

# COMMITTEE OF PRIVILEGES

(SIXTH LOK SABHA)

THIRD REPORT

[Vol. II—EVIDENCE]

*(Presented on the*

1978



LOK SABHA SECRETARIAT  
NEW DELHI

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**COMMITTEE OF PRIVILEGES**  
**THIRD REPORT**

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**g/26 LSS/78-1**

**EVIDENCE BEFORE THE COMMITTEE OF PRIVILEGES ON THE QUESTION OF PRIVILEGE AGAINST SHRIMATI INDIRA GANDHI AND OTHERS FOR ALLEGED OBSTRUCTION, INTIMIDATION, HARASSMENT AND INSTITUTION OF FALSE CASES AGAINST CERTAIN OFFICIALS WHO WERE COLLECTING INFORMATION FOR ANSWER TO A CERTAIN QUESTION IN LOK SABHA ON MARUTI LTD.**

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MINUTES OF EVIDENCE TAKEN BEFORE THE COMMITTEE OF PRIVILEGES

Friday, the 6th January, 1978

PRESENT

Professor Samar Guha—*Chairman.*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri Hitendra Desai
4. Shri Krishan Kant
5. Professor P. G. Mavalankar
6. Shri R. Mohanarangam
7. Dr. V. A. Seyid Muhammed
8. Shri Narendra P. Nathwani
9. Shri Meetha Lal Patel
10. Shri B. Shankaranand
11. Shri Ravindra Varma
12. Shri Narsingh

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

WITNESSES

- (1) Shri Kanwar Lal Gupta (*Member, Lok Sabha.*)
- (2) Shri Madhu Limaye (*Member, Lok Sabha.*)

(*The Committee met at 11.00 hours and again at 15.00 hours*)

(i) Evidence of Shri. Kanwar Lal Gupta.

MR. CHAIRMAN : Shri Kanwar Lal Gupta, we welcome you here. Shri Madhu Limaye has been busy in connection with a meeting of the Consultative Committee. He will be coming by 3 O' clock. Besides what you have written, if you have any additional points to point out you can say about them. Mr. Madhu Limaye has also written that Shah Commission is not in a position to give authorised documents. We will have the advice of the Speaker and also the Attorney

General, if necessary. You may enlighten us how we can verify what you and Shri Madhu Limaye have told us. These are the main points and you may tell us who are the main persons whom you think should be called.

SHRI KANWAR LAL GUPTA : Thank you Mr. Chairman, and Members of the Committee for inviting me here. When I received your letter I wrote to the Shah Commission. They told me, it is not possible to give the official copy of the statements. I can send you that original letter. I had a talk with the Secretary. He said that official witnesses who spoke can have a copy of the statement made before the Shah Commission. It will be possible for you to ask the witnesses who appeared before the Shah Commission to provide the official copy of the statement made before the Shah Commission. It is for the Committee to decide. If you have that you will have some material on the basis of which you can proceed. So, I have suggested a *via media*. You may get copy of the statements from the witnesses. That is one thing.

SHRI KRISHAN KANT : Can you tell us whom we should examine ?

SHRI B. SHANKARANAND : It is not for him to say whom we should call, when, and how because it is for the Committee to decide. Let him give his evidence and then we can decide.

MR. CHAIRMAN : It is not that the Committee is bound by his suggestion. The Committee will decide who should be called. It is on our suggestion that he is suggesting names. That is all.

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**SHRI KANWAR LAL GUPTA :** I agree with you that it is for the Committee to decide. I can only suggest—as you have asked me—and to arrive at a judicious conclusion, I have mentioned three names. They are : Former Prime Minister, Smt. Indira Gandhi, Mr. Dhawan and Shri D. Sen. I have mentioned these three names. Mr. Madhu Limaye has mentioned the name of Smt. Indira Gandhi and others. In others we may add the name of Shri Sanjay Gandhi. This Committee may invite these four persons. They could give their evidence. Before the Shah Commission these four persons—particularly Mrs. Gandhi and Shri Sanjay Gandhi—have not appeared so far. To arrive at a judicious conclusion, I feel, these two persons must be called.

Besides these four persons the concerned officers may also be called. They are :

Mr. R. Krishnaswami, the then Deputy Secretary in Ministry of Heavy Industry.

Mr. A. S. Rajan, Development Officer, DGTD.

Shri L. R. Kaule, Chief Marketing Manager, PEC.

Shri P. S. Bhatnagar, Deputy Marketing Manager, PEC..

The former Commerce Minister, Shri Chattopadhyaya should also be called.

**MR. CHAIRMAN :** Why Mr. Chattopadhyaya be called ?

**SHRI KANWAR LAL GUPTA :** He also appeared before the Shah Commission and he has said there that he had been called by the former Prime Minister and told that there were allegations against these officers. He was influenced by what she said. My contention is that she tried to influence even the Commerce Minister. He had acted without applying his mind think-

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ing that the Prime Minister had satisfied herself about the seriousness of the complaint.

In a way Mr. Chattopadhyaya is also involved in this case. Besides these four persons, I think, he should also be called. His evidence will be more important because to what extent it was justifiable for him to take action just because he was asked by the Prime Minister to take action without any basis. He can enlighten the Committee.

Then Mr. D. Sen, Mr. Pai and Mr. Dhawan. Sir, I have quoted in my note :

“Mr. Justice Shah : Suppose the complaint had been made to you, what would you have done.

Shri Chattopadhyaya : I could not think that the Prime Minister would not have applied her mind completely on this matter”.

Then, Sir, Mr. Rajan has mentioned about Sanjay Gandhi :

“Mr. Rajan stated : He met Mr. Sanjay Gandhi through Mr. B. M. Lal of Balliboi after three months or so after the ..... at his house to explain the position.

“After listening to me and Mr. Lal, who also spoke on my behalf Mr. Gandhi merely stated in Hindi that ‘Why I was collecting the information about Maruti’. He did not say anything else. In spite of this visit, no relief was given to me”.

Sir, I am trying to make out the case that these officers should be called.

**SHRI B. SHANKARANAND :** From where are you reading ? Are you reading from Memorandum No. 7 ?

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**SHRI KANWAR LAL GUPTA :** I have not got a copy of that memorandum. I am reading from my own notice of privilege which I gave to the Speaker.

**MR. CHAIRMAN :** I want to know whether you are reading something which you have not produced before the Speaker or raised on the Floor of the House. Whatever you have adduced before the Speaker as your case for the privilege that has been circulated and whatever discussion has been held in the House that has also been circulated. The question is whether you are saying anything besides those notes.

**SHRI B. SHANKARANAND :** You said that you were reading something which was not before the Committee.

**SHRI KANWAR LAL GUPTA :** No. No.

I wanted to know whether you were reading from your papers, or from Memo. No. 7.

**SHRI KANWAR LAL GUPTA :** I do not know the number of the Memo. I have not seen it.

**SHRI B. SHANKARANAND :** It is all right.

**MR. CHAIRMAN :** It is common knowledge that whatever notes are given to the Speaker and whatever information is given to each and every Member, is not secret. Mr. Gupta, you can go ahead.

**SHRI KRISHAN KANT :** He can give whatever he has already given. He can give more, if he wants.

**MR. CHAIRMAN :** Mr. Gupta, if you say something which is not included in your note to the Speaker and which you have not raised in the House, you can indicate it so.

**SHRI KANWAR LAL GUPTA :** I have given a detailed note to the Speaker. After going through this note, if the Committee want some clarification, I am prepared to give it, viz. whether, as per the

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rules of procedure in Parliament this case amounts to a breach of privilege or not. If any Member of this Committee is not clear and asks a question, I am prepared to clarify. And even about the facts, I have given certain information; and it has not been said by anybody that the facts are wrong. So far nobody has denied it.

**MR. CHAIRMAN :** You have presented the case. The question whether there is denial or not, will be taken up later.

**SHRI KANWAR LAL GUPTA :** The presumption is that so far, it is correct.

**MR. CHAIRMAN :** We don't want to presume either that it is correct, or that it is not.

**SHRI KANWAR LAL GUPTA :** It is for you to decide. So far as I am concerned, I am free to draw my own conclusions.

**SHRI KRISHAN KANT :** The whole question started, because we started asking questions. But he can state his case, as he considers fit. These are matters for consideration. He can make a statement; and based on it, we can question him.

**MR. CHAIRMAN :** He took up the third point first, out of the three points on which I questioned him. He has just now read out the names of witnesses to be called. In that connection, he mentioned the name of Mr. D. P. Chattopadhyaya.

Mr. Gupta, please give any other names you want to suggest.

**SHRI KANWAR LAL GUPTA :** I think this Committee should call Mr. B. M. Lal of Messrs Baliboi, because he went to Mr. Sanjay Gandhi with that officer. He can be asked to corroborate whether the facts stated by that officer were correct or not.

**SHRI B. SHANKARANAND :** Mr. Gupta, may I request you to make a statement first ?



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MR. CHAIRMAN : Let him finish, Mr. Shankaranand, if he wants to suggest any other name.

SHRI KANWAR LAL GUPTA : I should be permitted to finish what I want to say.

SHRI B. SHANKARANAND : Mr. Chairman, before making his case before this Committee, he is giving the names. Let him state his case and then say that for such-and-such purposes we should call certain witnesses.

MR. CHAIRMAN : It is expected that we are acquainted with all the facts; I, only wanted to see that time is not wasted.

SHRI B. SHANKARANAND : Has he come only to give the names ?

MR. CHAIRMAN : I asked him 3 questions; and he took up the last question first. There is nothing wrong with it. On the basis of that, you can ask him why he is suggesting that these persons should come here and give evidence.

