



THE TIMES OF INDIA

Date: 18-02-22

House That?

Shockingly low legislature sittings can't go on. Leaders must understand the quality of democracy is at stake

TOI Editorials

Data crunching by this newspaper shows state legislative assemblies averaged just 30 sittings a year over the past decade. Anecdotally familiar, this devaluation of legislative democracy is still shocking when framed by data. All the more so because many states where electoral politics is high-tempo manage considerably fewer sittings than the already appalling national average. Among them are Punjab, Haryana and Delhi assemblies that meet less than 20 days a year, Andhra Pradesh, Telangana and mighty-important UP, less than 25. Punjab and UP are witnessing fierce poll battles – and government and opposition will equally ignore assembly duties post-poll. Not that, as data shows, Lok Sabha is an exemplar of legislative seriousness – its yearly average is just 63 sittings, much poorer than national chambers of democracies like US, UK, Japan, Canada and Germany.

Put simply, this is unconscionable. So few sittings of MLAs, and indeed MPs, mean legislators are not spending enough time either debating laws or debating governance issues. Note that Chief Justice of India NV Ramana had some time back highlighted how poorly drafted many of our laws are, and how they frequently lead to controversies over interpretation and a raft of litigation. That's a direct result of legislators not doing their job on legislations. The other outcome is that the executive, whether at state levels or at the Centre, feels increasingly unconstrained by the legislature. Only 13% of bills in the current, 17th Lok Sabha have been referred to standing committees, down from 27% in the previous one, and sharply down from over 60% during the 15th Lok Sabha. It is no accident that higher courts are the institutions that act as the only effective checks on executive overreach.

Therefore, people's Houses in the world's largest democracy need a rule – a minimum of 100 sittings a year, and a majority of MLAs or MPs from every party in a House present in those sittings. Since culpability on this is cross-party, senior leadership of all major parties should agree at least on this one thing – if they are as committed to India's democratic system as they all say they are. Many senior leaders, across parties, increasingly see governance as almost solely an exercise in executive power, and Houses as at most venues for political theatrics. If legislatures continue to remain as unimportant in governance as they are now, the decline in the quality of democracy, which is different from just winning elections, may become irreversible. That's a truly troubling thought.

Date:18-02-22

Coast To Coast

Points person for maritime security comes 14 years after 26/11. Challenges from high seas even greater now

TOI Editorials

In a welcome but surreally-delayed move, GoI has finally appointed the country's first National Maritime Security Coordinator (NMSC) to ensure effective coordination among multiple agencies dealing with threats from the high seas. Vice-Admiral (retired) G Ashok Kumar will be the first to occupy the post in the National Security Council Secretariat under NSA Ajit Doval. However, serious questions need to be asked as to why it took 14 long years to create this post after Pakistani terrorists snuck into Mumbai from the sea and killed 166 people during the 26/11 terror attack. Back then the defence ministry had proposed the creation of a maritime security advisory board and the appointment of a maritime security adviser. But bureaucratic sloth and turf wars ensured these were kept pending.

That said, the NMSC's appointment comes at a critical point in India's evolving strategic security environment. Faced with a ChinaPakistan axis, New Delhi not only needs to be alert to threats from sea-borne non-state actors, but also keep an eye on Chinese maritime designs in the Indian Ocean Region. After all, China today has the largest navy and a maritime militia force to carry out grey-zone tactics against adversaries. To counter this and protect India's 7,516-km coastline and 2 million sq km of Exclusive Economic Zone (EEZ), a single-point coordinator like the NMSC for all aspects of maritime security was much needed.

Besides, given that the global axis of power is shifting from the West to the East – as acknowledged by the recent US Indo-Pacific strategy paper – the sea lanes around India are going to get busier. And with countries having different interpretations of the treaty on the high seas, UNCLOS, incidents like last year's American freedom of navigation operation in India's EEZ could recur. Hence, there is a need for enhanced maritime domain awareness to protect both security and economic interests. Note that 90% of India's trade, by volume, transits through the seas. The NMSC must lay the blueprint for a truly modern maritime security system.

Date:18-02-22

Appeal To The Appeals System

Changing how judges, lawyers work is key to cutting delays in HCs hearing criminal cases

Deepika Kinhal, [The writer leads the JALDI (Justice, Access and Lowering Delays in India) initiative, Vidhi Centre for Legal Policy]



one-off instance.

Last week, the Allahabad high court decided a criminal appeal filed four decades ago, acquitting the accused Raj Kumar of all charges. The crime had occurred in 1981, the judgment of the sessions court convicting the accused was passed in 1982 and the criminal appeal has been disposed only now, in 2022. Until the acquittal, Raj Kumar had remained in jail while three other accused died during the pendency. Unfortunately, this case is not a

Inordinate delay and the burgeoning backlog in criminal appeals is a historical issue. Way back in 1958, the 1st Law Commission had found that the Allahabad high court was leading the pack with 3,727 pending appeals, as it is now with a pendency of 1,56,276 appeals. Madhya Pradesh with 87,617 pending appeals, Punjab & Haryana with 68,956, Rajasthan with 49,264 and Patna with 36,818 demonstrate how pervasive this malaise is.

