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THE ACT OF 1935 AND THE FORMATION OF CONGRESS MINISTRY IN BIHAR, 1937-39.

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Abstract:-The Act of 1935 was an important benchmark in the constitutional history as well as in the national movement of India. It changed, at least for the time being, the politico-constitutional character of the Indian National Congress (hereafter INC). Reeling under the pressure from the pro-reformists and advocates of the office-acceptance group, the INC accepted the scheme of Provincial Autonomy. The present article seeks to analyse the Government of India Act, 1935 and the reaction of various Indian political groups towards the scheme of Provincial Autonomy. While keeping the viewpoint of INC and All India Muslim League central to the argument, it also tries to highlight the political ideas of other important stakeholders viz., the Kisan Sabha and Congress Socialist Party towards the Provincial Autonomy and issue of office acceptance.

Keywords:The Government of India Act, Provincial Autonomy, Discretionary Powers, Office Acceptance, Swarajist Experiment.

INTRODUCTION :-

The decade of 1930s in India was quite calm in respect of agitation based politics but constitutionally it changed the character of the national struggle and its main carrier, the Indian National Congress (henceforth INC). The Act of 1935 gave the INC along with other national parties an opportunity to translate the message of the national movement, partially, if not wholly, in to reality. In a letter written to Dr. M.A. Ansari, Mahatma Gandhi himself had expressed this view by stating that, "he had no hesitation in welcoming the revival of the Swarajist Party", and the "decision to take part in the legislatures through the forthcoming elections".

Ideologically, office-acceptance by the INC under the scheme of Provincial Autonomy signified the amalgamation of the "Swarajist approach" of the early 1920s with the congress strategy of mass-movement.

Force was the ultimate sanction of the British colonial rule, but it also established legislatures, law courts, rule of law representative institutions and granted other concessions from time to time. All this was done to show that the authoritarian rule was based on consent of the Indian people. In this way, the British tried to win the willing co-operation of the people which would hide the oppressive nature of British rule.

In response to the growing strength of the national movement the government used to throw up sops in the forms of so-called 'constitutional reforms'.

The Act of 1935 was the most important of these reforms introduced by the British to derail the national movement. In turn, it was a result of the failure of the Diarchy Scheme of 1919 and the limited character of British Indian legislative bodies; only 'Shop window doll democracy' existed at that time.

The Diarchy was full of shortcomings. Insignificant departments were transferred to the Indians while the real power remained with the British. These reforms were never intended to introduce truly responsible government or parliamentary system in India. Lord Morley had himself opined that "If it is said that this chapter of reforms would lead necessarily to the establishment of a parliamentary system in India, I for one, would have nothing to do with it.

Likewise, the acceptance of communal principle for the purpose of representative election in their legislature hit at the very root of the unity of the national movement.

The countless special powers of the Governor in all fields of provincial administration were inconsistent with the principles of responsible government.

This frustrated the national leaders who intensified the struggle in the form of the non-co-operative involvement 'whose intensity was to perplex no less a person than Lord Reading. According to Coupland, the Diarchy failed in its' primary purpose which its' authors intended to serve because it did not provide a real training in responsible government.

The Pro-Changer Swarajist group in the congress, who had worked the Act of 1919 demanded a revision of the constitution with a view to establish a fully responsible government in India, and for that purpose summon at an early date a representative Round Table Conference.

Under these circumstances the government appointed the All-White Simon Commission to review the working of Diarchy and suggest measures to improve it. It found the diarchy untenable and therefore recommended the transfer of all provincial subjects to popular ministries. The Commission proposed the right to vote to be given to at least 10 to 15% of the population.

The Indian political parties by and large rejected the proposals of the Simon Commission. They decided to propose a draft constitution of their own. The All-Parties Conference prepared a draft constitution which envisaged 'Dominion Status' as the immediate political goal, envisaged a future federation in India and rejected the communal electorate. The Government of India Act 1935 proved to be the most important of all constitutional -legislative measures taken in India during the British rule for more than one reasons. For the first time, it gave various political entities struggling for the cause of Indian independence, a chance to participate in the day to day administration of India along with their colonial masters, the British. Thus, in a way, it provided Indian nationalist leaders an opportunity to prove wrong the centuries old colonial myth that Indians were incapable of running their administration. This gave them a chance to establish nationalism as an alternative ideology to the British Imperialism.