SHRI KANWAR LAL GUPTA : Then you should call Mr. Vijayan, former Superintendent of Police, CBI, because he was asked to investigate against the 4 officials and he had given his report also. The copy of the report should also be called for. Then Mr. A. B. Chaudhury, Joint Director, CBI should be called, because he asked Mr. Vijayan to give a note recommending the suspicion and arrest of those officers. I have already mentioned Mr. D. Sen, Mr. R. K. Dhawan and Mr. T. A. Pai. Mr. Bishen Tandon who is now Chief Secretary of the Delhi Administration should also be called, because his evidence will be very important for the reason that Mr. Tandon said that it was all right to treat the information given by Mr. Dhawan as emanating from the Prime Minister herself. We should ask him on what basis he said so. To my mind, these are the persons who should

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be called. I am prepared to clarify my views about each and every person mentioned by me.

MR. CHAIRMAN : I want the opinion of my colleagues on the important points raised by Mr. Shankaranand, viz. that Mr. Gupta may be requested to give his explanation or justification for this case first. But as I have said, he has done it in his note to the Speaker, and in what he said before the House. Both the notes have been circulated. On the basis of this, you can ask questions now. If need be, we can ask him to appear again at a later stage.

PROF. P. G. MAVALANKAR : Whatever Mr. Kanwar Lal Gupta had to say has been communicated to Speaker, and that has all come to us. We have also before us the relevant proceedings of the Lok Sabha. But since Mr. Gupta has come here today in person, I think, it would be helpful, if he can briefly state his case on the matter, without necessarily going into all details and certainly not repeating the various points, as to why and in what manner and for what reasons he thinks that breach of privilege is involved. He has started with the latter part first, namely, about calling the individuals. X or Y or Z. He may make out his case why and how these individuals that he has mentioned are involved. Later on, if the Committee feels that he should be called again, he may be requested to come again. Now, let us take advantage of his presence today and see if he has anything to add.

SHRI KANWAR LAL GUPTA : I have given a note. That might have been circulated to the Members. On the basis of that note and the evidence that this Committee may collect later on, you may prepare a questionnaire or points which I am supposed to answer or clarify. If you give me the points and then call me, I can clarify those points. In the first instance, I have made out a *prima facie* case. I have

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given a detailed note to the Speaker. If any Member wants any clarification on any of the points, I can explain before the Committee. Please give me the date. Or, you can tell me just now the points on which the Committee wants clarification.

**MR. CHAIRMAN :** You have mentioned the names of persons who, you think, should be called. If you tell us why you think these persons should be called, that will help us.

**SHRI KANWAR LAL GUPTA :** That I can explain even now.

**DR. V. A. SEYID MUHAMMED :** We should know what you consider to be facts as distinct from allegations which will constitute breach of privilege. Mere allegations are not facts.

**SHRI NARENDRA P. NATHWANI :** Whatever he states by way of facts or allegations have to be examined by us. We have to see whether the allegation is established or not. If we come to the conclusion that it is established, then it is a fact. Whether in a civil matter or in a criminal matter, the statements made either in the complaint or plaint are referred to as allegations. Here when a person comes forward, formulates his case and raises the question of privilege, he makes certain statements. What I am trying to point out is this. So far as the witness is concerned, he has no personal knowledge of anything stated. He is giving the basis on which, he says, in his view, a *prima facie* case of breach of privilege has arisen. This is his position. I do not think that the witness claims to have any personal knowledge of having seen a thing or having heard anything which can be said to be a statement of fact. Therefore, with great respect, I would say that I have not been able to understand the distinction which is sought to be made so far as this witness is concerned between 'allegation' and 'fact'.

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**SHRI KRISHAN KANT :** These things can be decided by us later—what is allegation and what is fact. What Prof. Mavalankar wanted was, Mr. Gupta might outline and state his case, how breach of privilege arises and also how the various persons, who are to be called in that connection are involved, so that on that basis we can ask questions. If you go into the legality now, as to what is fact and what is allegation, it will not lead us anywhere. The Committee can decide that.

**MR. CHAIRMAN :** Mr. Gupta has nothing to do with 'allegation' or 'fact'. On the basis of rules, he has presented certain things. Whether something is a mere allegation or can be justified by facts, it is for us to decide. Now, for the sake of our understanding and to enable us to proceed in the matter, as Prof. Mavalankar and Mr. Krishan Kant have said, you may present your case, Mr. Gupta, and tell us why, you think, those persons should be called.

**SHRI KANWAR LAL GUPTA :** Sir, I am going to make a request to you that I should be given a chance, after you have completed taking evidence of both sides, to prove that the material available with the Committee clearly shows that it amounts to a breach of privilege. In the end, I should be given an opportunity to appear before the Committee and explain the whole position on the basis of the material available.....

**MR. CHAIRMAN :** We shall keep it in view.

**SHRI KANWAR LAL GUPTA :** Copies of statements and all other materials should be supplied to me.

**MR. CHAIRMAN :** That is not permissible according to the convention.

**SHRI KANWAR LAL GUPTA :** This is my request to the Committee. It is my request ; it is for the Committee to decide.

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**MR. CHAIRMAN :** In another case it came up and it was the decision of the Committee that we could not supply anybody except the Members of this Committee any paper that comes before this Committee; all papers are to be treated as strictly confidential.

**SHRI KANWAR LAL GUPTA :** You expect me to reply to something which I do not know?

**SHRI B. SHANKARANAND :** Do not reply; you are not compelled to reply.

**MR. CHAIRMAN :** We have taken enough time now; let us proceed to business.

**SHRI B. SHANKARANAND :** If you have got anything more to say, than what you have already said in your notes, etc. you may please do so.

**SHRI KANWAR LAL GUPTA :** At this stage, if you want to ask me anything, I shall answer. I have given all the details in my note and in my speech before the Lok Sabha.

**MR. CHAIRMAN :** Briefly answer my question: why do you ask Mrs. Gandhi to appear before this committee?

**SHRI KANWAR LAL GUPTA :** Because Mrs. Gandhi obstructed four officers who were deputed to collect information about Maruti. They were suspended at the instance of Mrs. Gandhi only because they went to collect information from Maruti factory. It means obstruction in the proper functioning of the House which means breach of privilege. It was because Sanjay Gandhi was, and perhaps is even now, the managing director and he is her son. Being the leader of the House as well as Prime Minister, she obstructed the proper functioning of the House; that is why it is breach of privilege.

**SHRI B. SHANKARANAND :** What is the specific action by which Mrs. Gandhi obstructed, apart from inference?

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**SHRI KANWAR LAL GUPTA :** It is not inference. She asked Mr. Chattopadhyaya to suspend that officer who went there for investigation and ultimately he was suspended. If you go through my note, that will clarify the whole position. Her role was active in this and at every stage she tried to obstruct the proceedings of the House so that correct information could not be given to the House by Mr. Pai who was the then Minister. Those officers were in a way representing the House. Mr. Sen of the CBI and Mr. Chattopadhyaya and all the other officers say—in reply to the question; why he did not make an enquiry—that the Prime Minister instructed him to take action and he says that he presumed that what she said was correct. So the role of Mrs. Gandhi in this matter led to the suspension of these officers or action being taken against those officers who tried to gather correct information for the House.

**MR. CHAIRMAN :** What about Mr. Sen?

**SHRI KANWAR LAL GUPTA :** Mr. Sen has also said that the then Prime Minister had insisted that they should go ahead with the enquiries and he had done as ordered. It was not usual for the CBI chief to receive information from the Prime Minister's Secretariat and there was no material before Mr. Sen. But because he was asked by Mrs. Gandhi's Private Secretary, he ordered enquiry and he forced the officers to recommend their suspension. So, he is also involved in this. In his detailed evidence before the Shah Commission, he has also confessed.

**SHRI B. SHANKARANAND :** Do you personally know the actual grounds for their suspension or you are just telling from the press reports only?

**SHRI KANWAR LAL GUPTA :** I do not know personally.

**PROF. P. G. MAVALANKAR :** How can such a question be permitted, Mr. Chairman?

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**MR. CHAIRMAN :** Mr. Shankaranand, perhaps, I may remind you that we had a discussion in the beginning itself as to what is allegation and what is fact and we have said that this is neither allegation nor fact. There was some information which provided the background for a *prima facie* case and therefore it has come to the Committee. Now, the hon. witness has said in the beginning itself that he has no personal knowledge about this and that it is all based on the press reports. Therefore, this type of question does not follow immediately.

**SHRI B. SHANKARANAND :** After his answer, I will tell why I have put this question.

**MR. CHAIRMAN :** Now, you tell us why you want Mr. Dhawan to be examined.

**SHRI KANWAR LAL GUPTA :** It is because Mr. Dhawan asked the CBI chief to make enquiries against those officers, though there were no serious complaints against them and Tandon has also confirmed this. Let me quote "He has been told by Mr. Tandon to treat the instruction given by Mr. Dhawan as that emanating from the Prime Minister herself". So, he has also played some role in this.

**MR. CHAIRMAN :** Why do you want to involve Mr. Sanjay Gandhi also?

**SHRI KANWAR LAL GUPTA :** Everything revolves round Maruti. Practically he was managing the whole show and the whole Government. That is obvious.

**MR. CHAIRMAN :** This is not very relevant Mr. Gupta.

**SHRI KANWAR LAL GUPTA :** I am giving my own impression. Let me quote on the basis of my note, "One of the Officers who were suspended, was advised by some of his friends that since the whole episode has happened *vis-a-vis* the Maruti affair, it could be appropriate if he could put the matter in proper

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perspective to the Managing Director of Maruti Limited, i.e., Mr. Sanjay Gandhi and that Officer, perhaps Mr. Rajan, met Mr. Sanjay Gandhi through Mr. B. M. Lal, after the house of Mr. Rajan was raided, to explain the position to Mr. Sanjay Gandhi and after listening to that Officer and Mr. Lal, Mr. Sanjay Gandhi has said 'why are you collecting information about Maruti?' That was the question which was put to the Officer who was later suspended. Can anybody stop the Parliament from collecting information to give answer on the floor of the House? This very sentence clearly shows that this officer was suspended because he was collecting information for the House.

