CHAPTER - 4

THE FREEDOM FIGHTER AND THE MEMBER OF THE CONSTITUENT ASSEMBLY
BISWANATH DAS : AS THE FREEDOM FIGHTER

4.A.(i) Introduction :

Biswanath Das was one of the senior leaders of the freedom movement in Orissa. He began his career as an active freedom fighter because during his late childhood, he was influenced greatly by the philosophy and programme of action of the early leaders of the Indian National Congress. The Indian National Congress was founded in 1885 and Das was born in 1889 - four years after the birth of the Indian National Congress. During his youth, when he was a student of Law at Calcutta (1918), he developed a strong sense of hatred towards the British for their imperialist policy of exploitation and merciless oppression of the Indian. Such a sense of hatred was gradually making him a protestor and a rebel. He not only started participating in but not infrequently he was an active organiser of the protest meetings. Thus we are inclined to believe that the period between his late childhood and the late youth was the period of political socialisation for him.¹

During his student days at Calcutta (for the degree of Law) he might have come into contact and being acquainted with the revolutionary and the different secret organisations as a section of the radical freedom fighters were thinking terrorism as the method to fight against the British. But during his stay at Cuttack as the Junior of Madhusudan Das for two years (1918-1920) he got an idea that there are two possible ways or directions of movement for the freedom struggle - first, to join the programme of the Indian National Congress for the independent identity of Oriya or to continue with the UtkalSammilani of Madhusudan Das for the recognition of the Oriya as the separate language and to create the province of Orissa purely on the linguistic basis. The debate had already set in - one group, following Gopabandhu Das, thought that national independence first was to be achieved and, along with it, Orissa would automatically be created; and, the other, that the creation of Orissa was first to be achieved and then only the Oriyas would automatically join the National Freedom Struggle.

Soon after his return from Cuttack to Berhampur, he started legal practice in 1920 at least for a decade (upto 1930), Orissa saw him as an
organiser of the nation's first ever royat (peasants) movement against the local zamindars and mustadars.

4.A.(ii) Participation in the Freedom Movement:

As a freedom fighter, the role of Biswanath Das was unique, in the sense that he stood as a bridge between Madhusudan Das and Gopabandhu Das working simultaneously for both the causes of Orissan integration and national freedom.

(a) The Non-Cooperation Movement, 1920-21:

He, for the first time, entered into the national freedom movement in 1921 after the Mahatma Gandhi's call for total Non-cooperation. Simultaneously he organised the country's firstever forum to activate and perpetuate the peasant movement against the exploitation of the zamindars - Ganjam District Zamindari Royat Association in 1920. Simultaneously he spearheaded the peasant movement by making demands upon the Madras Legislative Council as its member for the redressal of the exploited royats. At the same time, he was organising meetings and rallies to spread and popularise the message of Non-cooperation of Gandhiji.
After 1930, the Indian politics and the programme of the Indian National Congress took a different turn. The Indian National Congress, under the leadership of Gandhiji, acted upon the programme of Civil-Disobedience. It coincided with Gandhiji's decision of the Salt Satyagraha and the famous Dandi March. Das in Orissa, as the wholehearted and front ranking Congressman joined the Civil-Disobedience Movement and courted arrest with his followers. Das, with the active support of Dibakar Patnaik, Niranjan Patnaik, Sarala Devi and host of others directly participated in the Salt Satyagraha of Huma on 8th May 1930. Niranjan Patnaik, advocating a terrorist technique, planned a raid on the salt factory at Huma. This followed the Declaration of the District Magistrate of Ganjam regarding the arrest of the top Congress Leaders of the district. Biswanath Das -
along with others was arrested on 26th June 1930\(^1\).

Biswanath Das was the Premier of Orissa from 1937-1939. Meanwhile the Second World War broke out in Europe and the British Government unilaterally announced India joining the War taking the side of Great Britain. It was vehemently opposed by the Indian

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1. Das was arrested under Section 143 and 117 of the Indian Penal Code and Section 74 of the Salt Law for which he suffered a term of one year in the Central Prison at Vellore. The District Magistrate, Ganjam wrote "as there are some top rowdy elements causing trouble, Mr. Sashibhushan Rath, Editor of the 'Asha' and Mr. B. Das, the ex-MLC, were arrested and convicted: these heads undoubtedly been stirring up trouble behind the scene and they had a great influence among the 'Oriyas'".

National Congress and it instructed the Congress Governments in the provinces to resign as a token of protest. Accordingly Biswanath Das resigned as the Premier of Orissa in December, 1939. After his resignation, he immediately became a true congress activist. He proceeded to Berhampur and started spreading the Congress message through meetings and organisations in 1940.

