would abide by his verdict on the charges and were willing to treat him as arbitrator. On the next issue of suspension of Section 11 of the Kerala Education Act, for the time being we agreed to the suggestion if that would mean an end to the anarchy and imbroglio. There was some difference of opinion on the question of judicial enquiry into the police firing resulting in the loss of life. Some members, including Sri. Achutha Menon, an outstanding comrade of integrity and conviction, took a firm stand that we should not consent to such an enquiry. His reasons were sound. In the Statewide bedlam the police had a trying time and had done the job admirably with the least violence, given the circumstances. It was, therefore, felt that we should not agree to anything, which would affect their morale. Therefore anything which would affect their morale should not be agreed to. A judicial enquiry would demoralize the police, argued Achutha Menon, a man of few words but firm convictions. I took a diametrically contrary view. My submission was that it was part of the democratic movement of the country that whenever there was a police firing resulting in casualties a judicial enquiry could be demanded. There was no case of our police being demoralized and we must agree to the judicial enquiry. In the heated discussion that ensued I was equally firm. I went to the extent of saying that if the government did not agree to the judicial enquiry I would quit rather than submit to the rejection of the suggestion for an enquiry. Naturally, my unexpected and inflexible stand had its impact. I thought that this would be the parting of ways had come I thought, especially because I was seen as not stern enough to use the police or to detain leaders who were mischief-makers. The charge was that I was too legalistic and constitutionalist. I owned the accusation that I would act only according to the liberal values of the Constitution and would not

mind losing my office. This tipped the scales and there was consensus about a judicial enquiry.

I would like to mention here that I was relieved of the home portfolio and Shri. Achutha Menon was made the Home Minister in the last days of the government. I was given the portfolios of agriculture and cooperation instead. It is fair to mention that Achutha Menon also did not or could not use the power of preventive detention.

We met the Prime Minister the next day and to his surprise apprised him of our decision to accept all the three points he had proposed. I guess the Prime Minister must have been inwardly stunned at our offering no resistance to his three proposals. He left us promising to consider our reasonable response.

I presume that he met the Congress leaders and told them about what had happened. I also presume that the hungry oppositionists were after our flesh, not fair play. They were not for Nehru's good offices, but for dismissal of the government. Nehru did not communicate his conclusion that day, although, he was scheduled to leave for Delhi the next day. All that remained was for him as Prime Minister and party leader to tell the overthrow adventurists that they would not be allowed to carry on the unlawful struggle. But Nehru had ceased to be made of sterner stuff by July 1959. He could not summon the rage and courage and will to command that the absurd Operation Overthrow.

I went to the Raj Bhavan in the morning to greet him and gather his ruling. As I approached his suite, the great Nehru dressed in impeccable white and with the red rose on the lapel, was coming out. His usual grace had vanished from his face as I turned to greet the great man. Panditji, you are leaving today the cataclysmic problem remains unresolved. We have agreed to all that you wanted. What then is your solution? We stared at me and then his face drooped. Though his hands were holding on to the rope, he seemed about to faint. I have two historic photographs hanging on my wall which depict Nehru's pathetic posture and his fainting face. He recovered his presence and talked to me about the mass upsurge but offered no solution. Later, at the airport he told the press about the wall of

separation between the people and the government and that the mass upsurge was uncontrollable except by fresh election. What kind of constitutional doctrine was this? I do not agree with his diagnosis nor his remedy but the Prime Minister decided, perhaps in consultation with his party men, that there was no way of getting rid of the communists from office by reasonable process and, therefore, resorted to the curious theory of a wall of separation between the government and the people. This doctrine meant that any organized group indulging in large scale violence could justify a coup and claim that the government must quit and a fresh election should be held. It was too dangerous a doctrine, too unconstitutional a theory, too incongruous a jurisprudence and too outrageous a grammar of anarchy. (Pages 111-113 Wandering in Many Worlds)

This constitutional monstrosity or anarchy with the tacit connivance of the Home Ministry ended in an extraordinary misuse of Article 356 of the Constitution. Pathanjali Sastri, just retired Chief Justice of the Supreme Court severely criticized this abuse of power. But EMS and company has to quit and Pattom Thanupillai in a thin majority came into power ending the Vimochana Samaram. A fresh election with the CPIM still a large power proved that the people were not with the liberation struggle in the nearly a score of years thereafter the Leftist forces were largely in power. Thus history deprived of strategy of the Congress wrongfully using 356. Today, the Supreme Court would intervene with such misuse. The Constitution has lost its imperative character. The politics of power has parted company

from the Constitution. A Government which violates the fundamentals of the Constitution must be not only deprived of power but be punished by a new code of conduct for ministers whenever they make a travesty of the paramount document.

No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false; for the government, within the Constitution, has all the powers granted to it, which are necessary to preserve its existence; as has been happily proved by the result of the great effort to throw off its just authority. (David Davis in Ex parte Milligan. 71 U.S 2 (1866), 4 Wall. At 120.)

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