**MR. CHAIRMAN :** Why did you mention Mr. T. A. Pai ?

**SHRI KANWAR LAL GUPTA :** Mr. Pai's evidence is the most important one because he was the then Minister and he can explain the whole position as to what was the role of Mrs. Gandhi and Mr. Sanjay Gandhi and all those Officers who have committed breach of privilege in this case and in my note I have given some details of his evidence before the Shah Commission. That clearly shows that he is one of the most important witnesses.

**MR. CHAIRMAN :** Has anybody to ask any preliminary clarification ?

**SHRI NARENDRA P. NATHWANI :** Some time had gone by after the matter was referred to the Privileges Committee. Some evidences remained inconclusive at that time before the Shah Commission. I would ask him to find out if there has been any further evidence given by any one of these witnesses before the Shah Commission and pass on the information to us. In this context, for instance, I may refer to Page 9, Memorandum No. 7. It has been stated there, in his inconclusive testimony, Mr. D. Sen, former CBI Director said, 'he had ordered investigations on the basis of information provided by Mr. Dhawan'. Later on, was there any

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further evidence given by Mr. Sen ? If so, to what effect ? I would request the witness if he knows how about it and whether he would like to make further enquiry and pass it on to the Committee.

SHRI KANWAR LAL GUPTA : I shall make the necessary enquiry and if I find any material I shall pass it on to the Committee. I hope you have noted my request to be called to appear before the Committee again at the end.

MR. CHAIRMAN : Yes.

SHRI NARENDRA P. NATHWANI : Any help that the witness may render us is welcome.

PROF. P. G. MAVALANKAR : If he comes across any new points or fresh material, he can pass it on to the Committee.

MR. CHAIRMAN : I have already said that any further information that he can give will be helpful to the Committee and will be welcome.

Thank you, Mr. Gupta, for coming and giving evidence before us.

SHRI KANWAR LAL GUPTA : Thank you.

(The witness then withdrew)

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(The Committee reassembled at 15.00 hours.)

(ii) Evidence of Shri Madhu Limaye, M.P.

MR. CHAIRMAN : Mr. Limaye, we welcome you to this Committee. Your motion has been accepted and forwarded to us. We would like you to give a resume of the reasons why you consider this point to be a breach of privilege. Secondly, kindly give us a list of the persons whom you want that we should call before this Committee to give evidence, and the reasons why we should do so.

SHRI MADHU LIMAYE : The Committee will have to satisfy itself that a serious breach of privilege has really been committed. In order to do this, the fundamental question that will have to be looked into is whether the officers who were seeking to collect information in order to answer the parliamentary questions should be deemed to be in the service of the House. Because, it is the right of the member to ask questions. If you look into the relevant rules, a right is conferred on the members to ask questions, subject to certain conditions. So, if a question is admitted by the Speaker and it is put on the list of questions, then it becomes the bounden duty of the Ministry and its officers to collect the information and give a proper answer. There have been rulings and observations by the Speaker that each question should be fully answered, and if it is divided into a, b, c and d, each question should be separately answered. So, my first contention is that the officers who were trying to collect information were in the service of the House, and if any obstruction is created, or they are in any way prevented or harassed, it is not only harassment of the officers, but it is a contempt of the Members of Parliament and of the House. This is the foundation of my privilege motion.

I have cited many authorities and, if necessary, I will later on make a copy

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and hand them over. It has been held that obstruction or interference with such persons in the exercise of their rights, or the discharge of their duties... may be treated as a breach of privilege. Then, a contempt committed against one Parliament may be punished by the succeeding Parliament. Therefore, although this breach of privilege has taken place during the term of the Fifth Lok Sabha, certainly, the Sixth Lok Sabha can take cognisance of it, because then it was not known that a breach has been committed. You can take cognisance of them and certainly punish them.

MR. CHAIRMAN : Are there any examples in our country ?

SHRI MADHU LIMAYE : It is something unparalleled. But for the Shah Commission proceedings, the truth would never have seen the light of day. Everything was done behind the scenes. That is why I have given some background.

MR. CHAIRMAN : You may pass on all the references to us.

SHRI MADHU LIMAYE : I will give the page number and the edition also. The background is Question No. 4175, answered on 11th December, 1974. I will read the question as admitted :

"Whether according to the Maruti Limited Annual Report and Accounts for 1973-74, filed with the Registrar of Companies, Delhi, a part of the plant and machinery and equipment installed and in the process of installation referred to at pages 16 and 17 of the said Report has been imported from abroad ;

- (b) if so, the details of the imported items of plant, machinery and equipment; and
- (c) the magnitude of the imports as a percentage of the total value

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of the plant, machinery etc. mentioned in part (a)."

The answer reads :

"(a) No such statement has been made in the Annual Report and accounts referred to above.

(b) and (c). Do not arise."

The original question was mutilated before its admission. I processed the annual report. In the report there was reference only to plant and machinery. I wanted to know whether a part of the machinery installed, or in the process of installation, in the Maruti Car factory in the Gurgaon District of Haryana is imported. I knew that the report does not make a mention of any import and it is not likely to make such a mention. But in the reply they say that according to the report this has not been so. Naturally, since the question was mutilated, the reply was "No".

About the second question, there was some correspondence. I would like the Chairman of the Privileges Committee to call for copies of the very strong letters I wrote to the Speaker at that time. I have some copies with me, but the record is not complete. I will mention the dates : one letter I wrote on 12th December, 1974; another letter I wrote on 16th December, 1974; another letter on 29th January, 1975. Then I received a reply from Mr. P. K. Patnaik, Additional Secretary, on 6th February, 1975, and there he says that this was due to misunderstanding and inaccurate appreciation of the implications of the question; then he has said, 'We own the mistake and express our regret...' The final letter is dated 13th March, 1975. This letter was written because the second question to which you referred, No. 2980, although it was not mutilated, was not answered properly: you will see that (a), (b) and (c) have been combined contrary to the instructions of the Speaker.

The question was :

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"(a) Whether a part of the machinery installed or in the process of installation in the Maruti Car Factory in Gurgaon District, Haryana, has been fabricated in, and imported from, foreign countries ;

(b) if so, the details of the imported machinery;

(c) the total value of such imported machinery."

The answer is :

"No, Sir. M/s. Maruti Limited did not seek any import licence for importing machinery, nor were they given any such permission."

I had not asked whether they sought an import licence...

SHRI RAVINDRA VARMA : I think, (d) contains that.

SHRI MADHU LIMAYE : (d) is different. I am not disputing (d). I am talking about (a) to (c). They have clearly evaded answer to my question. Then they have said :

"... Some of the machinery installed in M/s. Maruti Limited have been purchased by the firm from within the country, from the dealers in machine tools, who are allowed to sell them on 'stock and sale' basis."

Now, the whole point is, M/s. Batliboi and Co. were allowed to import machinery from East European countries and sell them on 'stock and sale' basis. They were perfectly within their rights to import this machinery, but the conditions of licence precluded Maruti from making use of this machinery without the prior permission of the Government. That is the implication. So, this is the background. Subsequently, other Members took up this question and pursued it...

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**SHRI HITENDRA DESAI :** Was this Question replied to orally ?

**SHRI MADHU LIMAYE :** This was an Unstarred Question. Naturally I could not elicit further information. After that, in the subsequent Sessions, I could not be present. In fact, all the questions which I had prepared, after my arrest I could not pursue. But there were other Members who pursued these questions. It was in connection with that, information was sought to be collected, and about four officers are involved.

I will place before the Committee the statement made by Shri T. A. Pai, former Minister of Industries, Government of India, before the Shah Commission. This is not a certified copy, Mr. Pai gave it to me. . .

**MR. CHAIRMAN :** What are the other questions ?

**SHRI MADHU LIMAYE :** I tried to get this information from the Parliament Library; I could not. At that time I was not a free man. We have to look into the report of the Assurances Committee.

Now, I shall read out the statement of Mr. T. A. Pai. I make it clear that it is not a certified copy.

**SHRI B. SHANKARANAND :** The statement made before the Committee should be a verified one.

**MR. CHAIRMAN :** We accept it in good and honest faith, with the rider, subject to verification.

**SHRI MADHU LIMAYE :** your office wrote to me saying that all these statements should be obtained by me. I told them that the Shah Commission would not give a copy. . .

**MR. CHAIRMAN :** It will not be accepted as a final document until it has been verified ; it is only a tentative document.

**SHRI MADHU LIMAYE :** You may take it for what it is worth.

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**SHRI B. SHANKARANAND :** We do need your help in coming to right conclusions. But, I am afraid, the statement is not a verified one. It should not go on record. It will go on record the moment you read out. . .

**SHRI MADHU LIMAYE :** I could as well have read out from the newspaper. Treat it like that.

**SHRI B. SHANKARANAND :** The moment you say that this is what Mr. Pai gave you and that it is a statement made by him before the Shah Commission, the situation is different. If you say that it is from the newspapers, that is another matter. These are two different situations.

**SHRI MADHU LIMAYE :** I am telling the truth.

**SHRI B. SHANKARANAND :** We have nothing to say about it. My only fear is that an unverified statement will go on record.

**PROF. P. G. MAVALANKAR :** It does not matter. It is subject to Chairman's saying that it will be verified.

**MR. CHAIRMAN :** It is known to all of us that, even if it goes on record, this is absolutely a confidential record. There is no question of its going out.

**SHRI MADHU LIMAYE :** The proceedings of the Committee, as far as I know, are not published. Only some documents are published.

**SHRI B. SHANKARANAND :** My fear is that once it goes on record, then the Committee may say : why should we call again further records from the Shah Commission ?

