

Bill No. 287 of 2019

THE CONSTITUTION (AMENDMENT) BILL, 2019

By

SHRI GAURAV GOGOI, M.P.

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BILL

further to amend the Constitution of India

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2019.

Short title.

2. After article 26 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 26A.

26A. (1) Notwithstanding anything contained in articles 25 and 26, the State shall not
5 administer, control or manage any institution, including its properties, established or
maintained for religious or charitable purposes by a religious denomination or any section
thereof.

State not to administer, control or manage any institution, including its properties, established or maintained for religious or charitable purposes by a religious denomination.

(2) All laws in force in the territory of India, or any law stipulated hence, in so far as
they are inconsistent with the provisions of clause (1), shall, to the extent of such
10 inconsistency, be void."

STATEMENT OF OBJECTS AND REASONS

The right to religious freedom, persevered from article 25 to article 28 of the Indian Constitution, has served as a hallmark of India's status as a secular republic. However, despite this right being sacralized in the coveted text, India's Hindu community has, over the years, lost autonomous control over managing its temples and places of ritualistic worship.

Several State Governments, through tailor-made versions of 'Hindu Religions and Charitable Endowments Act', have seized away, from the Hindu community, administrative and financial control over Hindu temples. On the other hand, presenting the more positive and ideal trend, other faiths that equally co-inhabit secular India have continued to rightfully exercise and celebrate their religious institutions. There is an imbalance prevalent in the rights to religious freedoms in practicality. State laws that produce a situation of State control over temples have also resulted in an increase in malpractices and mismanagement of temples. As a result, several hundred temples in India are in an overall disgruntled condition.

It is pertinent to raise the question of the relevance of State Governments administering temples in a secular country. The Supreme Court, in the case of the Chidambaram (*Nataraja*) temple in 2014, has shown the same questionability concerning the legality or requirement of the State Governments on taking over temples and their management. The Court has reinstated the undeniable importance of article 26 of the Indian Constitution, which confers on the Indian citizens inalienable religious freedoms. It has been established that a state's permanent observation of control over a religious institution would be tantamount to usurpation of the community's proprietary rights and violation of the fundamental rights guaranteed by the Constitution.

Despite these proclamations, State control over temples has been on an upward trend. The temples of India are required to be restored to being managed by true devotees of the faith. The Bill, therefore, seeks to insert article 26A to the Constitution with a view to rework the fundamental rights to ensure that such a discrepancy is resolved by preventing the Governments from legislating over any matter that thwarts a religious community's control over their places of worship or their religious freedoms. The Bill, therefore, attempts to restore article 26 to its true intent and purpose.

Hence this Bill.

NEW DELHI;
October 31, 2019

GAURAV GOGOI

LOK SABHA

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(Shri Gaurav Gogoi, M.P.)