(c) The Quit India Movement, 1942:

In 1940 he was arrested as the leader of the first batch of Satyagrahis. After his release, he found himself in the midst of the Quit India Movement. It was Gandhiji's everlast strategy to compel the British to vacate India. Das was again arrested in 1942 and put behind the bars continuously for three years. In 1945, with the termination of the Second World War the British released the Congress leaders in the jail. Elections for the Provincial Councils were announced in 1946 and the Indian National Congress decided to take part in the elections. Das, the Ex-Premier of Orissa,
should have contested the elections but he could not.

(iii) Nomination to the Constituent Assembly, 1946:

The Congress's petty politics in the State, did debar Biswanath Das to be away from State Politics. But the National Politics waited for his statesmanship and legal acumen. In accordance with the Congress decision of convening the Constituent Assembly- Das was nominated to the Constituent Assembly in December 1946 to participate on the proceedings to draft the Constitution of India and to shape the destiny of motherland.

1. Uma Charan Patnaik filed a case in the Court against Sri Das alleging severe electoral malpractices during his Premiership. As per the court ruling, Das was debarred from contesting elections for next six years.

BISWANATH DAS : THE MEMBER OF THE CONSTITUENT ASSEMBLY OF INDIA

4.B.(i) Introduction :

With the outbreak of the Second World War and the unilateral announcement of India joining the war by the British Government was protested by the Indian National Congress (INC). It instructed its governments in different states to resign and dissociate itself from administration whatsoever. Accordingly, Biswanath Das resigned as the Premier of Orissa on December 1939.

Under Gadhiji’s leadership, the Indian National Congress told its workers and volunteers to spread the anti-war message and keep the people conscious and aware of participation for liberation by organising meetings, and mixing with them through extensive travelling even to the remotest part of the areas. Accordingly, Biswanath Das came back to Berhampur and spread the message of Gandhiji from towns to the remote villages through meetings and Padayātras. He remained busy with the activities of the Congress till 1946 when he was nominated as a member to the Constituent Assembly.
(ii) Participation in debates:

(a) The "Objective Resolution":

In the Constituent Assembly, Biswanath Das left an indelible mark of being a seasoned parliamentarian and well-informed debator. On 13th December 1946, Pandit Jawaharlal Nehru moved the "Objective Resolution" for the approval of the Assembly. As per the request of the mover, the resolution was to be approved and adopted at the beginning so that it would define the future course of progress. Dr. M. R. Jayakar moved an amendment suggesting adjournment of consideration of the Resolution for a month. It was opposed by Das on the ground that the purpose behind the Resolution was to determine the goal and to delineate the path to the goal. If the Resolution was not to be adopted at the beginning both the goal and the direction of movement towards the goal might be missing.¹

¹ See, Constituent Assembly Debates, Vol. 1, p. 120.
Dr. Ambedkar, the Chairman of the Draft Committee objected to the Paragraph 3 of the Resolution. This particular paragraph was on the powers of the small provinces to part with certain powers to be given to the Centre in their administrative and economic interest. Dr. Ambedkar was specifically not satisfied with the omission of the word "grouping" in paragraph 3 of the Resolution. Das argued that the omission should not be taken seriously, because the Resolution did not say anything against grouping and as such the matter of grouping was lying open. Simultaneously the Resolution conceded autonomy to the units, and to decide their future course whether to handover some power to the Centre in their administrative and economic interest.

The Secretary of States' Negotiating Committee objected to the term "Independent Sovereign Republic" and to the statement that such a Republic would derive its powers from the people. Das criticised such an objection. He pleaded that the only and onerous duty of the Assembly is to frame a Constitution for India. When the British would finally handover power to India and India would be left to
decide its own future, paramountcy would be immediately lapsed. For the purpose of making the Constitution, the powers whatsoever must be derived from the people.¹

(b) Criticism of the British Parliament:

Das could not tolerate the criticism against the Assembly inside the British Parliament that, it was a Caste Hindu Assembly. He countered the opposition claiming that the Assembly had been represented by the people coming both from the majority as well as the minority communities. Hence it was the Assembly of the people of India.

Taking part in the discussion on the Resolution from start to finish, Das developed interest mainly on four different aspects -

¹ See, CAD, Vol. I, p. 120, op. cit.
(a) the ideals and the purposes for which the people were fighting the Freedom Movement;
(b) the sovereign territory of India on land, air and ocean;
(c) the provision pertaining to the power to be derived from the people, and
(d) guarantee for individual freedom and safeguards for minorities, tribals and backward classes.