**SHRI KRISHAN KANT :** We will not say that.

**SHRI MADHU LIMAYE :** I am only trying to save the time of the Committee. This copy was given to me by Shri Pai.



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I did it to help you; otherwise I could have done without it. The statement reads as follows :

"I understand that the father of Shri Krishnaswamy, formerly Deputy Secretary in the Ministry of Heavy Industry has complained to the Shah Commission about the excesses committed on his son by the previous government. Shri Krishnaswamy was working as Deputy Secretary in the Ministry of Heavy Industry. There were a spate of questions in Parliament on Maruti Limited and he was required to collect information and submit to the Minister for a reply. One of the questions was whether Maruti Ltd. had imported any machinery and they were not permitted to import machinery under the terms of the licence granted to them. The Ministry had not given any permission, but it was possible for Maruti Ltd. to purchase or get imported particular types of machinery wanted under stock and sale arrangement of the Project Equipment Corporation. The Ministry was totally unaware of what was happening. Shri Krishnaswamy in the course of gathering this information to reply to this question had got in touch with Shri Rajan, an officer of the DGTD to ascertain. Shri Rajan also was directed to contact the Project Equipment Corporation who in turn informed him that Messrs. Batliboi must have imported and supplied this machinery to the Maruti. Shri Krishnaswamy contacted Messrs. Batliboi through Shri Rajan. He also seems to have made efforts to ascertain these facts from the Maruti factory. This seems to have upset Shri Sunjay Gandhi and Shri R. K. Dhawan, P.S.

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to the then Prime Minister contacted me and complained that my officials were harassing Messrs. Batliboi and that they insulted them in the presence of some European visitors. It was my duty to find out the truth and, therefore, I sent for the Manager of Messrs. Batliboi who denied any kind of harassment from my officers who were only seeking some information and it was not true that any foreigners were present at that time. I had also contacted Shri Krishnaswamy and told him that while dealing with the public there should not be any impression of any pressurisation. Next day, I think it was about the middle of April 1975, Smt. Indira Gandhi had returned from some tour. She called me to her residence No. 1, Safdarjang Road. She was completely upset and furious. She accused my officers of being corrupt while they were talking of political corruption. She referred to the harassment to the Manager of Messrs. Batliboi. She was very angry and she also told me that I had advised her against Shri Sanjay. I thought it was not worthwhile replying to her as I felt she was unreasonably angry. She also called Shri Dhawan and told him to ask Shri Sen to start CBI enquiries against all these officers. Subsequently I heard that Shri Rajan's house was raided by the CBI without the permission of the DGTD. Shri Rajan complained to me about this. Shri Krishnaswamy also complained that he was being pursued by the CBI. Subsequently Shri Krishnaswamy's house was also raided, and contrary to the practice, the Additional Secretary in charge of the Dept. of Personnel was

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informed about this when the search was already going on. Later on I was informed that the Secretary, Heavy Industry, Shri M. Sondhi was also under surveillance, because he was supposed to have made comment in a private party about political corruption. All these officers complained to me of their surveillance and the raids. Shri Sen Director, CBI also saw me and said that they were going to institute enquiries against Shri Sondhi. He was referring to a licence given to Messrs. Premier Automobiles Ltd. for expansion and I had to tell him firmly that the Secretary was not responsible for it and it is the Cabinet Committee on Economic Affairs with the then Prime Minister presiding who cleared it. Later on I learnt also that this case was being pursued and some charges were foisted on him as having been committed by him when he was in Bokaro steel plant. On the face of it, these charges looked ridiculous and I felt that these officers were being pursued for a different reason. I wrote later to the Prime Minister drawing her attention to a circular she had issued calling upon Ministers to give all support to honest officers even if there are minor lapses in the *bona fide* discharge of their responsibilities. I also complained to her that my officers were being harassed obviously because they were collecting some information in the discharge of their responsibilities. To this I got a letter in reply, which is with the Commission, enumerating all kinds of charges against these officers, whereby she wanted to refute my allegation that this was being done for their having collected some information. Thereupon I wrote a personal

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letter to her in my own hand writing enclosing a copy of the letter I had written to her saying that since she finds it difficult to agree with me, I was returning to her the copy of that letter also. Thereafter I concentrated on trying to safeguard the interests of these officers through various approaches to Smt. Gandhi. After a long time, she agreed to withhold the enquiries against Shri Sondhi, but the enquiries against others continued. I understand that Shri Krishnaswamy was charged with an offence under the Excise Act. I was told that they were after his sister living in Singapore being pursued under the Foreign Exchange Regulation Act; his father-in-law's house in Madras was raided; his bank-lockers opened and so also his father was subjected to serious harassment. Lest he should suffer from further harassment in the Ministry, I made a request to the Railways to take him back until the enquiry was over. After the emergency, he was discharged by the court having been found not guilty of the charges."

So, what I was trying to say was that the Committee would have to examine (a) Shri T. A. Pai because this is a copy of his statement, and he was the Minister in charge and (b) Shri Sondhi will have to be examined and (c) Krishnaswamy will have to be examined and then Mr. Kavle of the Projects Corporation also, because he was the person who suffered most. His wife was in tears. He not only lost his job; when he took up a private job he told me that the CBI reached there and he was removed even from that job. His wife lost her job. She wanted to take an assignment in France; she was not permitted. In fact with tears in her eyes, she told me: my children used to ask me why daddy is not going out for work, is he having a permanent holiday? Their

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LIC policy also has lapsed and they were subjected to all sorts of harassment. These people should be examined.

Another thing I would like you to examine is the admission or non-admission or mutilation of questions in the Lok Sabha Secretariat because whenever questions on *Maruti* were asked, we faced a number of difficulties. If you go through my correspondence, you will realise what serious obstacles were placed in our path and I have reason to believe that the Lok Sabha Secretariat was then under a terrific pressure from the Prime Minister's Secretariat. What was the *modus operandi*, is for the Privileges Committee to find out. If you go into the matter, it is very clear whether this explanation given by the Addl. Secretary can be accepted at all—'We did not understand the implications.' In fact my contention is that they understood the implications rather too well. That was why my question was changed. So, all these matters will have to be gone into.

As far as the second question is concerned about witnesses, I have already...

MR. CHAIRMAN: You mean Mr. Patnaik...

SHRI MADHU LIMAYE: I am not holding Mr. Patnaik responsible because, I think, he was not in charge...

MR. CHAIRMAN: Can you give us an idea?

SHRI MADHU LIMAYE: That you will have to find out from those who were working in the Question Branch. I really do not know. You will have to find out who was responsible.

About evasive replies the committee should examine why the question was answered the way it was answered. Mr. Pai was responsible for answering this question. Why did he leave (a), (b) and (c). I think he will give all the facts about this.

Why I am laying stress on this is that all the allegations made by me about Maruti are being now proved up to the

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hilt. I was always telling that some of the shareholders are *benamis*. The statement of the case on the subject should also be asked for from the Shah Commission where the Commission had a statement before it in which the *benami* names were being investigated of shareholders and the West Bengal income-tax people found out some. I am not sure if they came under Patiala Income-tax section. Then there were instructions from above that these matters should not be investigated; that the shareholders should not be approached and should also not be approached without reference to the company and if the investigation could be done without these things, then 'proceed'. I had a copy of the statement of the case. I will try, but you can easily get it.

MR. CHAIRMAN: Will they give us the copies of the statements before the Shah Commission?

SHRI MADHU LIMAYE: I doubt the legal position. You can consult. You can ask for information from anybody.

SHRI B. SHANKARANAND: We can summon Mr. Justice Shah.

SHRI MADHU LIMAYE: I do not know.

SHRI B. SHANKARANAND: We have got a right.

SHRI MADHU LIMAYE: I do not deny it.

Here, in getting this information, my object was that assurances given on the floor of the House were not fulfilled and the strictures of the Assurances Committee—this is from our Library—were also ignored where Maruti questions were involved. That matter also should be gone into. So, I am giving a copy of this statement which will be useful.

PROF. P. G. MAVALANKAR: I want to know whether the Committee on Assurances were silent whenever Maruti ques-

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tions came up or the questions on Maruti were deliberately distorted?

**SHRI MADHU LIMAYE :** The procedure before the Assurances Committee is that extension is sought for—our friend, Mr. Shankaranand was in the Ministry of Parliamentary Affairs—and he knows—and if the answer is not ready, you ask for extension and a reasonable extension is always given by the Assurances Committee and if even after the lapse of the extension given, no answers were given, the matter had to be repeatedly pursued. So, this should be gone into because though it may not strictly fall within the purview of the Privileges Committee, the committee can certainly make a recommendation to the Assurances Committee that something should be done about the non-fulfilment because in our committee we have not treated non-fulfilment of assurances as a breach of privilege.

I have also with me a photo copy of a letter sent by Shrimati Indira Gandhi to Shri Pai and Shri Pai gave it to me. It is better you please obtain it from him. It would not be proper for me to give this.

**SHRI NARENDRA P. NATHWANI :** You can read it. There can be no objection. We are not going to act on this.

**SHRI MADHU LIMAYE :** All this is on the authority of Mr. Pai.

**SHRI NARENDRA P. NATHWANI :** You do not vouch for this.

**SHRI MADHU LIMAYE :** I leave here both the statement which I just read out as well as the statement of Mr. Krishnaswamy, subject to the observations I made.

Oh! I have got here that statement of the case. In fact, this is a subject matter of another privilege motion which is pending with the Speaker.

**MR. CHAIRMAN :** All these documents which you have given should be signed.

**SHRI MADHU LIMAYE :** Sign for what? I will say that it has been given to me by Mr. Pai.

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**SHRI NARENDRA P. NATHWANI :** You may not sign.

**SHRI MADHU LIMAYE :** I cannot vouch for its accuracy. With my remark, I will sign.

**MR. CHAIRMAN :** You may say, 'It has been given to me by Mr. Pai.'

**SHRI B. SHANKARANAND :** It is for our records to show that these papers came from you.

**SHRI MADHU LIMAYE :** It is not fair for me. They oblige.

**PROF. P. G. MAVALANKAR :** You may make a point that you got it from the library.

**MR. CHAIRMAN :** Perhaps it would be helpful to ask Mr. T. A. Pai also to come here and bring along with him the documents he had produced before the Shah Commission. Can you suggest any other witness who may be able to help us?

**SHRI MADHU LIMAYE :** Among other witnesses I would suggest that some Battihoi people may be called—may be the General Manager or somebody. The question of Mr. Sanjay Gandhi and Battihoi going together on tour can then be investigated. He must have imported machinery which was in accordance with the specification given by Sanjay Gandhi; otherwise there would be no purpose in going on tour together. So, that point must be investigated.