But the Provincial Autonomy entailed with it the question of office-acceptance which necessarily in turn, gave rise to an intense ideological debate around it. The main question was as to whether to fight elections and accept office or not, considering the various constraints present in the Act of 1935. The ultimate decision enshrined in the Delhi Declaration opened the way for elections and office acceptance. The British government gave firm assurance that the governors would restrict themselves in using their 'special power' mentioned in the Act.

The Act was a detailed document. It consisted of 321 sections and 10 schedules. The system of Diarchy was done away with. All subjects were transferred to the provinces under the in-charge ship of to be elected ministers.

The Act also provided for an All-India Federation consisting of British Indian Provinces and the princely states. The states were absolutely free to join or not to join the proposed federation; a clause which sabotaged the very conception of the federation.

The Act abolished the Diarchy at the provincial level and introduced it at the centre. The federal subject were divided into reserved and transferred ones. The reserved list included defence, ecclesiastical affairs and tribal administration. For the administration of the transferred subjects, the Governor-General was authorised to appoint a Council of Ministers whose numerical strength was not to exceed ten (10). The Ministry was to be collectively responsible to the Federal Legislature.

In order to weaken the growing force of Indian nationalism, the Act not only retained communal electorate but also enlarged its' scope. It granted concessions to the depressed classes as well. The Muslim community got 33% of the seats in the federal legislature although their number was less than 1/3rd of the total population of India.

Coupland has described the Act of 1935 as a great achievement of constructive political thought which made possible the transfer of Indian Destiny from British to Indian hands. However, Indians had reasons to think otherwise. Even a British statesman like Clement Attlee, who incidentally was a member of the All-White Simon Commission, admitted that the 'new keynote of the new Act was nothing but 'mistrust'.

By allowing to have the Governor-General and Governors tremendous discretionary powers, the Act reduced the concept of Provincial Autonomy to a farce.

Matters on which the Governors were duty bound to act upon the advice of the ministers were very few. The real intention of the British was not to weaken the Governor but to arm him with real and comprehensive powers. They Viceroy Lord Linlithgow himself had no illusion about the issue of discretionary powers of the Governors in relation to his ministers. He maintained that, "the ministers have no legal right of tendering an advice in respect of the use of the discretionary powers."

Besides this, the Governor was authorised to act in an individual judgement termed as 'the special responsibilities' of the Governor. Although he was supposed to consult his ministers in this regard but he was not bound by them.

Similarly, entry into the proposed federation was voluntary for the princely states; yoking together of such heterogeneous units under one federation was highly absurd. A.B. Keith remarked aptly on the federal scheme, "it is difficult to deny the justice of the contention in India was largely evoked by the desire to evade the issue of extending responsible government to the central government of British India."

Thus, under such conditions the Indian reaction to the Act was not very difficult to predict. The Indian response to the Act largely amounted to the non-acceptance of the whole scheme. The draconian discretionary powers were rightly considered by the INC to be amongst the serious limitations of the reforms. Unlike the federal government, there were no reserved departments at the provincial level. But armed with the discretionary powers, the Governor became the dominating head of the Executive.

Jawaharlal Nehru described the new reforms as the 'new charter of slavery', which was only to strengthen the bonds of imperialist domination. He rightly judged that the federal structure as envisaged in the Act was to make any real advance towards democracy impossible and no scope/possibility was left for the representatives of the Indian people to interfere with

or modify the system of British controlled administration. The Act of 1935 was mainly criticised for it gave far too many reservations and powers to the Viceroy and the Governor. The Viceroy the Governor could intervene, use veto powers on his sole authority and could do almost what he wished to do in opposition to the popular ministry and legislature. A great part of the revenues were mortgaged to various vested interests and could not be used by the ministries. According to A.B.Keith, "the India Act has suffered from the very outset from a grave defect that it made responsibility unreal by placing special responsibility on the Governors."

The official reaction of the INC was not different from what has just been noted above. In the viewpoint of the INC, the reforms fell short of the nationalist expectations. Dr. Rajendra Prasad called the idea of federation enunciated in the Act as unparalleled in history since "the success of the constitution was to depend on the British parliament; nominated members from the Princely States may intervene in the matter of British India while the elected members could not."