Taken together, more than 2.5 lakh cases are pending for more than 10 years across all high courts in India. To make sense of this number, the Supreme Court annually decides an average of 6,000 regular matters. If the Supreme Court had to dispose of all these criminal appeals, it would take them more than 40 years, without doing any other work.

The Supreme Court has frequently acknowledged the injustice in keeping an accused imprisoned due to the system's inability to provide timely justice. This injustice is even more exacerbated, as in Raj Kumar's case, when the court ultimately acquits the accused after years of incarceration. In 2020, the Supreme Court in the Khursheed Ahmed case, directed 10 high courts with long-pending criminal appeals to provide details regarding pending appeals, the status of the accused persons and the strategies adopted to expedite disposal.

As per the affidavits, the measures taken range from prioritising old cases to providing legal aid to prisoners to constituting special benches. The high courts have also highlighted the need to fill judicial vacancies. However, measures such as these, including appointing more judges, are simply not enough to deal with an issue that is clearly indicative of an all-round systemic failure in judicial administration.

There are four key actors involved in handling criminal appeals in the high court – the judge, the counsels, the accused persons and the registry staff. A thorough examination of the shortcomings of these actors and targeted measures to improve their participation is the way forward. For judges to effectively deal with criminal appeals, prior experience in handling criminal cases is essential. Therefore, even while identifying suitable candidates for elevation to the high court bench, the collegium should be guided by the need to identify persons with expertise in criminal law. In this, preference to district judges who have handled criminal cases is desirable.

A scientifically designed listing and roster allocation practice which caters as narrowly to the expertise of the judge as the requirement of a case, will reduce pendency. Currently there is no such method since there is no scientific method to appoint high court judges that accounts for their subject matter specialisation. This needs to change.

For advocates, criminal appeals are filed both against conviction and acquittal. In acquittals, it is the state which files an appeal. Even though the Supreme Court has exhorted states to exercise this power sparingly, it appears as if an appeal is filed as a matter of routine. Steps to discourage filing of frivolous appeals along with heavy costs are necessary. Unfortunately, this is unlikely to happen since judges have traditionally remained reluctant to impose punitive costs on lawyers. This unspoken pact within the legal fraternity must be decisively broken in public interest.

Equally, measures to disincentivise frequent adjournments sought by advocates are critical. A study by Vidhi on all cases in the Delhi high court found that in 70% of delayed cases, counsels had sought time more than thrice. Unless judges can discipline errant advocates, pendency of criminal appeals will remain a living reality.

For the accused, the quality of legal-aid is the capacity to effectively represent his case before the court. There have been several instances where the accused persons are completely unaware of the lawyer representing them. Effective legal representation is a constitutionally guaranteed right; prison authorities must coordinate with legal services authorities to facilitate communication between the lawyers and the accused. Only with better, more competent counsel can a case progress smoothly. Long and hard questions have to be asked of the legal services authorities on the quality of advocates they admit, their remuneration and the accountability mechanisms to ensure quality service.

Finally, one of the key causes for delay is the lack of timely availability of lower court records while dealing with criminal appeals. Through digitisation of records and easy transfer of case records across all tiers of the judiciary, delay due to this administrative hassle can be entirely done away with. Registry staff have to be trained to handle such digitisation and objections from vested interests wedded to the status quo have to be firmly resisted.

Time and again, the Supreme Court has held that the right to speedy justice is a facet of the right to life of an individual guaranteed by the Constitution. Yet, Raj Kumar waited four decades to exercise this right whereas his co-accused never made it this far. This is a human rights violation of gargantuan proportions. Only an Integrated National Speedy Appeals and Adjudication Framework (INSAAF) Mission encompassing the suggested reforms can begin to provide some redress.

THE ECONOMIC TIMES

Date: 18-02-22

Pick Up Ease of Doing Legislative Business

Consider a minimum number of sittings

ET Editorials

India is a democracy. But before that, India is a republic. This implies that people elect representatives, who then speak on their behalf during deliberations in state assemblies and in Parliament. The legislator is critical in ensuring that the will and voice of the people are heard. The health of a democracy depends on the assurance that legislatures function in the manner they were set up to function. A minimum number of sittings in a year, amounting to roughly six months, and a mandatory minimum attendance of elected representatives, must be considered and not thought to be far-fetched.

Data from 2012 puts the national annual average for state assemblies at 30 sittings. The Lok Sabha is marginally better at 63. Punjab, Haryana and Delhi with 14. 5, 14. 8 and 16. 7 days, respectively, are at the lower end of the 'ease of doing legislative business' index, while Odisha (46), Kerala (42. 7) and Karnataka (38. 4) are at the 'higher' end. The state assembly is the institution for deliberation, passage and adoption of laws and subordinate legislations, the forum for deliberating matters related to the state. It is the place where the government can be held accountable. The system of the legislature working as a check on the executive provided in the Constitution is slipping. State governments complain about the erosion and subversion of the federal structure. But given that it is on the state government's advice that the governor convenes the assembly, it is difficult to take such complaints seriously. Greater say for states will likely mean more power for the state executive. It is not just that there are only too few sittings. The level of attendance and quality of sittings are, to put it mildly, there for us to see. Then there are disruptions.

In a republic, if elected representatives are not fulfilling their obligations, democracy stands to lose. It is time to push for mandatory minimum sittings in line with other major democracies. Our legislators can't demand empowerment in the name of federalism and then play hookey.