**MR. CHAIRMAN :** Have you anything more to say?

**SHRI MADHU LIMAYE :** Not at this stage but should you want some clarification at any time, you can always summon me.

**MR. CHAIRMAN :** As we had requested Mr. K. L. Gupta, we would request you also that in case you come across any fresh material relating to this case while our proceedings are going on, you may kindly furnish the same to us.

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**SHRI MADHU LIMAYE :** I will certainly do so.

**SHRI B. SHANKARANAND :** As our friend is well versed in legal practice and procedure, I would like to ask him something for the benefit of this Committee.

Mr. Limaye, the Shah Commission is also enquiring into certain facts which are the subject matter before this Committee. I would like to know from you whether there can be two parallel proceedings and whether the same witnesses can appear before the Shah Commission as well as before this Committee. The Shah Commission is entitled to its own conclusions and this Committee is also entitled to come to its own conclusions. In the circumstances, do you think (a) that parallel proceedings can go on and...

**MR. CHAIRMAN :** We have no right to examine the question you have raised. Since the matter was brought to Parliament and the Speaker, with the consent of the House, treated it as a matter of privilege, we have nothing to do with whether the Shah Commission or somebody else is also considering this matter or not. Our rights are very limited. This question you have raised is not relevant to this matter and therefore we do not seek any advice from Mr. Limaye.

**SHRI B. SHANKARANAND :** I have a right to differ with you and I do differ with you. I have a right to express my own views in this regard.

**MR. CHAIRMAN :** I do not seek any answer from Mr. Limaye : it is neither within his right nor within his purview.

**SHRI B. SHANKARANAND :** I shall be very sorry if you are going to gag my

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mouth and shut out the witness from answering my questions.

**MR. CHAIRMAN :** I have to act as Chairman of this Committee.

**SHRI B. SHANKARANAND :** I have also to act as a Member of this Committee : I cannot be shut out.

**MR. CHAIRMAN :** This question is not relevant here.

**SHRI B. SHANKARANAND :** It is quite relevant.

**MR. CHAIRMAN :** You can write to the Speaker if you like.

**SHRI KRISHAN KANT :** Parliament is supreme.

**SHRI B. SHANKARANAND :** I wanted his views. I know he is an expert.

**PROF. P. G. MAVALANKAR :** How does it become relevant relating to what is being discussed ? Shri Madhu Limaye has come as a witness. He has not come as an expert.

**SHRI B. SHANKARANAND :** You have already gone beyond scope. You were asking him to produce unverified documents.

**SHRI NARENDRA P. NATHWANI :** I can ask him on your behalf about practice and procedure. That is another matter. What he said was, what was being done, how to prepare questions, etc.

**SHRI MADHU LIMAYE :** May I now leave, Sir ?

**MR. CHAIRMAN :** Yes. Thank you very much.

*(The witness then withdrew.)*

Friday, the 10th February, 1978

Shri D. P. Chattopadhyaya

PRESENT

Professor Samar Guha—*Chairman*

MEMBERS

2. Shri O. V. Alagesan
3. Shri Hitendra Desai
4. Shri Ram Jethmalani
5. Shri Krishan Kant
6. Professor P. G. Mavalankar
7. Dr. V. A. Seyid Muhammed
8. Shri Narendra P. Nathwani
9. Shri Meetha Lal Patel
10. Shri Madhav Prasad Tripathi

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer*

WITNESS

Shri D. P. Chattopadhyaya, (*Member, Rajya Sabha, former Minister of Commerce*)

(*The Committee met at 15.00 hours*)

Evidence of Shri P. D. Chattopadhyaya

MR. CHAIRMAN: Shri Chattopadhyaya, you have been requested to appear before this Committee to give your evidence in connection with the question of privilege against Mrs. Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers for certain questions in Lok Sabha on Maruti Limited. Now, you will state the factual position. I may inform you that your evidence may be treated as confidential till the report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the meeting would constitute a breach of privilege. The evidence which you will give before the Committee may be reported to the House. Now, you may take oath or affirmation, as you like.

(*The witness then made affirmation.*)

MR. CHAIRMAN : To begin with, it was known to you that a few officers belonging to your Ministry and the Ministry of Heavy Industries—when you were in charge of Commerce Ministry—had been suspended or some kind of disciplinary action had been taken against them. I would like to know the names of those officials and their designations. Kindly also enlighten us the circumstances that led to taking disciplinary action or the cause for suspension, etc. against them. Then our friends will put questions to you.

SHRI D. P. CHATTOPADHYAYA : I came to know the names of these officers later on, not at the time when the arrest was effected, except in the case of one person who was under suspension. I think his name was Shri Bhatnagar. He was a Deputy Marketing Manager of Projects and Equipment Corporation of India. And that is a subsidiary of STC ; at least that was at that time. The other two names who were in Heavy Industry Department, Industrial Development Ministry and also the name of Mr. L. R. Cavale, an Officer of Projects and Equipment Corporation were not known to me at that time when the disciplinary actions were taken in the month of April 1975. It is only when the case came up before the Shah Commission that I was shown by the Investigating Officers their names. I also read their names at that time, may be April or May in newspaper, but I forgot those names. When these cases came up before the Shah Commission and the file was shown to me I could brush up my memory. This is about the names of the persons concerned.

About the circumstances leading to their arrest, I can recapitulate the events to the best of my recollection. One evening in April 1975, I was called by the then Prime Minister to her residence and I went there. It was a little after evening, it may be 7 O'clock, may be even a little after that I found her in a very angry frame of mind and she told me in her rather unusual voice that there are very grave allegations against some of my Officers. Whether she said some of my Officers or one or two of my Officers or

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Officers of Mr. Pai's Ministry—I do not remember exactly. She was very emphatic on that point that there were grave allegations against some Officers. So she went on for some time. She was talking on her own. I asked her when she stopped talking or rather cooled down just one question—What is the allegation? She said that the allegation is that they are harassing, they are intimidating the people, they are unnecessarily causing delay and thereby they are bringing a bad name to the public sector organisations, instead of serving the people, they are harassing the people and you must do something about it, you must take some disciplinary action. The only thing I asked her was "Are you really satisfied that these allegations are genuine?" She said: "Yes" "Very senior people and some MPs have brought these allegations to me". I must say one thing to you at this point. I never saw her so angry and in such an upset state of mind and insisting that somebody should be suspended. I may say, neither before that nor after that. And at that point of time, I had no reason to believe that she did not apply her mind to the matter she was talking to me viz., misdemeanour, negligence of duty, causing harassment by my officers. So I found that it was almost futile to discuss the matter with her on that point because she made up her mind and she took the decision. I came back—to the best of my recollection—to Office though late in the evening, and I sent a word to the concerned officers; I could not do anything myself. So, I sent a word to the Chairman of Projects and Equipment Corporation.

MR. CHAIRMAN: You may kindly let me know who are the concerned Officers.

SHRI D. P. CHATTOPADHYAYA: Yes, Sir. I think, it was Mr. B. D. Kumar who was at that time the Chief Controller of Imports and Exports and concurrently though temporarily holding the office of the Chairman of PEC and also STC.

I told him that this is the opinion of Mrs. Gandhi, the then Prime Minister and that she was very emphatic on this point

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that some grave allegations have been conveyed to her and that some MPs had also, according to her version, conveyed the allegations to her. She was very emphatic that some disciplinary action should be taken and what can be done about it? Presumably, they had consultations between themselves—I say presumably because they did not discuss the matter before me—I sent a word and—then they told me through my Special Assistant that if something has to be done about it, then it is rather unusual thing and they conveyed to me that action could be taken if the Minister i.e., myself, could give a formal order. So, therefore, at that stage, I gave a formal order that Mr. Bhatnagar should be suspended and departmental disciplinary action should be taken against him.

PROF. P. G. MAVALANKAR: I did not exactly follow when you said 'they'—meaning Mr. Kumar and others?

SHRI D. P. CHATTOPADHYAYA: Mr. Parak also.

PROF. P. G. MAVALANKAR: Only two of them.

SHRI D. P. CHATTOPADHYAYA: They were two chiefs, one was the Chairman of PEC, a subsidiary of STC and STC was the main organisation. I do not know whether they called other Directors and had talks with them; that I cannot say. May be that they had discussions with one or two Officers because all this happened in their office.

SHRI KRISHAN KANT: Was the name of Mr. Bhatnagar mentioned by the then Prime Minister?

SHRI D. P. CHATTOPADHYAYA: Yes, she mentioned Mr. Bhatnagar's name and the names of the others were not known to me.

SHRI KRISHAN KANT: You asked the Officers to take action against him only?

SHRI D. P. CHATTOPADHYAYA: Yes.

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**MR. CHAIRMAN :** You first conclude your whole version.

**SHRI D. P. CHATTOPADHYAYA :** Yes. She did not mention the other names. I must submit one thing. At that point I had no knowledge as to in what connection this anger of the then Prime Minister was caused and why was she insistent and I say all these things because this is a sort rehearsal I had to undergo before the Shah Commission also. So I am repeating all those things. I was not answering the question of Maruti affairs. Mr Pai was. So he had an idea. But I was at a disadvantage when she called me and said these things. I did not have the foggiest idea, the vagest of the information as to what was all about it. But because of her fury, I passed that order with some reservation in my mind. I would request you to bear in mind that there too, I said "departmental action and nothing else".

After that order was passed, I do not know after how many days, I came to know that some other people have been arrested and harassed and the reason behind it was that they were engaged in collecting information about Maruti. Shri Pai was the Minister in charge of answering the questions. The people of my Ministry and Mr. Pai's Ministry were engaged in the same sort of activity. The PEC people were in charge of importing certain equipment and some company called Batliboi was importing. My people asked Batliboi for whom they were importing those spares. These were the questions they were asking. May be they were asking a little at length or very intensively, for that was called for, for giving supplementary information to the Minister because the question was likely to be taken up within a few days. I presume that officers of the Heavy Industry Department went to PEC office to give this information, so that if some additional information was sought on the floor of the House, this could be obtained from my office. This I came to know later on.

