

NORTHERN INDIA PATRIKA

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BJP's big success

The BJP's impressive electoral performance in the north east and spectacular success in Tripura has once again shown that the Narendra Modi-Amit Shah juggernaut is unstoppable. The duo has further expanded the saffron map to show that the BJP is no longer a northern, upper-caste Hindu party that can't do well in areas where the demography is diverse. No wonder Prime Minister Modi has hailed Tripura election as an epoch-making one! There was a time when the BJP was known as a Hindi belt party, often derisively referred to as the cow-belt party. But today, the party has governments from Maharashtra and Gujarat in the west to Tripura in the east. In all, the party has governments in 20 parties now. "Very soon, we will also form a government in Karnataka", says Shah. At any rate the BJP is entitled to be hailed as the biggest national party of India, a place, till recently, occupied by the Congress for several decades.

In the last Tripura assembly election, only one BJP candidate had managed to save his security deposit. The rest had lost it. From there, today the party has bagged a clear majority in this election, Tripura has proven, as Amit Shah has very rightly said, that Left is not Right any more the way it is losing power in one state after another. First, West Bengal had proven this and now Tripura has confirmed it. But, says Shah, the BJP's golden period will not start till it forms governments in Odisha, West Bengal and Kerala as well. Furious at Shah's remarks, West Bengal Chief Minister Mamata Banerjee has downplayed BJP's victory in Tripura, and according to a PTI report said the saffron party will never win West Bengal and Odisha, and dubbed it as "a cockroach dreaming of becoming a peacock by putting on its feathers". She said the result in Tripura was due to CPM's "surrender" and the "failure" of the Congress to agree to an alliance.

Mamata's angry outburst shows that she has lost control over her speech and is giving vent to her fury in unparliamentary language. But her warning cannot be brushed aside because the defeated parties may realign themselves to give a do-or-die challenge to the saffron brigade.

BJP cannot ignore the fact that in Odisha the BJD has recovered substantially as was seen in the recent Nagar Nigam poll after its earlier setbacks. The real trial of strength will be witnessed in the Assembly elections in the north followed by the Lok Sabha election next year. BJP has been losing byelections in Madhya Pradesh and Rajasthan. In Punjab it has lost power. In Haryana the incumbency factor seems to be sneaking upwards. Telugu Desam is threatening to breakaway from the NDA. Shiv Sena in Maharashtra too is trying to queer the pitch for the BJP. In Bihar the going won't be easy for JD(U)-BJP alliance. Right now in UP the BJP seems to be invincible because of the Yogi's mesmerizing hold on the followers of Hindutva. But there was a report suggesting that after the election results for Karnataka elections there is every possibility of Mayawati joining hands with Akhilesh Yadav. This could mean that the secular votes will not get divided to the advantage of the BJP. But there could be an unforeseen advantage—war with Pakistan. Assuming that India, helped by USA and Israel, inflicts a crushing defeat on Pakistan, it will make Modi the nation's hero. And that could turn out to be an electoral bonanza for the BJP-Akhand Bharat! But will Pakistan oblige?

SNIPPETS

Afghan Government will provide every security to the good Taliban who offer to join the administration's efforts to usher in an era of peace in the country. Won't it again be committing the blunder of offering milk to snakes who have always been biting the hand that feeds them?

Former Bihar chief minister Jitin Manjhi has quit the NDA to join hands with Tejaswi Yadav. Has he abandoned a sinking boat or is joining one!

Manjhi says he is going to join Lalu's Mahagathbandhan. But isn't he opening himself to the risk of joining Lalu in jail seeing that it is there that Nitish sends his political opponents?

On reaching Canada after finishing his India tour, the Canadian Prime Minister has accused New Delhi of trying to damage his image. But he said all goody-goody things when in India. So that is the double-faced hypocrisy of the Canadian leader?

The Canadian Prime Minister has accused India of tarnishing his image. But did he not invite it? Didn't he patronize the Khalistanis who were bent upon dividing Punjab?

After crushing nine school children to death the drunk BJP leader on the run has at last surrendered. Now what will he be charge-sheeted for? Rash driving and violating prohibitory orders?

