

CHAPTER II

TERMS OF REFERENCE AND SCOPE OF ENQUIRY

24. In the first instance the scope of the enquiry should be determined. This it is necessary to do in view of the diverse claims made before us. In particular we have been asked by the protagonists of the Punjabi language to ignore the language distribution figures in the Census Report of 1961 relating to the Punjab in settling the boundary between the Punjabi and the Hindi States.

25. There already exist in the present State of Punjab two regions—Punjabi and Hindi—under the Regional Formula. Division of the State is proposed to be made so that linguistic homogeneity may be secured, i.e. the territory may be so divided that the predominantly Punjabi-speaking area may be on one side of the boundary and the Hindi-speaking area on the other. In implementing this Scheme, the hill areas which are contiguous to the Union Territory of Himachal Pradesh and have cultural and linguistic affinities with that territory are to be transferred to the Union Territory of Himachal Pradesh, and out of the remaining territory the Punjabi-speaking and Hindi-speaking States are to be demarcated. The Punjabi-speaking area will form the new Punjab, and the Hindi-speaking area will be divided between Haryana and Himachal Pradesh.

26. The resolution appointing the Commission sets out certain principles. The Commission is asked to recommend—

- (i) adjustments of the existing boundary of the Hindi and Punjabi regions of the present State to secure linguistic homogeneity;
- (ii) to indicate boundaries of the hill areas of the present State which are continuous to Himachal Pradesh and have cultural and linguistic affinities.

The Commission has to apply the linguistic principle with due regard to the census figures of 1961 and other relevant considerations, and may also take into consideration other factors such as:

- (i) administrative convenience;
- (ii) economic well-being;
- (iii) geographical contiguity; and
- (iv) facility of communications.

The terms of reference are clearly directed to the adjustment of the existing boundary between the regions with a view to secure linguistic homogeneity in the two regions. In recommending adjustments, ordinarily the tehsil may not be broken up, unless the circumstances are so compelling that division of tehsils may become unavoidable.

27. In determining on which side of the proposed boundary a particular territory shall lie, the language of the territory has to be determined having due regard to the census figures of 1961. But mere majority in numbers according to the census figures of 1961 may not in all cases be decisive. If it were otherwise, it would have been unnecessary to constitute this Commission. The Parliament has with it all the materials from the census reports of 1961, and if residence in the area by a majority of a linguistic group according to the 1961 census were the sole test, injunction to take into account other relevant considerations would be otiose, and liberty to take into account factors such as administrative convenience, economic well-being, geographical contiguity and facility of adjustments would be an idle formality. The Commission, as the terms of reference clearly state, has power to determine the boundary for securing linguistic homogeneity in a tehsil or a part thereof on a consideration of the 1961 census figures and other relevant considerations. What are those relevant considerations? Are those considerations which have a bearing on the migration of population, or other factors which have resulted in imbalance since the 1961 census; or do they include—

- (i) exigencies—economic, industrial and commercial; integrity of the irrigation and power systems; integrity of trade channels, of accustomed markets and of means of communications; agricultural and industrial interdependence;
- (ii) historical and political background and security considerations;
- (iii) natural geographical features, such as forests, rivers, hills which stamp an area across the existing boundary with unity;
- (iv) residence by a distinctive group residing in localities across the existing boundary of the regions;
- (v) social and cultural unity of people residing in different tehsils across the existing boundary;
- (vi) special claims of an area which is not included in either region under the Regional Formula.

In our view the expression "other relevant circumstances" in the context in which it occurs and specially having regard to the authority conferred upon the Commission to take into consideration other factors such as administrative convenience, economic well-being, geographical contiguity and facility of communications must have a wide import.