From time to time in my Ministry, I used to get some allegations, sometimes  
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anonymous, sometimes pseudonymous and sometimes signed. I found at least in one case one embassy had brought an allegation against the Chairman of PEC, not this Chairman but the Chairman a little after that. An African State embassy brought the allegation. We looked into the matter. Probably I was a little wise after that event. The embassy informed the External Affairs Ministry that the PEC Chairman was harassing them, was expecting some money or asking for money etc. I applied my mind. I was doubly cautious and I refused to accept the suggestion of that High Commission conveyed to me officially through the External Affairs Ministry. We pursued the matter and we found later on that it was not my Chairman but the Chief of that embassy who was wrong. May be in that connection or may be in some other connection, ultimately the Chief of that embassy was removed because we took a firm stand. This sort of allegations sometimes we got, sometimes true and sometimes false, but one had to look into them at depth. Therefore, at that point of time when Mrs. Gandhi was upset and insisted on taking disciplinary action, I agreed to take action only at the departmental level. The CBI people entered into the picture and registered cases over our head. Our Ministry had nothing to do with that. We did not register any case against them. We did not ask the CBI to come into the picture.

**MR. CHAIRMAN :** In the case of the two officers who were suspended, were their services terminated or any further action was taken against them ?

**SHRI D. P. CHATTOPADHYAYA :** I realised later on that some injustice has been done and they were subjected to harassment and punishment beyond all proportions. So, Mr. Bhatnagar was resorted to his service during the time I was Minister, sometime in the latter half of 1976. So far as Mr. Cavale is concerned, I do not think he was suspended. He was transferred. I am saying from memory because I have no records before me. He refused to go on transfer. But he did not lose his job. Recently



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he has been given that position. But Mr. Bhatnagar was given back his position as early as August or September 76 and I had the good fortune to order it.

MR. CHAIRMAN : Did you consult the ex-Prime Minister at that time ?

SHRI D. P. CHATTOPADHYAYA : No, I was convinced at that time that injustice was done to him and at the earliest opportunity I helped him.

MR. CHAIRMAN : There was no objection from her ?

SHRI D. P. CHATTOPADHYAYA : No, Sir.

DR. V. A. SEYID MUHAMMED : You said you realised that some injustice has been done. Was it by reason of the departmental enquiry or by other evidence ?

SHRI D. P. CHATTOPADHYAYA : First I felt uneasy when after a few days it was brought to my notice that the institution of cases, harassments and raids were all connected with the collection of information regarding Maruti. So, I could at that time dissociate this matter of so called allegations of harassment, intimidations or delaying customers and thereby hampering the reputation of the organisation from Maruti affairs. I could realise it immediately after that, but by that time the thing went beyond our control. The CBI stepped into the picture at the behest of some others. So, the case was instituted before we could proceed with our departmental enquiry. But what the CBI tried to find out, they could not. As soon as we discovered that the CBI could not do what they wanted to do or what they were asked to do, we restored his job, which was within my administrative control. I could not do it about the other two people because that was under the control of Mr. Pai.

SHRI O. V. ALAGESAN : You asked the department to suspend this man and institute departmental proceedings. What came out of the proceedings of the enquiry ? Don't mix it up with the CBI.

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SHRI D. P. CHATTOPADHYAYA : I do not think the departmental enquiry was followed up because the CBI almost pre-empted it or usurped it and they carried on the matter. So far as my Ministry is concerned, independently no other report against them was brought to my notice. Only the CBI investigations were carried on.

SHRI O. V. ALAGESAN : What exactly did the CBI do and what consequences did these officers suffer as a result of the CBI inquiry ?

SHRI D. P. CHATTOPADHYAYA : They were kept under suspension.

SHRI O. V. ALAGESAN : That you did yourself.

SHRI D. P. CHATTOPADHYAYA : That I did only of one officer, viz., Mr. Bhatnagar.

SHRI O. V. ALAGESAN : I am asking about Mr. Bhatnagar. What happened to Mr. Bhatnagar as a result of CBI inquiry and what action did they take ?

SHRI D. P. CHATTOPADHYAYA : He was under suspension.

SHRI O. V. ALAGESAN : That you yourself suspended. I am now asking the consequences of the CBI inquiry on this man.

SHRI D. P. CHATTOPADHYAYA : My suspension order and the departmental proceedings were not followed up at that time, but it was followed up by CBI inquiry. So, independently, what would have happened consequent upon my order I could not know. All these things were carried on by CBI. If my order has been followed, later on it would have been found that they did not do what was said against them. What was said against them was not proved by CBI investigation either. If my departmental inquiry could have been proceeded on its own, perhaps he could have been restored and he could have been given back his job quite earlier.

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**SHRI O. V. ALAGESAN :** You ordered his suspension. Was that order carried out ?

**SHRI D. P. CHATTOPADHYAYA :** Yes. It was carried out, but I do not know whether it was carried out independently because I am told within a day or two all other people were also harassed; either their houses were raided or CBI cases were started against them. So, whether it was my order independently carried out or it was accompanied by their order, I do not know without seeing the papers. I think the Privileges Committee will be in a better position to get the files because thereafter, I did not have the occasion to see the files.

**SHRI O. V. ALAGESAN :** Within a day or two of your order of suspension, the CBI began to act and you do not know whether he was suspended as a result of your suspension order or their order of suspension. If he was to be suspended, he should have been suspended by your own Secretariat.

**SHRI D. P. CHATTOPADHYAYA :** So far as my order was concerned, the Chairman, Mr. Kumar might have issued the order. But it was lumped up together with the overall suspension order of the four persons on the basis of CBI investigations. Of course, we did not start any cases that way previously. The scope of my order was very limited. The departmental inquiry is whether the allegations of the Prime Minister were right or wrong.

**SHRI O. V. ALAGESAN :** You say that the Departmental inquiry was not carried out because CBI stepped in.

**SHRI D. P. CHATTOPADHYAYA :** Whether they separately carried out or not I do not know. He was put under suspension. That I know. Whether it is on my order or whether it is in pursuance of the CBI order I do not know.

**SHRI O. V. ALAGESAN :** How can you be in doubt about it ?

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**SHRI D. P. CHATTOPADHYAYA .** I doubt because it was at that time 3-4 officers were also suspended. So this suspension was a sort of package suspension. So, I am not quite sure whether it was done in pursuance of my order or it was an overall suspension order.

**SHRI O. V. ALAGESAN :** You did not enquire about it ?

**SHRI D. P. CHATTOPADHYAYA :** No.

**SHRI O. V. ALAGESAN :** You did not care to find out whether your Department carried out your order and suspended the officer or this officer and other officers were suspended as a result of CBI action ?

**SHRI D. P. CHATTOPADHYAYA :** No.

**SHRI O. V. ALAGESAN :** You should have known this officer fairly well. What is your own view about these officers ?

**SHRI D. P. CHATTOPADHYAYA :** He is not an officer belonging to the Ministry. He is from the public sector corporation which is a subsidiary of another Corporation. In no connection I had an occasion to come to know of officers of this seniority. Unfortunately I am not personally concerned with these officers.

**SHRI O. V. ALAGESAN :** This officer is a stranger ?

**SHRI D. P. CHATTOPADHYAYA :** I did not know him personally.

**MR. CHAIRMAN :** It is necessary for us to understand clearly. You said that you were not very clear whether at the instance of the CBI or at the instance of your Department that the suspension order was passed. I want to know this. Suppose it was a criminal case which is something outside the domain of your office. May be, the CBI could take action straightway. But he was an officer of your Ministry. So, how could such a step be taken by the CBI directly without making reference to your Ministry ?

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**SHRI D. P. CHATTOPADHYAYA :** This is rather an unusual thing, but this is not the only unusual thing that happened at that time. Perhaps you are aware that some other officers, Textile Inspectors and some other officers of my Ministry were arrested and cases were filed against them without consulting me. This is rather unusual, but this sort of unusual things did happen at that time and on more than one occasion. I became a little wiser out of this experience.

**MR. CHAIRMAN :** Is it during the Emergency ?

**SHRI D. P. CHATTOPADHYAYA :** This is before the Emergency. It was in April 1975. This Bhatnagar's case is before the Emergency. But the other case where I refused to act according to the suggestion of the External Affairs Ministry was during the Emergency.

**MR. CHAIRMAN :** But the harassment etc. against the officers continued during the Emergency also ?

**SHRI D. P. CHATTOPADHYAYA :** Yes. When it was the case of Textile Inspectors, as soon as I came to know of it, I protested about it to the Home Ministry. I told the Secretary, the Secretary got in touch with the CBI and I protested that it was very unfair that our officers were arrested over our heads without consulting us. So, it was our obligation to protest and we did, but at that time we had no idea and as I said, it was not Emergency and I could not in any way connect it with Emergency. But later on I came to know that it was because of Maruti affairs. But I realised that it was futile because the then Prime Minister was so emphatic on the matter that when I asked her, she said she was quite satisfied and you will realise that in these things unless you know the subsequent reasons, it is easy to be wise after the event, but at that particular time it was very difficult for me to realise as to why she was insistent.....why she was insistent on this matter. Unlike other Ministers, I was not posted with the events at that time to know that this was connected with Maruti.

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**MR. CHAIRMAN :** You say, "at that time". Kindly explain what steps were taken before Emergency, and what are the aspects of harassment after Emergency, so that it would be helpful to the Members to put questions to you.

**SHRI D. P. CHATTOPADHYAYA :** I said 'April 1975', particularly because this was a Maruti problem. But the background was not known to me. I was Minister of Heavy Industries, or of Industrial Development at that time. I was not answering questions in Parliament on Maruti. I was not in a position to know them. Later on, I realised that people were engaged in putting searching questions on Batliboi, because my impression was that Batliboi was importing some spares for Maruti—I cannot say it was my definite knowledge, because I did not have technical knowledge. That is why Batliboi was being subjected to searching questions. I say at that point time I did not know, that it was concerned with Maruti; and the allegation was, may be from Batliboi or from Maruti people. I do not know. That is why I say 'at that time'; but later on I realised.