Date: 18-02-22

Is the post-Cold War security order changing?

The Ukraine crisis has brought the unstable security architecture in Europe to the fore of U.S.-Russia ties



After a weeks-long stand-off, Russia announced on Tuesday that it is pulling back some of its troops from areas close to Ukraine, signalling a possible de-escalation. But at the same time, it has said that its core security concerns, particularly on NATO's expansionary open-door policy, remain unaddressed. The crisis, whichever way it is headed, has brought the post-Cold War European security architecture into sharp focus, and triggered debates on whether the great power rivalry is back in the

continent. In a conversation moderated by **Stanly Johny, P.S. Raghavan** and **Nandan Unnikrishnan** discuss the Russia-Ukraine crisis and what it means to the post-Cold War world order. Edited excerpts:

Ambassador, Russia has always maintained that it has no plan to attack Ukraine. But it has also mobilised some 1,30,000 troops on the three sides of Ukraine. What is the Russian President's strategy?

P.S. Raghavan: what recent events have shown is that the post-Cold War European security architecture is not complete as yet. It is not as stable as people assumed it was. And at least since 2014, since we have seen this Russia-U.S. and Russia-Europe stand-off, the questions about what is a security equilibrium in Europe have constantly arisen. What the present action has done is dramatically pushed it to the fore. Of course, this has been going on for a long time; the troops build up was first reported in the end of October 2021. And it has been going on until it reached the stage where the U.S. said Russia has troops to invade all of Ukraine.

But what is President Vladimir Putin trying to do? I think he is responding to what U.S. President [Joe] Biden did in June last year when he extended a hand to Mr. Putin and said, 'look, I want a predictable and stable relationship with Europe'. The subtext was that he wanted the U.S. to get out of needless conflicts in Europe, West Asia and elsewhere — the withdrawal from Afghanistan was one demonstration of that — to be able to focus at least externally on the single principal adversary of the U.S., which is China. And what Mr. Putin is trying to say is, 'yes, if you want a predictable and stable relationship with Russia, Russia's security needs to be taken care of. I don't want to have to be constantly skirmishing with NATO all around my periphery. If my security is guaranteed, then we are on our way to have a predictable and stable relationship with the U.S.' Essentially, that's the deal that Mr. Putin is seeking.

Mr. Unnikrishnan, it may be too early to conclude whether the crisis is de-escalating. But let's say that Tuesday's announcement at least signals that Russia is ready to de-escalate the crisis and continue diplomatic talks. How do you look at it? Has Russia achieved anything from its mobilisation?

Nandan Unnikrishnan: First, I have to address the question of whether Russia has got anything so far. It has definitely not got security guarantees. It had handed over its written documents in December and some of those have received a written response, which the Russian sources have described as inadequate. In some cases, they said the issues they raised had not been addressed, and there were responses to

secondary issues, But there is a significant victory that Russia has achieved. It's not enough to diffuse the situation, but it is a victory. The U.S.-led West has at last recognised what Russia has been saying since 1994 — that the security architecture in Europe is not in accordance with what Russia considers the security architecture should be or, to put it bluntly, that it has security concerns about its own security, and that these have to be addressed. The fact that the West is willing to address and discuss this appears to be a big victory for Russia, because just till recently, these demands were dismissed as not serious.

Second, has the situation been diffused? I still believe that we are heading towards some kind of accommodation. The Russians used a very heavy hammer to attract attention. But do I believe that the Russians are going to invade Ukraine? I don't think so, as that defeats the purpose of acquiring a certain degree of security. If they invade Ukraine, that is over. The Russians may be successful; they may take bits and pieces of Ukraine or even half of Ukraine right up to the Dneiper river, but insecurity will only grow. So, the way forward is accommodation.

Ambassador, let's look at Europe. French President Emmanuel Macron called for respecting Russian concerns and sought to revive the Normandy format talks, while Germany's Olaf Scholz, who refused to send weapons to Ukraine, said in Kiev that Ukraine's entry into NATO is not on the agenda. So, do you think Europe is taking a different approach towards Russia from that of the U.S.?

P.S. Raghavan: Let's remember that NATO is 28 European nations and two non-European nations — the U.S. and Canada. Europe is right next to Russia, Europe has been facing the brunt of the Soviet as well as Russian actions over the last many decades. It is obvious that Europe will look at Russia differently from the U.S. And it's important to understand that the impact of any action that NATO takes in terms of sanctions or security will first be felt in Europe, not in the U.S. So, naturally, Europe's interest is in accommodation. Europe's interest in sorting out this matter is immediate and existential, while the U.S.'s is strategic and long term. That is a distinction that one needs to keep in mind.

