

## Pandit Nilakantha : His Role and Achievement as Speaker

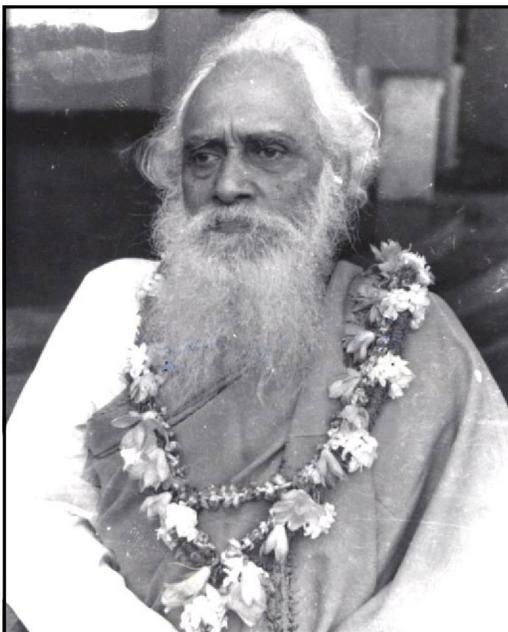
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Pandit Nilakantha was a multi-faceted personality of rare caliber. He evinced traits of this caliber right from his school days and has left behind him his mark of achievement in different walks of life. He was a social reformer and educationist, a patriot and parliamentarian and an activist and fighter for formation of Orissa as a separate province. Over and above, he was a scholar par excellence and a versatile litterateur.

Apart from his contribution in those areas, he has his contribution in the realm of parliamentary democracy at the state level as a Speaker of Orissa Legislative Assembly. Functioning from that position, he has strengthened, in a way, the foundations of parliamentary democracy in the post-independence period. What is memorable and remarkable is that he fought a sustained battle to ensure an independent status for our Vidhan Sabha and free it from Government control apart from elevating the prestige and dignity of Speaker's Office. Over

and above, he has left behind an ideal legacy and heritage of values and ideals which he upheld and actualized as Speaker.

Any Oriya with 'swabhiman' would feel immensely proud of Pandit Nilakantha who played such a memorable and significant role at that point of time in carrying forward our nascent democracy in the right direction.



Pandit Nilakantha was elected on May, 27, 1957 as the Speaker of Orissa Legislative Assembly and functioned in this capacity till 1st, July, 1961. He was the right man at the right place and position. Apart from age, he had behind him a rich fund of parliamentary experience as a member of Central Legislative Assembly having already enjoyed a long tenure of nearly two decades along with his five years tenure as a member of Orissa Legislative Assembly (1952-1957). Age, scholarship, wisdom and experience all taken together made him the best choice of the time for the office of the Speaker.

Nilakantha after being elected was warmly welcomed by Members cutting across parties and groups. Even Nityananda Mohapatra who contested him felt proud of having been defeated by so outstanding a personality like Nilakantha.

As the Speaker, he discharged his duty and responsibility without fear or favour upholding with utmost respect Parliamentary rules and procedure.

It is significant to note that after being elected as Speaker, he resigned forthwith from the Congress Party which elected him to Orissa Legislative Assembly. By this significant act, he as Speaker set a healthy tradition like that of Britain where the Speaker is politically neutral and a non party man.

### **Nilakantha : His Style of Functioning as Speaker**

The Speaker is the presiding officer of the Legislative Assembly. Smooth and orderly conduct of the business of the house is his primary responsibility. Independence, impartiality and neutrality are the attributes of a Speaker. His role-performance demands patience, maturity and wisdom to manage both the Government and opposition side on the floor of the Assembly. Over and above, a thorough knowledge and grasp of parliamentary norms and procedure help a Speaker to interpret rules and give his rulings when required.

Regarding how a Speaker should act it has been said: "God has given man two ears and one tongue having a definite purpose so that he keeps both his ears open to hear more but speak less. And that he should speak only that which is proper and reasonable. Those words are very aptly applicable to the Speaker of a Legislature who has to speak less but hear more from both the Government and opposition side and then give a ruling that is just, reasonable and impartial. Those

words are like necessary principles of parliamentary management for the successful discharge of a Speaker's role.

Pandit Nilakantha as the Speaker of Orissa Legislative Assembly was the brilliant embodiment of those afore-said principles and ideals. He acted every inch like an umpire with utmost impartiality and could win the respect and admiration of both the treasury and opposition benches. It was according to many a pleasure and privilege to work under his speakership. Sri Banka Bihari Das, a senior most member of our Assembly speaks of the way Nilakantha gave a patient hearing to everybody's argument with due respect to everybody's opinion. May be at times, some members got a little dissatisfied with him and his ruling but finally at the end they had to bow down before his personality and wisdom.

Nilakantha respected democratic values and norms. Sri Harihara Bahinipati who was an opposition member underlined this trait of Nilakantha's character. Once when he stood up again and again to demand an adjournment motion after question hour, Nilakantha in a commanding and decisive tone directed him to sit down. Mr. Bahinipati left the house as a mark of protest followed by all other Members of the opposition who decided to quit. Consequently Nilakantha adjourned the house with a statement that smacks of his respect for opposition and democratic values. In his statement he said: "it was improper and unreasonable to continue the work of the Vidhan Sabha in the absence of the opposition members".