Will Nitish Kumar now concede that his prohibition policy has failed? May be close to next election he may realize that electoral winds are blowing against prohibition. Will he then scrap the liquor ban to woo the voters?

Farmers to be Free from Vicious Debt Trap

In a landmark judgement, the Supreme Court of India has declared that farmers' loan would not be covered by Banking Regulation Act. This will give huge relief to the farmers as they have been committing suicides in frustration and heavy indebtedness. The verdict of the bench of Justice R.F. Nariman and Navin Sinha has been written with empathy and pathos.

Hardly, a day passes when a farmer does not commit suicide in one part of the country or other. The importance of agriculture in the social and economic fabric of India can be realized from the fact that the livelihoods of the majority of the country's population is still agriculture. However, over the years agriculture has become so unremunerative that nobody wants to remain in this profession. But then there is no way out for a large number of people engaged in it. As a result, small and marginal farmers have been forced in the vicious web of loans and debts. The desolation and hopelessness of farmers can be gauged from the painful facts that more than three lakhs of them have killed themselves in the last twenty years.

These farmers are often brought to bear humiliation and insult at every level and they are condemned to live in abject poverty and deprivation. The Public Interest Litigation (PIL) seeking for the exclusion of farmers loans from Section 21A of the Banking Regulation Act was filed in the Supreme court by a journalist Jayant Verma from Jabalpur. The Late Dr B.D. Sharma, former Vice Chancellor of North Eastern Hill University (NEHU), Deb Brata Biswas, former Member of the Rajya Sabha and Dr Sunilam, a former MLA of Madhya Pradesh were co-petitioners. It was filed on their behalf by this columnist.

The Minimum Support Price of the farmers' products is decided by the Commission for Agricultural Costs and Prices, but it hardly takes into account the competitive prices of other articles. For example, gold was selling at Rs. 18 per ten grams in 1925 and then the price of wheat was Rs.16 per quintal. While at present the wheat is sold at Rs.1765 per quintal, the gold price has jumped to more than Rs. 30,000 per ten grams. Thus, we see that during the last nearly one century the difference between the prices of gold and wheat per ten grams and per quintal has widened more than 15 times. Section 21A of the Banking Regulation Act of 1949 has further worsened the condition of farmers across the country. The obnoxious part of the Act is that notwithstanding anything contained in the Usurious Loans Act, 1918, or any other law relating to indebtedness in force in any State, a transaction between a banking company and its debtor shall not be reopened by any court on the ground that the rate of interest charged by the banking company in respect of such transaction is excessive.

The main cause of large-scale migration of farmers to the cities is that their problems, necessities and plights have never been properly addressed by all governments after the independence. Prof. M.S. Swaminathan headed National Commission of

farmers underlined in its report which was submitted a decade ago said, 'there is a general feeling of being 'left behind' in large parts of rural India. The widening disparity in per capita income between farm and other than farm sector, the very slow rate of growth in

JUDICIAL PANORAMA Parmanand Pandey

agriculture, the declaring profitability, extremely weak social security arrangements, weakening family and community-based mechanism of social protection, lack of employment opportunities etc., and the rising aspirations are building up social unrest, which if not addressed could lead to threats to internal peace and security.

More than a decade ago the report of the Parliamentary Committee had said that 'the worst exploitation of farmers is through the adverse credit policies of financial institutions which compel farmers to starve under the burden of loans and commit suicides. The Committee found that in 1918 British Rulers passed a Usurious Loans Act which provided that no farmer can be charged a rate of interest higher than the authorised rate. It also provided that the total amount of interest cannot be higher than the original capital but in 1949 a Banking Regulation Act was passed which made a special provision under section 21A saying that these will not apply to Banking Companies, including Cooperative Banks. In view of the pathetic plight of farmers due to the heavy burden of credit, the committee recommended that section 21A of the Banking Regulation Act should be scrapped. The Central Government, however, did not accede to the recommendations of the MS Swaminathan Committee. As a result of this unconscionable harsh law, the farmers have been arrested in states like Uttar Pradesh and Bihar for defaulting on repayment of loans. What is more deplorable is that these defaulting farmers are made to pay even the expenses of their food and transport etc., when they are in jail.