Also, I would like to point out that what Mr. Putin has achieved is, gradually the West has moved forward more towards meeting Russia's demands. Of course, it has not gone anywhere near ensuring that Russia's demands are fully satisfied. Russia has essentially three demands One, Ukraine and Georgia should not join NATO. Two, the Ukraine impasse should be resolved. Russia's view is that the U.S. in particular has obstructed the implementation of the Minsk agreement. And three, these mutual security guarantees that we've all been talking about. Now, increasingly, the West has been saying that Ukraine's entry into NATO is not on the cards. It's nowhere near happening. Of course, this is an informal statement and the Russians keep wanting a legal guarantee. But the Normandy process, which is the Russia-Germany-France-Ukraine initiative to implement the Minsk accords, is one of the fundamental demands of the Russians. And it looks like they are moving towards agreeing to that. The other point is about the mutual security guarantees. Foreign Minister Sergey Lavrov told Mr. Putin in a publicly televised address that the West has already agreed to a number of guarantees [including on missile deployments and military drills].

Here, again, the distinction between Europe and America is very important. The placement of short-term and short- and medium-range missiles on either side of the Russian border that is in Europe is very much in the interests of European security. Also, they want to agree on a minimum distance between the deployment of missiles, they want to have an agreement on prior notification or military exercises. So, a number of such confidence-building measures, in bits and pieces, have already been offered to Russia. And that was confirmed by Foreign Minister Lavrov to President Putin.

The Russians have been talking about their concerns since the 1990s. Why has the mobilisation come now? Why is Russia asking for these legal guarantees now? Does this mean that Mr. Putin senses a moment of weakness in the U.S.'s hold over the international order?

Nandan Unnikrishnan: Mr. Putin feels that this is the most opportune moment for Russia to press forward its demands. I am not going to get into the question of whether he perceives the U.S. to be weak or not weak. We are aware that the U.S. still stays the pre-eminent power in the world. I think that Mr. Putin understands that the strategic interests of the U.S. are elsewhere currently: they are to deal with many domestic problems that the U.S. is going through, and at the international level, the focus is more on the Indo-Pacific. The withdrawal from Afghanistan is symptomatic of this desire to have stable relationships elsewhere in the world so that it can focus on what it considers to be its primary area of challenge, which is the Indo-Pacific. Incidentally, that's something that the Indians should also welcome. Having understood that, I think Mr. Putin feels that this is the most opportune moment to attract attention, through maybe some provocative behaviour, and try to push forth his demands and hope that a negotiation will result in something that is mutually acceptable or, as Henry Kissinger said, something that is to their mutual dissatisfaction.

Ambassador, what are the implications of the crisis for India?

P.S. Raghavan: In 2014, Russia annexed Crimea. And we had this issue of territorial integrity and sovereignty. In spite of that, we found a way of not criticising the Russian action. Here, everyone should be happy with the stand we have taken because we said that we want a diplomatic solution which addresses the long-term legitimate security concerns of all sides. And that is what all countries are saying they want. Now, what we would like to see and what Mr. Putin and Mr. Biden are trying to achieve is an accommodation, and there are these off-ramps available. And if these are taken, you then reach a situation of better equilibrium in Europe between Russia and the West. That can only be good for India.

Any exacerbation of this situation can be only good for China in a number of ways, which is why I found it quite amusing when the U.S. Under Secretary of State Victoria Nuland said that China should persuade Russia not to take action in Ukraine. Why should China do that? It is in China's interest if there is greater exacerbation of the problem. The U.S. being bogged down in Europe is exactly what China would like. So, you're looking at a situation where these belligerent postures result eventually in a kind of amicable solution. I think it's good for India. It enables the U.S. to focus on the Indo-Pacific and on China, which is what India wants, and it leaves India free to deal with Russia without a censorious U.S. breathing down our necks with CAATSA and other sanctions for defense purchases.

So, we are back to the China question. How deep is the Russia-China partnership?

Nandan Unnikrishnan: Since the 1950s, this is the closest that China and Russia have ever been. There are many factors for this. And let us also not forget that both of them have been declared an adversary by the U.S., in official documents. So, this is a peculiar situation where the demand being put on Russia is that while your partner calls you an adversary, you must behave towards them as a very good friend. I mean, you know, obviously, Russia is going to take steps to protect its interests. And if this moves it towards China, that is a price that they will have to pay. But on the other front, there are still many areas. If you look at it just even from the simple issue of pride, the Russians did not want to cow down to the U.S. and therefore the West as a whole, and that's what's led to the breakdown of the relationship with the West, because the West was not considering an equal partnership. Why would Russia then break one

relationship, which it was seeking through the 1990s, and maybe even in the beginning of the 2000s, and opt for another option, where it will be a junior partner once again?

I don't think that is in the Russian psyche, being a junior partner. Therefore, I would say that it's a matter of concern for India; India should continuously monitor the situation. But at the same time, it has not reached a stage where Russia and China are in some kind of unbreakable partnership. I think they still have their differences. Those differences have not been bridged. And even on the issue of Ukraine, it suits China's interests to have the U.S. embroiled in Europe. If you notice the word Ukraine does not occur in that long joint statement that they have issued [after the Putin-Xi Jinping meet this month]. China does talk about Russia's legitimate security concerns and mentions NATO. But Ukraine is not mentioned, because China has as strong interests in maintaining a good relationship with Ukraine. And on Crimea, I think President Putin himself has acknowledged it, the statement that India made at the time was probably the strongest expression of support by anyone. So, in a nutshell, I think the Russia-China relationship is something that India should closely observe.

Both of you talked about some kind of an accommodation. Practically speaking, how can Russia's security concerns be accommodated by the West?

