

Mohan Singh Raghaw
ADVOCATE
RAJASTHAN HIGH COURT



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Tel : 354977
A-12, Vaishali Nagar
Opp. Vaishali Nagar-
Police Station,
JAIPUR - 302021

04th July, 1997

Shri S V Raju
Editor
Freedom First,
4th Floor, Maneckji Wadia Bldg
127, M.G. Road
MUMBAI - 400 001

Mr. Rajeev Patel

Dear Mr. Raju,

I have your letter addressed to Shri K.C. Kulish, Rajasthan Patrika, Jaipur regarding writ petition pertaining to 42nd Constitution amendment 1976 whereby the word "Socialism" was ^{admitted} added, to the preamble. The writ has been ~~entertained~~ by Rajasthan High Court vide its order dated 10th May, 1997.

A separate writ challenging the addition of word "Secularism" has also been filed by Shri Kulish which is likely to come for hearing sometime this month.

I have gone through your writ petition challenging Section 29(a) of the Representation of Peoples Act, 1951 in respect of registration of political parties. In my considered opinion challenge to 42nd Constitution amendment is pre-requisite to challenge Section 29(a) of the Peoples Representation Act. Our silence over 42nd Constitution Amendment with regard to addition of word "Socialism" in the preamble may not be helpful.

The Parliament was without jurisdiction to amend the preamble to the Constitution, or Parliament can amend by way of addition, deletion or alteration ~~in~~ any provision of the Constitution (Article 368) but preamble is not a provision of the Constitution. It precedes the constitution.



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The provisions of the Constitution start from Article 1. Section 29(a) of the Peoples Representation Act is certainly unconstitutional and deserves to be struck down. By all means, the writ must succeed. Surprisingly, it has taken nearly 2½ years i.e. quite long. It should be ~~pursuade~~ *pursued*. Of course, it would require legal acumen and craftsmanship.

I hope that you remember me as I had devoted many years of my prime youth to the Swatantra Party in Gujrat and Rajasthan. We have met a number of times. If I can do anything in the matter, please let me know.

Thanking you,

Yours truly,

Mohan Singh Raghaw
(MOHAN SINGH RAGHAW)

ADVOCATE.

July 14, 1997

Mr. Mohan Singh Raghav
A-12, Vaishali Nagar
Opp. Vaishali Nagar Police Station
Jaipur 302021

Dear Mohan Singh

I was happy to receive your letter of July 4 and to know that you too have been dealing with the issue of 'socialism'.

Yes, I think I remember you as a young man many years ago though I seem to recall that when Poo Mody and his lieutenants handed over the party to Charan Singh you were with Rajmata Gayatri Devi and others in agreement! Am I right or is it someone else? Weren't you the fair stoutish young man with a nice smile who was seen with Jai Deep Singh of Devgad-Baria? If I am wrong forgive me. We should meet when you are next in Bombay or I am next in Jaipur.

I am a bit confused after reading your letter. Is it that there are two petitions - one filed by you challenging the 42nd Constitution Amendment 1976 for including the word 'socialism' and the other by Mr. Kulish challenging 'secularism'. If so I have a copy of the latter petition but not the former. Could you send me the former.

Our petition is limited to challenging section 29(a) of the Representation of Peoples Act and not the preamble itself. Perhaps you are right when you say that the pre-requisite is to challenge the amendment itself. Our aim at the time of filing the writ in December 1994 was limited to enabling the Swatantra Party, Maharashtra obtain registration so that we could contest the state elections then in the offing.

Meanwhile I am sharing your views with our lawyer Mr. Rajeev Patil who appearing for us.

As for the long time being taken by our writ petition we are at the mercy of the courts. It came up for hearing on the last day before the summer vacation earlier this year and the Bench while rejecting the Election Commission's argument that as the word 'socialism' was part of the Constitution our petition was untenable, decided to hear the case after the vacation. When the High Court reopened the Bench changed and at present it is not even on the Board.

Let's keep in touch. With warm regards,

Yours sincerely,

S. V. Raju