As a Speaker, he gave many important rulings and decisions. The main thrust of some of those rulings which deserve mention are the following:

- (a) The question of Governor's salary can not be brought under the range and jurisdiction of Assembly debate.

- (b) Taxation policy of Government of India being a central subject can not be discussed in the house.
- (c) Once budget is supplied to Members, it no longer remains a secret.
- (d) The Members of the Vidhan Sabha can speak either in English, Oriya or Hindi as per their convenience and suitability.

As a speaker, Nilakantha was at times very strict and stern on matters of Parliamentary procedure for the smooth regulation of Legislative Business. Regarding raising of points of order once he very sternly conveyed his view to an honorable member. He said to him that no point of order is to be raised on a past issue.

Two important and remarkable achievements of Nilakantha were with regard to his battle for ensuring independent status of Orissa Vidhan Sabha and on the question of the status of the Speaker in the event of dissolution of the Legislative Assembly.

In view of their importance, a detailed discussion is made below.

**The battle for freedom of the Vidhan Sabha from Government control and giving it an independent status and Nilakantha as the foster-father**

When Nilakantha became the Speaker of Orissa Legislative Assembly, it was under the joint control of the Finance and Home Department. The status that Speaker enjoyed at the time was that of a mere departmental head like any other Government Department.

Nilakantha was a Speaker with a difference. A person of sturdy independence with almost a revolutionary mind, he critically analyzed this state of affairs with regard to the subordinate status of Orissa Legislative Assembly and its implication.

From day one, he directed his efforts to free the Vidhan Sabha from Government control with a rationale of his own for its independent status. As has been said, the fundamental question that seriously engaged his analytical and critical mind was: "Is it reasonable for a Government department which only publishes and carries out laws to control the Vidhan Sabha which is the creator of such laws? If that is so, it may so happen that for some reason or other the Government or any Minister of a Department unwilling to implement certain laws might cause unnecessary delay by withholding publication of such laws. In that case laws passed by Vidhan Sabha might turn out to be only laws in pen and paper". This amounted to defeating the will of the representatives of the people manifested in laws.

This was the rationale which made him determined to free the Vidhan Sabha from the control of the Home department and give it a separate and independent status.

Our Constitution under Article 187 (1) recognizes the independent status of a State Legislature when it says "the house or each house of Legislature shall have separate secretarial staff". The Lok Sabha and the Rajya Sabha also acted as independent entities as regards their status. Dr. Ambedkar, the father of the Indian Constitution was also in favor of this independent status for the Legislatures of States. The Government of Orissa, however, was opposed to this demand which was spearheaded by Speaker Nilakantha.

Nilakantha who had the courage of his convictions with tremendous self-confidence in him and his struggle went on having a lot of correspondence with Government of Orissa which however had little impact. A privilege motion was also moved against Government's indifference and callousness on the issue by Sri Harihar Bahinipati,

the then Member of Vidhan Sabha. Following this Nilakantha formed a Committee under his chairmanship with Dr H.K.Mahatab, the Chief Minister and Sri R. N.Singdeo, the leader of the opposition and some other members. The Committee after having discussed the issue threadbare in six Sessions during January, March and April, 1958 submitted its report on 16.04.1958.

**Some of the important recommendations were:**

1. A separate and independent Secretariat free from executive control of Government will be formed under the administrative control of the Speaker.
2. As per necessity, the Speaker will determine the number and strength of employees of the Legislative Assembly.
3. The employees of the Assembly Secretariat will be appointed under Speaker's authority and direction.
4. Their appointment and service conditions will be regulated and controlled as per the rules and laws prepared under Article 187(2) and (3) of Indian Constitution.
5. With the consent of the Finance Department, the budget will be prepared by the Vidhan Sabha Secretariat.
6. The Secretary will directly send proposals to Finance Department and the Finance Department will accord formal approval. In case of difference, it will be resolved by the Speaker.
7. Within the budgetary grants of Vidhan Sabha, the Speaker will be empowered to sanction expenditure.
8. The Secretary of the Vidhan Sabha will issue orders and notifications regarding

employees of the Vidhan Sabha on behalf of the Governor. As per direction of the Speaker, the Secretary of the Vidhan Sabha will manage and regulate the administration of the Secretariat. In case of any disputes regarding any law and rules, the decision of the Speaker will be final.

In spite of the favourable report to free the Vidhan Sabha from the control of the Home Department, the then Home Minister who was also an ex-Chief Justice of High Court was strongly opposed to this change. The Government even then slept over the matter delaying any action on the issue.

Nilakantha was unperturbed. Even now he remained equally uncompromising in his stance. It is said that he issued a note of warning at this stage to Dr Mahatab, the then Chief Minister of Orissa. As he said to him: "The key of the Assembly is with me. Unless this question is resolved, I will lock up the Assembly."