P.S. Raghavan: There are three issues. If the Ukraine impasse is dealt with in the Normandy process, if Ukraine is persuaded by the West to take forward the Minsk agreements, which have been approved by the UN Security Council, that is a clear plus for the settlement of the issue. The second is the issue which I consider almost settled. What Mr. Lavrov told Mr. Putin recently about security guarantees of placement of missiles, distances between the NATO deployments and the deployments on the Russian side, confidence-building measures, force postures... these are issues that, once you launch negotiations, will take time, but are clearly mutually beneficial. And these are not controversial either on the side of Europe, or in the side of Russia. The third issue is about Ukraine joining NATO. Please note that in all this controversy Crimea has not been mentioned at all. Neither the U.S. nor Europe has said that Russia should vacate Crimea as part of the security guarantees. As long as Crimea remains with Russia, and as long as these two breakaway republics of South Ossetia and Abkhazia remain [outside the control of Georgia], neither Ukraine nor Georgia can join NATO. Because one of NATO's principles before it admits a country is that the country should not have disputes over its territory. To, these three elements exist for a solution.



दैनिक भास्कर

Date: 18-02-22

आस्था के मुद्दों पर कठिन है एक स्पष्ट राय बनाना

संपादकीय

धार्मिक आस्था के प्रश्न पर अदालतें कभी स्पष्ट फैसले नहीं दे सकीं। समाज का प्रगतिशील वर्ग तार्किक समझ विकसित कर आस्थाओं में बदलाव चाहता है। अदालतों में भी हर जज की अलग समझ होती है। अमरीका के पेंसिलवानिया में दो बच्चों को स्कूल से निकाल दिया गया क्योंकि उन्होंने राष्ट्रीय ध्वज को सैल्यूट करने से मना कर दिया। बच्चों का परिवार जेहवाज वितनेसेज नामक पंथ से जुड़ा था, जो ईसाई मुख्यधारा से अलग था। सुप्रीम कोर्ट ने स्कूल के फैसले को सही ठहराया। लेकिन तीन साल बाद बार्नेट बनाम वर्जीनिया शिक्षा बोर्ड के केस में इसी कोर्ट ने कहा कि बच्चों को झंडे को सलामी देने की बाध्यता धार्मिक आजादी के खिलाफ है। भारत में सुप्रीम कोर्ट ने मुहम्मद हनीफ बनाम बिहार मामले में कहा कि गौ-हत्या पर पाबंदी मुसलमानों की संविधान-प्रदत्त धार्मिक आजादी के खिलाफ है। लेकिन इसी कोर्ट ने नए साक्ष्यों के मद्देनजर फैसला पलटते हुए कहा कि कुर्बानी की प्रथा इस्लाम का अनिवार्य अंश नहीं है लिहाजा सरकार अनुच्छेद 25 (2) (अ) के तहत इसे नियंत्रित कर सकती है। सन् 1950 में हिन्दू कोड बिल को लेकर अलिखित द्वंद रहा और कोर्ट आज तक कई मुद्दों पर स्पष्ट आदेश नहीं दे सका है।

बिज़नेस स्टैंडर्ड

Date:18-02-22

एसईजेड का घटता आकर्षण

संपादकीय

सरकार ने विशेष आर्थिक क्षेत्र (एसईजेड) अधिनियम, 2005 को एक नए कानून से बदलने की दिशा में काम करना शुरू कर दिया है। वित्त मंत्री ने संकेत दिया है कि उन्नत कानून राज्यों को यह क्षमता प्रदान करेगा कि वे उद्यमिता और सेवा केंद्रों के विकास में साझेदार बन सकें। एसईजेड को लेकर सतत उत्साह को समझ पाना मुश्किल है क्योंकि उनका प्रदर्शन लगातार कमजोर रहा है। हालांकि यह विफलता सरकार के लिए कुछ उपयोगी सबक अवश्य दे सकती है। भारत उन शुरुआती एशियाई देशों में शामिल है जिन्होंने सन 1960 के दशक में इस अवधारणा के साथ प्रयोग किया। इसके परिणामस्वरूप निर्यात प्रसंस्करण क्षेत्रों तथा निर्यातान्मुखी इकाइयां सामने आईं लेकिन उनसे निर्यात को अपेक्षित गति नहीं मिली। परंतु जब चीन ने अपने मुक्त व्यापार क्षेत्रों के साथ आर्थिक चमत्कार किया तो संयुक्त प्रगतिशील गठबंधन ने तय किया कि वह पड़ोसी के कदमों का अनुसरण करेगा। उसने औद्योगिक बुनियादी क्षेत्र में निजी निवेश को प्रोत्साहित करने के लिए नीति तैयार की। एसईजेड का विकास करने वालों और वहां मौजूद कंपनियों को कर रियायतें प्रदान की गईं और मुनाफे पर 15 वर्ष की कर छूट प्रदान की गई। इसके अलावा एसईजेड विकसित करने वालों को इन क्षेत्रों में निजी टाउनशिप बनाने की इजाजत दी गयी। परंतु इन अहम लाभों के बावजूद एसईजेड आर्थिक वृद्धि के वाहक नहीं बन सके। वाणिज्य मंत्रालय के आंकड़े बताते हैं कि एसईजेड से किया जाने वाला निर्यात बीते पांच वर्षों में शायद ही कभी 20 फीसदी से आगे बढ़ा हो।