Thus, the INC fixed February 7th 1935 as the 'All-India Protest Day' against the Joint Parliamentary Committee Report (JPCR). On the Indian constitutional reforms; and called upon the popular representatives in the legislatures to reject the proposed reforms.

The Muslim League was also not enthusiastic about the proposed constitutional scheme. M.A.Jinnah described it as 'thoroughly rotten, fundamentally bad and totally unacceptable.' In his opinion there was only 2% responsibility and 98% safeguards and even that was hedged in by the constitution of the two houses of federal legislatures. In a marked difference from the attitude of the INC, the Muslim League advised Indians to do the same with the Act of 1935 what the Germans did to the Treaty of 1919.

Even the small political parties did not lag behind in expressing their dislike for the new constitution. The National Liberation Federation leader V.S.Srinivasa Sastri rightly said that there was no incongruity condemning the constitution and working it, as it was thrust upon the Indians. But the official approach of the liberals was not much different from the ground on which they had separated from the INC during the decade of 1920s. It is clear from the statement of M. V.Joshi in which he said that the rejection of the Act was impossible and futile; a constitution providing for Dominion Status is the only way out."

The Kisan Sabha saw and analysed the Act of 1935 with a different prism. It reflected the economic outlook and the concern it had for the man behind the hoe. At its' Faizpur session, the Kisan Sabha rejected the new constitution which in its' view was to strengthen British imperialism, therefore, must be intensified. The Sabha found that no representation was given to the Kisans in the legislatures as against so many Europeans, the zamindars (landlords) and the Indian commercial interests.

Thus, from the very outset the constitutional reforms were bound to fail. But the decision of the INC to 'work' the constitution in order to 'wreck' it, changed the political scenario of the late 1930s. The INC decided to contest the elections notwithstanding its' reservations on several counts.

In fact, the Act of 1935 put the INC in a state of fix and the party found within itself a sharp political divide on the issue of office-acceptance. There was of course full agreement on question of fighting the election. But in view of the limited character of the Provincial Autonomy and omnipresence of colonialism and colonial state, Jawaharlal Nehru, Subhash Chandra Bose and the Socialists were opposed to the idea of office-acceptance. They felt that it would mean that INC was co-operating with the British Imperialism and would weaken its mass based character.

While outlining his dislike for the new Act, Nehru called for the unity of opinion rather than encouraging further differences. "To this Act", he opined "our attitude can only be of uncompromising hostility and consistent endeavour to end it."

At the same time Nehru did not ignore the necessity congress going to the electorates to seek votes on the basis of detailed political programme with a demand for a constituent assembly, and make masses feel that we not only stand for them but we are one of them and seek to co-operate with them in removing their social and economic burden.

But for Nehru to accept office was to 'negate our rejection of it and stand self-condemned. He rightly opined that it was always dangerous to accept responsibility without power. Nehru noted that:--

As ministers we could do very little to bring relief and would have to share responsibilities or the administration apparatus of Imperialism, for the deficit budgets, for the repression of labour and peasants."

Thus, Nehru proposed a two pronged strategy for the day: contest the elections i.e., enter the assemblies and propagate the policies and programme of the INC but not to accept the office after elections.

Close on the heels of Nehru views, the Congress Socialist Party ideologically opposed any move favouring office-acceptance, and abhorred any effort to lead the country towards 'sterile democracy', and constitutionalism'.

The Kisan Sabha opposed and loathed the idea of office-acceptance, for the British constitutional reforms had brought the Zamindars (landlords) and Sahukars (moneylenders) in to politics and entrenched them into legislatures. For it, the whole idea offending the Act through working it, was erroneous and tended to create an illusion about the efficacy of the constitutional programme.

Thus, the group opposing office-acceptance harped mainly on following arguments:--

- [1] The Act was yet another ploy of the British to divide the national movement,
- [2] Its' limited scope and character demonstrated that it could benefit only the reactionary forces,
- [3] Fighting elections and office-acceptance could convey wrong ideas to the masses that these bodies could be used for their betterment, which is far from reality in the present colonial scenario.

On the other hand, then Pro-Office group which later on prevailed over others, maintained that there was no harm in

Congress accepting the whole plan because there was no possibility of a national movement at the moment. Besides, this would prevent the reactionary forces opposed to nationalism taking over these bodies. Also, they argued that this would help propagate and translate the spirit of national spirit of national movement into reality through administrative and legislative measures, although it was going to be limited in character and pervasiveness.

