

Retention of the Sedition Law

- *Viraji*

The BJP Government of Modi Makes it Clear in Unequivocal Terms that Retention of the Sedition Law is a must for its Rule!

For all these 75 years of our independent India, the successive governments have been using the 152-year-old, British colonial-era law of sedition as a tool of political repression. For the past 9 years, the BJP government under the rule of Modi has been using the sedition law to suppress the fundamental rights of expression, of opinion. It is curbing dissent against the policies and agenda of BJP, suppressing voices against RSS, subjugating opinion against the Modi government – be it activists, political opponents, journalists, artists, intellectuals or any one asking questions. During the period from 2010 and 2020 nearly 11,000 sedition cases were booked against individuals. There is a rise of 28% new sedition cases filed each year, since Modi came in to office in 2014. 13,000 people were in jail by 2022 under the sedition provision. The Section 124-A of Indian Penal Code (the law of sedition) is viewed to be violating Articles 19 and 21 of the Constitution by many legal scholars and they view that the Section 124A could not have remained in the statute book after the Constitution came in to force in 1950.

The BJP government had stretched the defining logic of sedition, to “hurting sentiments” and transplanted it in to several different provisions of law that criminalise speech. It has not only weaponized the sedition law but also weaponized UAPA, NSA and other existing provisions of the IPC to crackdown on criticism and dissent. Due to this the socio-political relations of power have been drastically changed, where in the lowest state functionary addresses the citizen in the most commanding voice as if that was the natural order of things. Added to this the state is often using national security as a rule to deny citizens their rights and the remedies against their abuse.

BJP and its government are deliberately encouraging hate speeches and hate actions destroying the fabric of the entire society, necessitating an effective legal framework against hate speech. But it is making every possible effort to stifle the freedom of speech and to penalize speech or writing that targets the government even talking about repression is being treated as sedition.

In this background a number of petitions have gone to the Supreme Court alleging the targeted use of the sedition law and asking it to be scrapped. At the time of hearing of these

cases in 2022 at the Supreme Court, the BJP government of Modi sensing a possibility of repealing this sedition law, had cunningly urged the Supreme Court to pause its hearing of petitions challenging Section 124A until the government completed its "reconsideration process" of the sedition provision. Through its solicitor-general it even acknowledged that "the law was not in tune with the current times". It pretended as if even agreeing in its affidavit that laws which "reeked of a colonial mind set have no place in today's India". With such vague and ambiguous generalisations, without specificity about the specific colonial mindset behind sedition law and without any specificity in what aspect the sedition law was not in tune of with the current times, the BJP government made the Supreme Court believe it and allowing it to reconsider the British-era law. The Supreme Court which too is mild in legalistic hesitations and constitutional niceties and without any firm stand to repeal the sedition law, had as a balancing act suspended pending criminal trials and court proceedings under 124A of IPC; instead of asking the government more details about the nature of its reconsideration process and its thought process behind it.

With the suspension of operation of sedition provision in IPC, and the government's own submission to reexamine and reconsider the sedition law, it has been largely expected and hoped that the sedition law would be scrapped.

However though it is being propagated by the Home Ministry and Law Minister Kiren Rijju that the Prime Minister (Modi) had "periodically, in various forums, expressed his clear and unequivocal views in favour of protection of civil liberties" and that the PM gave clear instructions to repeal obsolete and colonial laws and close to 1,500 laws have been removed since 2014", the government in a written reply to parliament, in December 2021 had already stated its clear intention that 'there was no proposal to scrap sedition from penal code'.

Now, presently the Central government through the so-called 279 report of Law Commission of India of the 22nd Law Commission, had revealed its sinister intention of not only retaining the sedition law made with a colonial mindset 152 years back, but also to sharpen its fangs by enhancing the punishment from minimum imprisonment of three years to minimum seven years in the name of national security. It made the Law Commission to propound perverse logic in justifying its intentions. Moreover it made the Law Commission to state that the existing laws like UAPA and NSA do not by implication cover all elements of the offence envisaged under Section 124A of the IPC". Moreover, the name of "by virtue the entire framework of Indian legal system is a colonial legacy. The police force and the idea of an All India service are also temporal remnants of British era", and that "any allegation of misuse of this provision does not by implication warrant a call for its (sedition laws) repeal". The Law Commission thus refuses to accede in the aspirations of the people of the country at the behest of Modi's BJP government.

But however even at this stage of arguments negating the aspirations to repeal the British-era sedition law, the rulers had to admit that the 'independent' new India inherited "the

efficient country” as was asserted by Com. T.Nagi Reddy in 1970 itself in his famous court statement “India Mortgaged”, leaving no doubt to anyone about the nature of the “independence” being acclaimed by Indian rulers.

The BJP government without any petitions about ‘democracy’ and democratic intention has bared out its fascist, anti-democratic class nature of its rule leaving no doubt or illusion, through the 279th report of 22nd Law Commission; duly emphasizing that not only the Sedition Law (124A) but also the draconian laws UAPA and NSA will remain in statue undisturbed.

In this connection it is note worthy that in Pakistan which is supposed to be a state under control of military and religious dictatorship the Supreme Court has boldly annulled the offence of ‘sedition’ in the Pakistan Penal Code, on March 30, while the ‘democratic’ state of India ruled by BJP had rejected to do so.

Now it is for the democratic forces of our country to fight against sedition law and other laws of repression like UAPA and NSA, without any illusion that our constitution or democratic system of rule would come to the rescue!