नीतिगत कमजोरी शुरुआत से ही स्पष्ट थी। पहली बात तो यह कि चीन के उलट हमारे यहां एसईजेड नीति की निजी क्षेत्र पर निर्भरता ने कई दिक्कतें पैदा कीं। टाउनशिप विकास के लिए कर रियायतों ने एसईजेड को अचल संपत्ति के क्षेत्र में बड़ी हलचल पैदा की और एसईजेड के शुरुआती आवेदन अचल संपत्ति कारोबारियों की ओर से आए। दूसरा, चीन में जहां विशालकाय एसईजेड सरकार के नेतृत्व में आगे बढ़े और व्यापक आर्थिक विकास किया, वहीं भारतीय कानून ने सात प्रकार के क्षेत्रों की इजाजत दी- मिसाल के तौर पर विविध उत्पादों वाले या एकल उत्पाद। हमारे यहां अधिकांश एसईजेड का आकार बहुत छोटा था। ये 100 से 200 हेक्टेयर और कई तो केवल 10 हेक्टेयर आकार के थे। इस आकार के कारण चीन के साथ मूल्य प्रतिस्पर्धा करना बहुत मुश्किल था। हमारे 70 प्रतिशत एसईजेड आईटी और आईटीईएस क्षेत्र में थे, जबकि इस क्षेत्र को पहले ही अतिरिक्त लाभ की आवश्यकता नहीं थी। रोजगार तैयार करने वाले विनिर्माण क्षेत्र की हिस्सेदारी बहुत कम थी क्योंकि परिवहन और लिंकेज की पुरानी समस्या बरकरार थी। जबकि यह नीति इसी क्षेत्र को ध्यान में रखकर तैयार की गई थी।

सबसे बड़ी बाधा सार्वजनिक स्वीकार्यता की कमी से आई क्योंकि भूमि अधिग्रहण में कई गंभीर खामियां थीं। बड़े एकल उत्पाद वाले क्षेत्रों के लिए उदाहरण के लिए 1,000 हेक्टेयर से अधिक जमीन के लिए निरंतर प्रस्ताव आते और किसान इसका विरोध करते क्योंकि वे अपनी तय आजीविका त्यागना नहीं चाहते थे। कई बार पर्याप्त हर्जाना न मिलने से भी ऐसा होता। विरोध प्रदर्शनों ने निजी क्षेत्र और उसकी ओर से सरकार द्वारा भूमि अधिग्रहण के प्रयासों (यह व्यवस्था बाद में आए भूमि अधिग्रहण कानून में की गई थी) को प्रभावित किया।

अंत में, कर रियायतों को चरणबद्ध रूप से हटाए जाने जैसे नीतिगत कदमों ने एसईजेड को तेजी से अनाकर्षक बनाया। सन 2008 से 2020 के बीच 101 ने अधिसूचना रद्द करने के लिए आवेदन किया। सरकार ने संकेत दिया कि नया कानून एसईजेड इकाइयों को घरेलू क्षेत्र में बिक्री की इजाजत देगा और वे रुपये में भुगतान ले सकेंगी। ये बातें एसईजेड की अवधारणा को ही समाप्त कर देती हैं। परंतु वास्तविक सबक यह है कि निवेश के ऐसे केंद्र बनाना तभी काम कर सकता है जब पूरा देश इसके लिए तैयार हो।

राष्ट्रीय
सहारा

Date:18-02-22

समान नागरिक संहिता जरूरी

आचार्य पवन त्रिपाठी

हालही में आए इस्लामिक सहयोग संगठन (ओआईसी) के एक बयान, 2019 में दी गई सर्वोच्च न्यायालय की एक सलाह एवं इन दिनों चल रहे हिजाब विवाद को जोड़कर देखे जाने की जरूरत है। इन तीनों घटनाओं से मुंह छिपाना या कतराना, न तो देश के हित में है, न देश के बहुसंख्यक हिंदुओं के।

दरअसल, कर्नाटक के कुछ स्कूलों में ड्रेस विवाद को लेकर मुस्लिम देशों के संगठन इस्लामिक सहयोग संगठन (ओआईसी) के महासचिव ने भारत से मुस्लिम समुदाय की सुरक्षा, संरक्षा और भलाई सुनिश्चित करने को कहा है। यह बात कुछ वैसी ही हुई कि हमारे घर का कोई उपद्रवी-जिद्दी बच्चा बेवजह शोर मचाए और हमारा पड़ोसी आकर हमारे ही उपद्रवी-जिद्दी बच्चे के समर्थन में हमें नसीहत देता दिखाई दे। यह स्थिति तो किसी भी बहाने पैदा की जा सकती है। पैदा की भी जा रही है। कभी सीएए के बहाने, कभी एनआरसी के बहाने, कभी 370 के बहाने, तो आज हिजाब विवाद के बहाने। कौन नहीं जानता कि ये स्थितियां सिर्फ राजनीतिक कारणों से पैदा की जा रही हैं। पिछले सात वर्षों में देश में हुए सकारात्मक बदलाव किसे समझ में नहीं आते? देश के कोने-कोने में होने वाले आतंकी विस्फोटों से मुक्ति सभी को याद होगी। चारों ओर हो रहे विकास के काम भी सभी को दिखाई दे रहे होंगे। कोरोना जैसी वैश्विक महामारी के दौरान इतनी बड़ी आबादी वाले देश में हो रहे काम आज भी जारी हैं।