**SHRI HITENDRA DESAI :** Did you pass the order only against Mr. Bhatnagar or against other officers also ?

**SHRI D. P. CHATTOPADHYAYA :** No. Only against Mr. Bhatnagar.

**SHRI HITENDRA DESAI :** What were the data before you when you passed that order ?

**SHRI D. P. CHATTOPADHYAYA :** This is a case where the Prime Minister of a country calls a person specifically and says that she is satisfied, that some MPs have told her about my people—in this particular case Mr. Bhatnagar—causing harassment etc.; and to my further query, viz. "Are you quite sure and satisfied that something grievously wrong has been done?" ....because she was insisting on placing him under suspension and departmental proceedings—she said: "I am satisfied and I have made up my mind". As I said earlier also before the Shah

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Commission, I took the decision because she was satisfied and she had already taken the decisions. In retrospect, I realize that I ought to have made a separate enquiry; but it is easy to be wise after the event. At that time I thought that when the Prime Minister made a request—it was almost a command—I had no good reason to disbelieve her judgement.

SHRI HITENDRA DESAI : That was the date on which you passed your judgement.

SHRI D. P. CHATTOPADHYAYA : It was her judgement.

SHRI HITENDRA DESAI : Who is the authority which suspends such officers normally ?

SHRI D. P. CHATTOPADHYAYA : It is the head of the department—may be the chief of personnel i.e. one of the directors or the chief of administration or personnel. It is so, to the best of my understanding.

SHRI HITENDRA DESAI : Did you realize or learn later on why the ex-Prime Minister was angry about the officers ?

SHRI D. P. CHATTOPADHYAYA : It is not a question of realization, but of perception. I could see it.

SHRI HITENDRA DESAI : Why was she angry ?

SHRI D. P. CHATTOPADHYAYA : At that time I could not realize it. At that time, I found her very angry and upset. I have never seen her in such an angry frame of mind.

SHRI HITENDRA DESAI : Later on you found out why she was very angry.

SHRI D. P. CHATTOPADHYAYA : Yes; because I could talk to him; and my officers also conveyed things to me.

PROF. P. G. MAVALANKAR : You mentioned that the two officers viz. Mr. Kumar and Mr. Parikh conveyed certain things to you, not directly but through your Special Assistant. Is it right ?

SHRI D. P. CHATTOPADHYAYA : Yes; you are right.

PROF. P. G. MAVALANKAR : What is the name of that Special Assistant ?

SHRI D. P. CHATTOPADHYAYA : His name is N. K. Singh.

PROF. P. G. MAVALANKAR : By April 1975, for how long had he been with you as Special Assistant ?

SHRI D. P. CHATTOPADHYAYA : I had two Special Assistants; one Mr. Rudra dealing with the department of Commerce and another dealing with Foreign Trade. N. K. Singh was there. He was with Mr. L. N. Mishra and prior to it perhaps with Mr. Dinesh Singh also. He was there even before I was there.

PROF. P. G. MAVALANKAR : For how long was N. K. Singh with you ?

SHRI D. P. CHATTOPADHYAYA : Till the end.

PROF. P. G. MAVALANKAR : Was he there, when you were appointed as Minister ?

SHRI D. P. CHATTOPADHYAYA : Yes.

PROF. P. G. MAVALANKAR : It was not your choice. He was already there.

SHRI D. P. CHATTOPADHYAYA : He was there in the personal secretariat of the previous Minister.

PROF. P. G. MAVALANKAR : Was it the practice at that time that a number of very senior civil servants in your Ministry would communicate both ways with you, only through your Special Assistant ?

SHRI D. P. CHATTOPADHYAYA : Not necessarily.

PROF. P. G. MAVALANKAR : In this particular case of dismissal or rather suspension of Mr. Bhatnagar, why was it that these officers viz. Mr. Parikh and Mr. Kumar chose to talk to you through your Special Assistant and not directly ?

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**SHRI D. P. CHATTOPADHYAYA :** It was already late in the evening; and I did not like to hold a meeting by calling all the officers, because I was not quite sure whether they were available. So, I told my Special Assistant : "You have a word with the STC"—because PEC is housed in the STC building itself.—"Both the officers and the Chairman will be there". I did not like to call them and hold the meeting. I told him : "Go there. This is the view. Find out their reactions." My suggestion was there; and they could call all of them there. If they were not there, they could be called.

**PROF. P. G. MAVALANKAR :** Who went there ?

**SHRI D. P. CHATTOPADHYAYA :** N. K. Singh. Public sector corporations are under Foreign Trade. All things connected with commerce used to be dealt with by Mr. Rudra. And the other matters by Mr. Singh.

**PROF. P. G. MAVALANKAR :** You said that the CBI enquiry against Mr. Bhatnagar and others was at the behest of others. In April 1975, it was your feeling.

**SHRI D. P. CHATTOPADHYAYA :** I should say it was more than a feeling. I am definite, because I did not pass this order. I did not refer the case. Therefore somebody must have done it behind my back.

**PROF. P. G. MAVALANKAR :** Did you know that it was these people ?

**SHRI D. P. CHATTOPADHYAYA :** I did not know personally; but during the hearing of the Shah Commission, I could gather. I did not know whether those were the definite conclusions of the Commission indicated to some other people like Mr. Sen and Dhawan. I have heard there. I was to be present there because the hearing was going on and questions were there. I gathered at that time.

**PROF. P. G. MAVALANKAR :** But at that time you did not think it necessary or useful for you to find out who these people

were, at whose behest the CBI enquiry was taking place.

**SHRI D. P. CHATTOPADHYAYA :** No. At that time I did not. I did not pass the order; but I learnt that it was CBI who instituted the case. But I did not know personally did it.

**PROF. P. G. MAVALANKAR :** Who were the people who asked CBI to come into the picture ? Did you then, or later on, try to find out who these people could be ?

**SHRI D. P. CHATTOPADHYAYA :** No; but I could understand, Otherwise Mrs. Gandhi calling for me at that time and making a rather unusual request or command to me would not have been there. So, I could gather and rationally re-construct it. It was an academic exercise for me to find out who did it.

**PROF. P. G. MAVALANKAR :** In your preliminary remarks just now, you said that CBI enquiry was going on above your head. Did you at any stage of those procedures and processes object ?

**SHRI D. P. CHATTOPADHYAYA :** I do not think I have a *locus* in that matter, i.e. if CBI started a case and they said : "we have done investigations and we have material at our disposal", I think it would appear rather unusual for me to intervene, because I did not investigate. They did it. They were making out the case.

I thought that it would not be advisable on my part to intervene when the others claimed that they have looked into it. As soon as I found that the case is right, I restored his job as early as possible.

**PROF. P. G. MAVALANKAR :** You talked about the 'unusual' fury of the then Prime Minister when she called you late evening that day at her residence. You thought that her mental framework was very much far from normal.

**SHRI D. P. CHATTOPADHYAYA :** It was an unusually angry frame of mind

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in which I did not see her either before or after.

**PROF. P. G. MAVALANKAR :** After this experience, did you ever try to investigate or find out what must have caused her anger ?

**SHRI D. P. CHATTOPADHYAYA :** I have already said that then I could not gather the information whether there was any truth in that or not, but I could gather information from Shri Pai and from some other officers that they were engaged in collecting information regarding Maruti.

**PROF. P. G. MAVALANKAR :** You said that you were not sure whether they were suspended under your orders or under some other orders.

**SHRI D. P. CHATTOPADHYAYA :** This is limited to the case of Bhatnagar only.

**PROF. P. G. MAVALANKAR :** Why did not you try to find out and verify whether the suspension was as per your orders or as per somebody else's order ?

**SHRI D. P. CHATTOPADHYAYA :** Strictly speaking, I think, I ought to have done. I wish, I could do it, but at that time, extraordinary circumstances were brought to my notice that they were arrested for this reason and CBI has come in the picture. I realised a sense of futility in doing that, but I ought to have made a separate enquiry as far as Bhatnagar is concerned.

**PROF. P. G. MAVALANKAR :** Repeatedly, you have been using the phrase 'at that time'. Could you tell us rather specifically, which period does this cover, from what date to what date ?

**SHRI D. P. CHATTOPADHYAYA :** It was pre-1975. It was not known to me that it was related to Maruti. Later on, I knew that it was related to Maruti. The whole thing appeared to me in a new light. Before that, I did not know.

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**PROF. P. G. MAVALANKAR :** You said that it was futile to go into all this. As a Minister of the Cabinet and head of a particular Ministry, did you ever think that it was necessary on your part, even though the Prime Minister had said certain things to you, that you should have satisfied yourself ?

**SHRI D. P. CHATTOPADHYAYA :** I have already said that strictly speaking, I ought to have done, but at that point of time, I had no reason to disbelieve the genuineness of her judgement. I thought, she had certain reasons to be angry. I accepted her judgement.

**SHRI RAM JETHMALANI :** Before you ordered the suspension of Shri Bhatnagar, did you have any earlier occasion to suspend anybody ?

**SHRI D. P. CHATTOPADHYAYA :** No.

**SHRI RAM JETHMALANI :** Did you know what are the relevant rules and procedures for suspending officers ?

**SHRI D. P. CHATTOPADHYAYA :** I do not know the details. But I know that the suspension order has to be written by the Joint Secretary, Administration in the Ministry and if it is a public sector Corporation, either the Chairman or the Director incharge of administration has to do it. I do not know the detailed rules.

**SHRI RAM JETHMALANI :** Broadly, you would be aware that there are two kinds of suspensions; one inflicted as a part of final punishment and the other when *prima facie*, case is established and the officer has to be heard.