Congress leader Rajendra Prasad opined that non-acceptance would give way to reactionary forces to use the legislatures against the national movement.

The pro-office group, dominated largely by the right-wingers, asserted its' opinion more forcefully as the anti-office group had to tone down its' argument. All this propagated in the name of preserving the 'unity of national movement'. The pressure from the right-wing to contest election and accept office was so great that even Mahatma Gandhi had to bow to the majority. Gandhi found to his surprise that even the veteran no-changers like M.A. Ansari was talking in favour of pro-office group. But Gandhi called himself a 'practical idealist' who still retained his disbelief in legislatures as an instrument of achieving swaraj.

Thus, after such deliberations, the INC issued its' election manifesto in Bombay. Theoretically, it was a forward looking document which contained a close relationship the national and international events of the day. The manifesto left enough scope for accommodating local issues through provincial manifestos.

The congress manifesto recognised the fact that, "the poverty –stricken masses are today in the grip of an even more abject poverty and destitution and thus the growing disease instantly demands a radical remedy."

Among other things, the manifesto talked of rent – reduction, declaration of moratorium on loans, reform of the system of land tenure and rent, an equitable adjustment of burden on agricultural land thus giving immediate relief to small peasantry.

But in many respects, the election manifesto was an ambiguous document. In the manifesto the congress pledged itself to the Gandhian methods of peaceful mass action. But after the ministry formation this principle was used freely against the peacefully agitating labour and peasant.

Similarly, it failed to commit any radical or concrete change which could change centuries old rotten socio-economic structure prevailing in the country. The Amrit Bazar Patrika pointed out that the Congress feared that "it might land itself in the midst of a class struggle by following an explicit line of action."

Nevertheless, the congress registered a historical win on the basis of this very manifesto. Of the all provinces where the congress contested elections, it secured the highest percentage of votes i.e., 75% in Bihar. Out of total 152 seats in the assembly the congress contested 107 and captured 98 which was more than 91% of the total seats.

The causes for the roaring success of the congress is not difficult to ascertain. It was one of the most organised political parties with tremendous mass support. W.G. Lacey, the Election Officer, Bihar, admitted that congress had unity, cohesion, disciplined leadership and vast army of workers, who penetrated into the remotest villages.

The supportive role played by the Kisan Sabha led the congress to a certain victory. This made the peasants believe that the congress and the Kisan Sabha had a united front. The impact of Congress-Kisan Sabha campaign was so great that the peasant refused to be lured by anti-congress and anti-Kisan Sabha elements and decided firmly to vote for the former. The Kisan Sabha itself appealed to the peasants to see carefully that their votes are voluntarily canvassed and not by intimidation.

Even Z.A. Ahmed, head of economic and political department of the All India Congress Committee(AICC), concluded the most important in the final analysis that the most important reason for the success of congress was that it "went into the elections with peasants i.e., the Faizpur programme."

Now the point to ponder is that why during the ministerial tenure in Bihar, the INC failed to fulfil its' manifesto in a satisfying manner. This brought it the wrath of its' opponents and supporters alike.

The anti-office group which later amalgamated with the pro-office group wanted that the 'relief attained by the office-work must be for the million and not for a few individuals. For them "it was not from mere votes in the legislatures or even artificial deadlocks that freedom would come, but by the mobilization of mass strength and the co-ordination of struggle outside. Thus, they wanted to change the reactionary character of these bodies.

On office-acceptance the right wingers used the name of the congress to thwart any real radicalism and at the same time attained sanctions for whatever they did in legislatures. Had the congress wanted to put the constitution of 1935 to the same fate as that of the Act of 1919, it could have chosen the way of complete non-co-operation. Acceptance of office under the Act of 1935 was in a way betrayal of congress's principle of non-co-operation.

CONCLUSION.

As the later days event were to show, working the constitution of under the apparatus of imperialist administration was bound to compromise the congress position as the foremost anti-imperialist force. Several constraints viz., special powers of the Governors, misgivings about the loyalty of the bureaucracy, limited franchise and above all special status given to the reactionary elements, namely landlords and business groups were likely to frustrate the pro-people policies and measures.

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