महामारी में लोग भूखों न मरने पाएं, इसके लिए सरकार की तरफ से हर महीने या महीने में दो बार हो रहे राशन वितरण से वह आबादी भी कतई अछूती नहीं है, जिसकी सुरक्षा, संरक्षा और भलाई की नसीहत आज इस्लामी देशों का संगठन (ओआईसी) देता दिखाई दे रहा है, लेकिन उसे भलाई के ये काम नजर नहीं आते। नजर आता है, तो सिर्फ बेवजह खड़ा किया जा रहा निरर्थक विवाद। जिनका चलन दिन पर दिन बढ़ता जा रहा है। बेवजह खड़े किए जा रहे ऐसे ही विवादों के कारण याद आती है सितम्बर 2019 में सर्वोच्च न्यायालय द्वारा की गई वह टिप्पणी, जिसमें न्यायमूर्ति दीपक गुप्ता और न्यायमूर्ति अनिरुद्ध बोस की पीठ ने कहा था कि राज्य के नीति निर्देशक सिद्धांतों से जुड़े भाग चार में संविधान के अनुच्छेद 44 में निर्माताओं ने उम्मीद की थी कि राज्य पूरे भारत में समान नागरिक संहिता के लिए प्रयास करेगा, लेकिन आज तक इस संबंध में कोई कार्रवाई नहीं की गई है। अपना एक फैसला सुनाते हुए इस पीठ ने न सिर्फ देश के सभी नागरिकों के लिए समान नागरिक संहिता बनाने पर बल दिया, बल्कि इस बात पर अफसोस भी जताया था कि सर्वोच्च अदालत के प्रोत्साहन के बावजूद इस मकसद को हासिल करने का कोई प्रयास आज तक नहीं किया गया। तब गोवा से संबंधित एक मामले में अपने 31 पृष्ठों के फैसले में इस पीठ ने कहा था कि हालांकि हिंदू अधिनियमों को वर्ष 1956 में संहिताबद्ध किया गया था। इस अदालत के प्रोत्साहन के बावजूद देश के सभी नागरिकों के लिए समान नागरिक संहिता लाने का कोई प्रयास नहीं किया गया है। सर्वोच्च न्यायालय की यह चिंता जायज है।

यदि यह काम समय रहते कर लिया गया होता, तो शायद कपिल सिब्बल जैसे देश के शीर्ष वकीलों को कभी हिजाब, तो कभी सीएए-एनआरसी के बहाने सर्वोच्च न्यायालय में अपना समय नष्ट करने की जरूरत नहीं पड़ती। आज भारतवर्ष गणराज्य अपना अमृत महोत्सव मना रहा है। ऐसे समय में सर्वोच्च न्यायालय की उक्त सलाह पर न सिर्फ गंभीरतापूर्वक विचार करने की जरूरत है, बल्कि यह भी सोचने की जरूरत है कि हम अब तक ऐसा क्यों नहीं कर सके। माना कि देश की आजादी से पहले हम सबका एकमात्र उद्देश्य था देश को आजाद करवाना (ये और बात है कि हम देश को आजाद कराते-कराते उसे बांट ही बैठे!), लेकिन आजादी के बाद तो हमें बचे-खुचे देश को सही तरीके से गढ़ने पर ध्यान देना ही चाहिए था। माना कि आजादी से पहले हमें खुलकर बोलने की स्वतंत्रता भी हासिल नहीं थी, लेकिन आजादी के बाद तो हमारे पास खुलकर अपने विचार व्यक्त करने के लिए हमारी संसद थी। बोलने वाले हमारे जनप्रतिनिधि सांसद थे।

तब ऐसे जरूरी विषयों पर बहस की शुरुआत क्यों नहीं की गई, जिनकी ओर आज सर्वोच्च न्यायालय को इशारा करना पड़ रहा है। चलिए जाने दीजिए। जो काम 75 वर्ष में नहीं किया, उसे अब कर लीजिए। खासतौर से इन दिनों चल रहे हिजाब विवाद से तो यही महसूस हो रहा है कि हमें बिना देर किए अपनी संसद में एक बार समान नागरिक संहिता पर

खुलकर बहस करनी ही चाहिए। चर्चा में इस बिंदु को भी जरूर लाया जाना चाहिए कि जब धर्म के आधार पर ही देश का बंटवारा हुआ था, तो स्वतंत्रता से ठीक पहलेवाली ही परिस्थितियां आज देश में दुबारा क्यों पैदा की जा रही हैं?

