

FREEDOM OF EXPRESSION

Judiciary in India, barring exceptions, has maintained the highest traditions of erudition, integrity and independence it had inherited from the British judiciary, in spite of several attempted inroads into its authority. The recent decision of the Bombay High Court clarifying the limits of censorship in an emergency is yet another vindication of the right to legitimate dissent and criticism within limits. The Special Press Adviser to the Maharashtra Government, by his order, dated 15th July, 1975, prohibited the publication of a number of articles and reports totalling eleven by the monthly journal, *Freedom First*, edited by the well-known political figure, writer and thinker, Mr Minoo Masani. Against the said order, Mr Masani filed a writ in the Bombay High Court, which, after due consideration, accepted the petition and issued directions to the Special Press Adviser to withdraw the order prohibiting the publication of the contested articles and reports and to forbear from implementing it.

In appeal by the Special Press Adviser to the Division Bench of the High Court, the Judges upheld the decision appealed against in all but two articles and dealt elaborately with the right of legitimate criticism, the limits to the powers of the Censor and the principles governing the freedom of information in an emergency. The judgment, which runs to 250 pages, offers a fertile field for study in depth of one of the highly cherished rights of man. At the outset, the High Court clarified that on the proclamation of emergency, the fundamental right, namely, freedom of expression, guaranteed under Article 19 (1) of the Constitution, has not been abrogated, but that the State has been empowered to pass a law or take executive action abridging such right. The Court further observed that the Defence and Internal Security of India Act itself postulates that every authority or person acting in pursuance of the Act "is to interfere with the ordinary avocations of life and enjoyment of property as little as may be" consonant with the pur-

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pose of ensuring public safety and interest and the defence of India and civil defence and internal security. From these premises, the Judges held that the Censor should not exercise his powers so as to force opinions in conformity with the party in power, that criticism and disapproval of measures initiated by the authority make for a healthy climate and that a dissent, disapproval or criticism is couched in strong language is no ground for banning its publication. At the same time, the Court balanced its observations, with a sharp reminder that there are permissible limits to dissent and disapproval and that such dissent and disapproval cannot take the form of incitement to revolutionary or subversive activities, as it would then, instead of serving democracy, destroy it.

The judgment is important not as a statement of any new principle but as a warning to the over-zealous censors who out-herod Herod in the discharge of their undoubtedly delicate task. By trying to stifle legitimate criticism, they neither carry out the policy of the Prime Minister, who has repeatedly gone on record as welcoming fair and constructive criticism, nor subserve the interests of the nation. The denial of information may lead to errors of judgment and the exposure of mistakes and hardships at the early stage may avoid unpleasant explosions later on. Nothing is gained from hearing the pale echo of one's own voice, nor from an artificial chorus call to order. Society progresses only with exchange of ideas, different from and even conflicting with each other. The judgment, coming at a time when the Prime Minister has expressed herself firmly on relaxing

the emergency, should help speed up the process.

Mr K. C. REDDY

Death has taken toll of one more pre-Independence veteran who dedicated his entire life to the service of the people and the nation. Mr Chengalvaraya Reddy, a graduate from Pachaiyappa's and Madras Law College, was one of the budding orators of the Y.M.L.A. during his student days. The early indication of his flair for leadership was fully realized in his later life when, on return to the State, he became the President of the Kolar District Board, President of the Kolar Gold Fields Workers' Union, President of the Pradesh Congress Committee, etc. He was one of the leaders who spear-headed the freedom movement in Mysore State and suffered not only imprisonment but even physical injury in the campaign. After Independence, Mr Reddy's abilities were fully utilized in the service of the nation. As Chief Minister of Mysore, Mr Reddy made a mark that caught the eyes of the Prime Minister which led to the entrustment of responsibilities at the Centre, even though he had stood and won elections to the State Assembly in 1952. It was during Mr Reddy's term as Minister for Production that the giant public sector projects like the Durgapur, Bokaro and Bhilai Steel, Heavy Electricals, Bhopal, etc., were initiated. Mr Reddy moved from Production to Works and Housing Ministry, which he directed till 1960 and from there to Commerce Ministry which he served till 1963. Mr Reddy was appointed Governor of Madhya Pradesh in 1965 and he retired in 1971.

Looking back at the long unbroken public career of success extending over four decades, one is impressed with Mr Reddy's unblemished record of integrity, which, alas, only a decreasing number of politicians possess today. Soft-spoken and simple, Mr Reddy was a true Gandhian and was responsible for the introduction of Prohibition in Mysore State. A man of rare personal charm, Mr Reddy had a large circle of friends throughout the country. May his soul rest in peace!