Possibly, the warning worked. Nilakantha's dream came true when Dr Mahatab read out the Home Department order issued on September 26, 1958. As per the order the Vidhan Sabha instead of being subordinate to the Government acquired the status of a separate and independent wing. The Speaker of Vidhan Sabha and its Secretary acquired the status of a Cabinet Minister and Secretary of the Government respectively. All the employees of Vidhan Sabha were freed from Government control and came under the administrative control of the Speaker. Orissa Vidhan Sabha Secretariat was also to prepare its own budget. It was to be included as a separate head in the general budget.

With the Home Department order, the struggle of Nilakantha to give a separate and independent status to the Orissa Legislative Assembly came to a victorious conclusion. It

shows how uncompromising was Nilakantha when a question of principle was involved.

### **Speaker's Tenure Does Not End With Dissolution Of The Legislative Assembly And Nilakantha's Struggle To Establish This Principle**

Nilakantha will be remembered in the history of Vidhan Sabhas in India and that of Orissa in particular for his determined and successful struggle in upholding a constitutional principle as regards the position of the Speaker in the event of its dissolution (dissolution of the Legislative Assembly). That constitutional principle was to the effect that the Speaker's tenure does not end with the dissolution of the Assembly and that he remains in office until the new house meets and a new Speaker is elected.

The question of upholding these principles arose when the Orissa Legislative Assembly was dissolved in Feb, 1961 by the orders of the Governor. It was then argued that a person continues as Speaker only when his membership of the Assembly continues. Since Orissa Legislative Assembly has been dissolved and has ended the membership of all its members including that of Nilakantha it ipso facto ended his tenure. The Speakers of Kerala and Punjab had also lost their Speakership under exactly the same situation which Nilakantha faced. What deserves specific mention is that, that was the existing tradition and ruling norm in the state level.

Pandit Nilakantha who was well-versed in parliamentary rules and norms with a thorough study of constitutional provision was hardly prepared to accept this Government interpretation.

He cited article 179(c) of our Constitution which read: "--- whenever the Assembly is dissolved the Speaker shall not vacate his office until immediately before the first meeting of the assembly after the dissolution".

Over and above, he argued that even if the assembly is dissolved, the Speaker needs to continue in office to exercise administrative control over the Assembly Secretariat which he heads as Speaker until a new Speaker is elected to take over the reins of control.

In this connection Nilakantha not only tried to convince the concerned authorities of Orissa; he even sought a clarification from Central Government to bring round the Orissa Government to his point of view. That apart, he firmly put forward his views and arguments in established and reputed newspapers like "The Statesman" of Calcutta and "The Hindu" of Madras.

This issue regarding Speaker's continuance or non-continuance in the event of dissolution which Nilakantha brought to the center-stage engaged the earnest attention of the Law Department of the Government of India and the Constitution experts in the Central level. Nilakantha drew also the attention of the Prime Minister Jawaharlal and Chief Minister Bidhan Chandra Ray of West Bengal. The vital question which he raised and brought to Consideration was: "whether tradition will stand or constitution has to be honoured? If tradition is to be adhered to, then Constitution has got to be amended. If Constitution has to be honoured then tradition has to be demolished." Finally, the Government of India realized the justifiability and reasonableness of Nilakantha's stands and decided to follow the provision of Constitution overriding existing tradition. In this connection, a letter was finally sent by the Government of India to the effect that Nilakantha's stand was justified being based on law and Constitution. This was undoubtedly a remarkable victory of Pandit Nilakantha in his constitutional struggle.

What prompted him in this connection to fight a battle with Orissa Government to the extent

of going up to the Central level? There appears to be nothing personal in it. He was in fact fighting for the prestige and honour of the Vidhan Sabha and that of the Constitutional office of Speaker. In a way, he was a past master in parliamentary norms and a constitution expert. He had courage and tremendous self-confidence in him to uphold and establish this constitutional principle.

As per reigning tradition, the Speakers lost their tenure immediately after dissolution of an Assembly. Nilakantha changed this trend by his victorious constitutional struggle and made Orissa the trend-setter. From then onwards, the dissolution of the Vidhan Sabha or the State Legislative Assembly was not accompanied by vacation of his office by the speaker. He remained in office until the new house met and a new Speaker was elected.

### **Conclusion :**

Nilakantha was a fighter to the core of his being. He was a revolutionary at heart. Like a revolutionary, he was ever prepared to fight whenever he found something wrong unjust and unreasonable. That was the story of his life and struggle either in the social domain or political arena.

As the Speaker of Orissa Legislative Assembly, he led almost an uncompromising struggle to free the Vidhan Sabha from Government control and give it an independent status of its own.

His sustained and dedicated battle with regard to the position of the Speaker in the event of dissolution of the Assembly deserves recognition for him as a Constitution expert- "a Pandit of our Constitution. But he was a Constitution Pandit or expert with a difference. He was not an arm-chair pandit delivering only academic discourses on politics and Constitution.

But he was a fighter in reality in matters involving and affecting Constitution. It was his determination to see that constitutional sanctity remains in tact- that constitutional provisions get honoured.

He will be definitely remembered in the history of Orissa Legislative Assembly and in the history of the evolution and working of our Constitution in the provincial level for what he did and fought for.

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