इस बात पर निस्संकोच बहस क्यों नहीं होनी चाहिए कि जब एक समुदाय विशेष को उसकी मान्यताओं के अनुरूप खुलकर जीने के लिए एक पूरा देश 1947 में दे दिया गया, तो आज उन्हीं मान्यताओं को 'हम भारतवासियों के देश में' लाने की जिद क्यों मानी जानी चाहिए? दरअसल, आजादी के बाद से अब तक चुपचाप अंदर ही अंदर दोबारा वैसी ही परिस्थितियां तैयार करने का प्रयास लगातार चलता रहा है। पीएफआई जैसे संगठन ये काम करते आ रहे हैं, और वामदलों का उन्हें समर्थन मिलता रहा है। कांग्रेस एवं अन्य सेक्युलर दल अपनी सत्ता बचाए रखने के लिए उस एक वर्ग की सभी करतूतों से आंख मूंदे रहे, लेकिन पिछले सात वर्षों में जब इस कुत्सित षड्यंत्र की पोल खुलने लगी, तो इस षड्यंत्र के पीछे खड़े लोगों को तकलीफ हो रही है। जरूरत है इस षड्यंत्र को उजागर करने की और रोकने की, ताकि देश को बचाया जा सके।



Date:18-02-22

अदालत की पहल

संपादकीय

अभी यह कहना शायद ठीक नहीं होगा कि हरियाणा सरकार को मुंहमांगी मुराद मिल गई है। बात सिर्फ इतनी है कि प्रदेश के उद्योग-धंधों में स्थानीय लोगों को 75 फीसदी आरक्षण के राज्य के कानून पर उच्च न्यायालय ने जो रोक लगा दी थी, सुप्रीम कोर्ट ने उसको हटा लिया है। 3 फरवरी को पंजाब व हरियाणा हाईकोर्ट ने जब स्थगन आदेश दिया था, तो उसके अगले ही दिन रोक हटाने की मांग लेकर राज्य सरकार ने सुप्रीम कोर्ट का दरवाजा खटखटा दिया था। अब हरियाणा सरकार की वह इच्छा तो पूरी हो गई है, लेकिन सुप्रीम कोर्ट ने इस पर जो फैसला दिया है, उसमें अदालत ने मामले की गंभीरता को समझते हुए अपने को सिर्फ स्थगन हटाने तक सीमित नहीं रखा। अदालत ने कहा है कि हम मामले के गुण-दोष पर अभी विचार नहीं कर रहे, और हमारा सुझाव है कि उच्च न्यायालय चार सप्ताह में इस पर फैसला करे। संबंधित पक्षों से कहा गया है कि वे इस मामले को लटकाने की कोशिश न करें। अदालत ने राज्य सरकार को यह भी कहा है कि इस कानून को लेकर नियोक्ताओं को परेशान करने का काम न किया जाए। कानून के खिलाफ उद्योगपतियों की सबसे बड़ी आपत्ति यही थी कि इससे उस इंस्पेक्टर राज की वापसी होगी, जो उन्हें लंबे समय तक परेशान करता रहा है।

हरियाणा का यह कानून लंबे समय से विवादों में बना हुआ है। स्थानीय लोगों को निजी उद्योग में 75 फीसदी आरक्षण देने का वादा दुष्यंत चौटाला की जननायक जनता पार्टी ने किया था। यह पार्टी इस समय सत्ताधारी गठजोड़ की महत्वपूर्ण घटक है, जिसने सरकार बनने के बाद इस कानून को बनवाने की पहल की थी। यह कानून पिछले साल नवंबर में पास

हुआ था और इस साल 15 जनवरी से ही लागू हुआ है। जब इस कानून का विधेयक विधानसभा में पेश हुआ, तभी से निजी क्षेत्र की कंपनियां और उनके संगठन इसका विरोध कर रहे हैं। क्षेत्रीय दल अक्सर इस तरह के कानून बनाने के चुनावी वादे करते रहे हैं। उन्हें रोजगार के अवसर पैदा करने के मुकाबले इस तरह के लोकलुभावन वादे ज्यादा उपयोगी लगते हैं। कई जगह ऐसे कानून बनाकर लागू करने के प्रयास भी हुए हैं। 1995 में गुजरात सरकार ने ऐसा ही कानून बनाने की कोशिश की थी। महाराष्ट्र की शिव सेना के घोषणापत्र में भी रोजगार में मराठी मानुस को ही प्राथमिकता देने की बात होती रही है और वहां भी ऐसा कानून बनाने की कोशिशें हुई हैं। इस समय, जब गोवा के विधानसभा चुनाव चल रहे हैं, तब वहां भी एक पार्टी ने ऐसा ही वादा किया है। निजी उद्योग हमेशा ही ऐसे कदमों का विरोध करते रहे हैं, क्योंकि एक तो वे अपने कर्मचारियों की नियुक्ति के मामले में पूरी स्वतंत्रता चाहते हैं और फिर, नियुक्तियों के मामले में आमतौर पर वे स्थानीयता के बजाय कुशलता को अहमियत देते हैं।

हालांकि, यह मामला अभी उच्च न्यायालय में है, लेकिन सुप्रीम कोर्ट के रुख से ऐसा लगता है कि वह इसे जल्द निपटाए जाने के पक्ष में है। अच्छा रहेगा कि इस मामले को अब अंतिम रूप से निपटाने की कोशिश की जाए, ताकि राज्यों व क्षेत्रीय दलों को भी अपनी सीमाओं का पता रहे और उद्योगों के सामने भी यह स्पष्ट रहे कि उन्हें किन स्थितियों के बीच काम करना है। एक ऐसे फैसले की जरूरत है, जो सबके लिए नजीर बन सके।