With the unbearable insults and mounting debts, the farmers have been left with no choice but to end their lives. Earlier also many petitions were filed to scrap Section 21A of the Banking Regulatory Act in different High Courts, but the Courts refused to strike down this obnoxious provision of the Act. Therefore, this decision of the Supreme Court is being hailed by the entire spectrum of the society. The Supreme Court said that 'we have already seen how agriculture as a subject matter is entirely and exclusively left to the States in all its aspects, save and except evacee property under Entry 41, List III, which is also left to the States, but concurrently with Parliament, specifically including agricultural land therein. Also, we must not forget that the amendment suggested by Shri Shibban Lal Saxena to make it a concurrent subject, was turned down. Any argument that has the effect of making a relief of agricultural indebtedness a concurrent subject by which

Parliamentary legislation ousts State legislation must, therefore, also be rejected'.

This is not to say that Parliament is helpless insofar as relief from agricultural indebtedness to banks is concerned. Article 249 of the Constitution enables Parliament to legislate on the aforesaid subject in the national interest if the Rajya Sabha declares, by a resolution supported by not less than 2/3rd of the members present and voting, that it is necessary or expedient in the national interest that Parliament should do so. Equally, under Article 252 of the Constitution, if the legislatures of two or more States deem it desirable that Parliament should pass an Act for regulating a matter exclusively in the State List, this can be done by resolutions to that effect passed by the legislatures of such States. Also, to implement a treaty, agreement or convention with other countries, Parliament, under Article 253 of the Constitution, has the power to legislate on an exclusive State subject. In an emergency, Parliament can, under Article 250, legislate on matters exclusively reserved for the States. This being the case, we need not be unduly weighed down by the argument that, unless we accept his submission, Parliament would be denuded of legislative competence altogether to deal with the subject matter of relief against debts due to banks from the agricultural sector.'

The Court did not consider the judgment of this Court in Yasangi Venkateswara Rao to be binding as it was cryptic and without any reasoning, instead, it agreed with the judgement of the Andhra High Court. After setting out the Banking Regulation Act and the scope of Section 21A, the Andhra Pradesh High Court held that the purpose, operation and effect of Section 21A of the Banking Regulation Act was not even remotely connected with the purpose, operation and effect of the Agriculturists Relief Act, which was held to be a special law enacted to relieve agriculturist debtors. It was further held that charging excessive interest was no longer part of the Agriculturists Relief Act, and, therefore, the spheres of the two provisions were completely different. The learned Judge also went on to hold that Section 21A was arbitrary and violative of Article 14 of the Constitution. The Supreme Court declared Section 21A of the Banking Regulation Act to be valid, in pith and substance, only to the extent it is relatable other sectors and agriculture.

Fragmentation of agricultural land because of the growing population and division of families, the farmers have practically been reduced to become farm labourers. Debts and loans add burden to break their bones. Possibly, this judgement of the Supreme Court will provide them much needed succour.



The Author

Private fascination for public assets

The growing greed of India's private sector is reflected in the over Rs 10 lakh crore bad bank loans. Rajeev Jayaswal explains how after robbing public money, vested interests plot to grab public assets in the name of privatisation.

The camera never lies, even if it may not present the whole truth. The Davos group photo-op on January 23 was a moment of joy that unexpectedly turned sour. After seeing the photograph, no one can buy the theory of forced entry by fugitive Nirav Modi in this coveted group. His comfortable smile and composure explain that he had been quite cozy in the company of such iconic industrialists as Rahul Bajaj, Anand Mahindra, Sunil Mittal.

A month later, the same coporate crowd proposed

that privatisation is the only solution to stop bank frauds. Commenting on the "current episode of financial fraud", the CII asked the government to gradually exit from managing banks and hand them over to private hands. Such proposals are not unexpected as entrepreneurs are ready to grab this potential business opportunity. Finance Minister Arun Jaitley, has however, disappointed them by ruling out privatisation of public sector banks due to lack of "political consensus".