At the end of the participation, Das emerged as an important spokesman of the Congress and made the demand in the Assembly that the Resolution be approved in toto.¹

(iii) Fundamental Rights:

On 23rd April 1947, Sardar Vallabhabhai Patel, Chairman of the Committee on Minorities and Fundamental Rights submitted the Interim Report of the

¹ CAD, op. cit. p. 122.
Committee to the Constituent Assembly, (the Annexure to which, contained the Draft Fundamental Rights which would be justiceable). Das joining the debate, drew the attention of the House to Clause 2. Referring to the Clause, Das reminded the House that the implications of the Clause should be examined fully and cautiously before the House finally adopted the clause and for this, the House must fully examine the extent of abrogation.

1. The Clause read, "All existing laws, notifications, regulations, customs or usages in force within the territories of the Union inconsistent with the rights guaranteed under this part of the Constitution shall stand abrogated".

See, CAD, Volume III, pp. 53-54.
(iv) "Language of the Minority Communities":

Article 23(1) of the Draft Constitution provided for opportunity to the linguistic minorities to the extent 'citizen residing in the territory of India or any part thereof having a distinct language, script and culture of its own have the right to conserve the same'. During the debate Das apprehended that such a provision might perpetuate different culture zones and create linguistic and script difficulties. Second, the question could not be considered irrespective of the size of the minorities. Third, the provinces might not be in a position to fulfil adequate and appropriate financial requirements for opening and teaching in the schools in so many varieties of languages and scripts. He appealed the House to seriously consider the difficulties, while considering the question of protecting the interest of minorities.  

1. See, Annexure - 9
On the question of the election of the President of India, Article 43 of the Draft Constitution provided for an indirect election by an electoral College consisting of the members of both Houses of parliament and Elected members of state Legislatures.

Prof. K.T. Shah, proposing an amendment, sought to substitute for indirect election of the President by all the adult citizens of India.

Das opposed such an amendment on two different grounds. First, it might go against the very basic principles of Parliamentary responsible government already adopted by the constituent Assembly. And Second, there might remain a possibility of a conflict between an elected Parliament and a popularly elected President.¹

¹ See Annexure - 10
(vi) On Adult Suffrage:

On the question of Adult Suffrage, Article 149 of the Draft Constitution made a provision for direct election of State Legislative Assemblies and laid down that every citizen who is not less than 21 years of age and not otherwise disqualified under the Constitution or any law made by the State Legislature shall be entitled to vote in Assembly elections. Joining the debate, Das dwelt upon three aspects connected with the problem. First, he welcomed the provision that recognised the equality of the citizen and their right of participation in the process of government of the States. Second, since the provision may enlarge the electorate, he suggested for a fresh census so that all eligible adults could become valid voters. Third, since the majority of the voters were illiterate, proper educational facilities should be created and provided for them. Also steps should be taken immediately for proper delimitation of constituencies.¹

¹. See Annexure - 11
(vii) On General Elections:

The report of the Union Constitution Committee was submitted to the House for adoption. On the question of election in India Clause 24, provided that all elections in India shall be under the superintendence, direction and control of an Election Commission to be appointed by the President of India.

H.V. Pataskar moved an amendment suggesting that only federal election should be entrusted to the Election Commission but the provincial elections should be entrusted to the Governor of the province or some other appropriate authorities. Das, however, took a different stand on the provision. Referring to the past experiences on the conduct of elections, he felt that it would be more practicable to leave the conduct of elections to the provinces subject to the control and superintendence of these elections by a Central Authority. Since elections would be conducted on party lines, he felt the urgency of two different and
The participation of Sri Das in the making of the constitution is, in a way, unique. A dispassionate analysis of the views on the various issues, that came in course of the debate of the House, clearly proves the alertness of his mind to the implications of the various provisions. He put forward his views with frankness and boldness but so sincerely and innocently as to persuade other members to his own line of thoughts. The sincerity with which he expressed his views clearly explains his singleminded devotions to the task of constitution making.

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1. Das pleaded "....... it is necessary that a distinct division should be kept in view, namely that the provinces should conduct the elections and the Central Authority should have a watchful eye over the superintendence and control of these elections". See, Volume IV, pp.919-920.
Das had an absolute faith in the Constitution that was in the making. It was because, he thought, the Constitution alone would shape, after century-long subjugation to the foreign rule, the destiny of the nation. The moment he joined the Constituent Assembly, he was conscious of one single fact that making a constitution was not a child's play; it required a lot of statesmanship, acumen and far-sight. Thus, in course of participating in the discussions, he was telling what he meant. ("Biswanath as the Freedom Fighter ", has also been dealt within Chapter 1 and Chapter-2).