Now the industry would have to wait until bank privatisation becomes a politically acceptable proposition. It is possible, like the entry of private companies in commercial coal mining. The Cabinet recently ended the age-old monopoly of Coal India Ltd and allowed private mining even at the cost of environmental degradation and global warming.

Tame your greed
Privatisation is not the solution. On the contrary, public sector banks should be protected from rogue entrepreneurs like Nirav Modi. Industry associations — the CII and Ficci — must not forget that public sector Punjab National Bank (PNB) has been conned by a private businessman, who looked and behaved like any other member of these lobbies. The evidence is the controversial January 23 group photograph.

So, India Inc. should not attempt to dismiss the Nirav Modi scam as a stray case. There is a pattern right from the days of Harshad Mehta and Ketan Parekh to recent cases of Subrata Roy, Vijay Mallya and Nirav Modi. Hence, the industry cannot shrug off its collective responsibility. The CII and Ficci should stop preaching the government. Perhaps, they should conduct spiritual workshops for their members

on 'How to tame your greed'.

Lobbyists at large
Privatisation is not the panacea of all ills. It is certainly unfriendly to the poor. One may argue that private healthcare and education facilities are the

Rajeev Jayaswal

best. But, they automatically exclude over 90 per cent of the population because of high costs. Private banks may be called efficient, but they do not entertain farmers and daily wage workers. Surprisingly, private businessmen prefer public sector banks. Possibly, they could easily be conned or pressured. Therefore, the solution lies in restricting

known to policymakers. The ONGC has not been able to make any significant oil or gas discovery after Mumbai High some 40 years ago. Instead of prodding it to become a nimble and efficient explorer, the government has forced it to enter fuel retail. Although the immediate motive appears to be the additional revenue of around Rs 36,000 crore, the unholy merger could have some serious implications. In future, the ONGC can always prune its non-core businesses by divesting HPCL without any resistance. Directly selling HPCL to a private entity is avoided because it would have led to a nationwide opposition.

A similar attempt is being initiated for a Maharatna, GAIL India Ltd, because the private sector is aggressively lobbying to demolish its hegemony over the lucrative gas transportation and marketing businesses. Apparently, the plan is to merge GAIL into ONGC. Surprisingly, GAIL was created as a separate corporate entity by demerging ONGC's non-core fuel transportation business in 1984. Possibly, the intent of the government is to create an integrated energy firm. But, how will it help the people? Will it help reduce rates of petrol and diesel? The answer is 'no'. Will it create greater market capitalisation? The answer is again 'no'. Will it help the successive governments to divest non-core businesses of ONGC to private entities? The answer is 'yes'.

If the trend of unholy alliances continues, the ONGC would be also forced to buy a stake in Gujarat State Petroleum Corporation's (GSPC) KG basin gas block, apparently to bail out some influential private stakeholders.

The welfare state
It is not that every private enterprise is efficient and every public concern is a failure. A case in point: students' first preference is to get admission in IITs, IIMs and AIIMS; not private engineering and medical colleges where entry is easy by paying hefty capitation fees.

The proponents of laissez-faire often say that the government has no business to be in business. If that is followed in letter and spirit, then the government must exit from every sphere where private companies can make profits — education, health, drinking water, sanitation, roads, ports, airports, etc.

India is a welfare state and the public sector is its lifeline. Efficiency of public sector ventures can be ensured by making their managements more transparent and accountable. Destroying them is not the solution.



their easy access to public money instead of privatising banks.

Sustained campaigns against public sector carriers such as Air India and Indian Airlines resulted in the entry of private airlines. Then the politician-businessman nexus started squeezing public sector airlines. They were not allowed to expand their fleet. Their profitable routes were snatched and distributed to private carriers. They were forcibly merged to create an unmanageable monolith. Now, the public carrier is all set to be sold to private bidders.

Unholy marriage
The same fate awaits public sector retailer Hindustan Petroleum Corporation Ltd (HPCL), once eagerly eyed by private firms. The Vajpayee government was eager to sell both HPCL and Bharat Petroleum Corporation Ltd (BPCL), but for the Supreme Court.

Now, HPCL has been merged with state-run Oil and Natural Gas Corporation (ONGC) for reasons best