**SHRI D. P. CHATTOPADHYAYA :** Yes.

**SHRI RAM JETHMALANI :** Was this an extraordinary kind of suspension, which did not fall in any category ?

**SHRI D. P. CHATTOPADHYAYA :** But I know of cases, when people are put

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under suspension and the investigations are carried on later.

**SHRI RAM JETHMALANI :** Provided some *prima facie* evidence is there. If the officer concerned walked up to you and asked to tell him why you suspended him, you would have told him that he should go and ask the Prime Minister. Is that the position ?

**SHRI D. P. CHATTOPADHYAYA :** I was on a weak wicket; I have already said that.

**SHRI RAM JETHMALANI :** Kindly tell me that the only answer at that time that could have come to you was : I do not know, please ask the Prime Minister. Is that right ?

**SHRI D. P. CHATTOPADHYAYA :** In substance, Yes. The formulation would be somewhat different. I had no reason to disbelieve the Prime Minister and to think that she did not apply her mind and that her decision was frivolous.

**SHRI RAM JETHMALANI :** Did you come across any material on which this order of suspension could have been justified even *ex post facto* ?

**SHRI D. P. CHATTOPADHYAYA :** About this man specifically, I agree with you. As I said, I found from the order of suspension given by the Chairman or the Director whoever might be that there was some inefficiency of the man, but that I came to know later on.

**SHRI RAM JETHMALANI :** The suspension came about under these extraordinary circumstances. The Prime Minister was so angry. You must have been a little curious and taken some interest to find out as to how things were going on and what it was all about ?

**SHRI D. P. CHATTOPADHYAYA :** Yes.

**SHRI RAM JETHMALANI :** In spite of your best efforts to satisfy your curiosity, you could not get an iota of evidence against those officers \*

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**SHRI D. P. CHATTOPADHYAYA :** It was not for me to get the evidence because this enquiry was being carried on by others. They did not share these things with me.

**SHRI RAM JETHMALANI :** As far as you are concerned, you could not get anything against these officers ?

**SHRI D. P. CHATTOPADHYAYA :** So far as the other officers are concerned, they are not under my jurisdiction.

**SHRI RAM JETHMALANI :** Did the officers come and make any representation to you ?

**SHRI D. P. CHATTOPADHYAYA :** No.

**SHRI RAM JETHMALANI :** Did you come across any representation to anybody in your department by them ?

**SHRI D. P. CHATTOPADHYAYA :** It has never come to my notice.

**SHRI RAM JETHMALANI :** Since for a reasonable time you never came to know of any evidence against them, did you at least raise your finger to remove their suspension ?

**SHRI D. P. CHATTOPADHYAYA :** Already they were being followed by the CBI. What little I could do, as I said, was this, that as soon as I found that he was innocent, on my own initiative I enquired whether the investigation was complete, and as soon as I learnt that it was over, I restored him. As I said, this unfortunate experience made me a little wiser.

There were some 21 people who had been prematurely retired. Some of them were very good ; there were three Secretaries and also a Chief Controller. Then I got one or two representations. In pursuance of the representations, I myself perused the files of all these people and I found that I could not satisfy myself that the grounds were good enough for their premature retirement. I am sorry to say that many of the senior most officers did not apply their minds, and whatever deci-

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sinn was taken by the Deputy Secretary or Joint Secretary or Director was just dittoed by them. That experience weighed heavily on my heart and that is why when I saw that the man was being hounded and his suspension was suggested by the External Affairs Ministry, I did not agree. I had a bad conscience because I could not do something for Bhatnagar. Later on I tried to do a little. So, I never agreed to this sort of thing.

**SHRI RAM JETHMALANI :** When Mrs. Gandhi got into a state of frothy anger, how long were you with her ?

**SHRI D. P. CHATTOPADHYAYA :** Ten or 15 minutes.

**SHRI RAM JETHMALANI :** Did you put at least one question asking her the particulars of this corruption that she was talking about ?

**SHRI D. P. CHATTOPADHYAYA :** I asked her if she was sure that there was a serious allegation against them.

**SHRI RAM JETHMALANI :** Did you ask in what manner these people were corrupt, and whether she had any instance of their corruption.

**SHRI D. P. CHATTOPADHYAYA :** She went on saying that they were harassing people, intimidating people, keeping people waiting indefinitely and bringing a bad name to a public sector corporation.

**SHRI RAM JETHMALANI :** These are very general. Did you ask her for one illustration of what they had done ?

**SHRI D. P. CHATTOPADHYAYA :** I did not put this question specifically.

**MR. CHAIRMAN :** He has very categorically said that she did not give a single instance, that it was almost a command which he had to obey.

When disciplinary action was taken against Cavle, no reference was made to you ?

**SHRI D. P. CHATTOPADHYAYA :** No. The Chairman and the Director are competent enough.

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**MR. CHAIRMAN :** When did you come to know that it was connected with the Maruti affair ?

**SHRI D. P. CHATTOPADHYAYA :** After some seven days or so when I heard from Mr. Pai and also other people in the Ministries. So, that night I could not follow the background, but later on I heard.

**MR. CHAIRMAN :** You heard it mainly from Mr. Pai ?

**SHRI D. P. CHATTOPADHYAYA :** She had called Mr. Pai earlier and said something like this, I do not know the details. Thereafter she called me.

**MR. CHAIRMAN :** Our purpose is to know her involvement in the matter of taking disciplinary action against these officers and the object. You have very categorically stated that it was almost a command which you had to accept without knowing the reason. Then you came to know from Mr. Pai that it was because of the cases of investigation.

**SHRI D. P. CHATTOPADHYAYA :** From Mr. Pai and also my own officers. It became the talk of the Commerce and other Ministries.

**MR. CHAIRMAN :** After the suspension of these two officers, was the investigation of Maruti continued, or did the matter stop there ?

**SHRI D. P. CHATTOPADHYAYA :** That I do not know, I was not in charge of industrial development. I was not answering the questions on Maruti matters.

**MR. CHAIRMAN :** The others have been restored. You could not help Cavle.

**SHRI D. P. CHATTOPADHYAYA :** Perhaps he refused to take the transfer or something like that, I cannot say. I am speaking from memory and the files are not before me. I think he did not accept the transfer and the case was still being pursued. I cannot enlighten you on that point, only the STC officials can with their files.



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**MR. CHAIRMAN :** From what you have said before the Committee, that she was unusually angry and she said about the officer causing harassment, showing misbehaviour or discourtesy—all these things you told the Shah Commission also—can I draw the conclusion that it was just a cover of what actually her intention was? Don't you think that she had a completely different intention in asking for the suspension of the officers?

**SHRI D. P. CHATTOPADHYAYA :** I think, it is for you to draw the conclusion. I have stated the circumstances as clearly as possible.

**MR. CHAIRMAN :** We will come to our conclusion. We wanted to have your views also. You have categorically said that it was her command and you accepted it. Thereafter, after some investigation was done by you, you restored the position. Your acceptance of her command and the restoration of the persons concerned to the post are contradictory. Do you mean to say that afterwards when you found out that what was against that officer was not borne out by facts, you restored him to the original position? Do you mean to say that the charges levelled against him were unfounded?

**SHRI D. P. CHATTOPADHYAYA :** These allegations were very frivolous and not prompted by a serious consideration. I have reason to believe, unless I am proved to be false, that it was because they were going into the Maruti affairs. I am also convinced that an injustice was done to them and at the earliest opportunity, when in my limited sphere I got an opportunity of undoing it, I did undo it.

**PROF. P. G. MAVALANKAR :** I want to know whether you met her again after that evening of 25th April on this particular subject.

**SHRI D. P. CHATTOPADHYAYA :** No. I had no occasion later on to discuss this matter with her.

**PROF. P. G. MAVALANKAR :** That was the first and the last occasion.

*Shri D. P. Chattopadhyaya*

**SHRI D. P. CHATTOPADHYAYA :** Afterwards, when I knew what it was all about, I did not want to hit my head against the wall.

**PROF. P. G. MAVALANKAR :** You said that on the evening of the 25th April, she told you that there were allegations against Mr. Bhatnagar and that there were some complaints from some MPs also. Generally, the Ministers do get letters from MPs either by way of request or suggestion or protest in all sorts of matters dealing with public injustices. After that, did you at any time try to find out the exact nature of those allegations and who were the MPs who made the complaints to her?

**SHRI D. P. CHATTOPADHYAYA :** Afterwards, I came to know that it was her way of putting things. In a general way, she said like that. By that time, I was conversant with her way of working. I left it at that.

**MR. CHAIRMAN :** Your officers, Mr. Cavle and Mr. Bhatnagar were making enquiries from Batliboi who were importing these items. Who asked your officers to enquire into these things?

**SHRI D. P. CHATTOPADHYAYA :** It was Mr. Pai's Ministry who were to answer the Question in a day or two. They went to our people. The PEC were importing these things. The import licences were held by Batliboi. When the people from the Industrial Development came to the PEC, these officers, Mr. Cavle and Mr. Bhatnagar, naturally, asked Batliboi all sorts of things, for whom they were importing those automobile parts, whether they required those things for themselves, why they were importing and so on. Naturally, in Parliament, many such questions are raised as supplementaries. So, they were trying to find out all those things. Batliboi was the concern which was importing and supplying the things.

**MR. CHAIRMAN :** Thank you very much. I would like to say one thing. We have not yet chalked out our procedure in the matter. It may so happen that at a

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certain later stage, you may be called again by the Committee for some kind of an examination. So, it may be that you may have to appear before the Committee again, if need be.

SHRI D. P. CHATTOPADHYAYA : It is all right. Will it be sometime during the session or after the session ?

MR. CHAIRMAN : We have not yet decided anything.

*Shri D. P. Chattopadhyaya*

SHRI HITENDRA DESAI : Not in the immediate future.

MR. CHAIRMAN : We will let you know. Thank you.

SHRI D. P. CHATTOPADHYAYA : Thank you.

*(The witness then withdrew)*

*The Committee then adjourned.*

Saturday, the 11th February, 1978

PRESENT

Professor Samar Guha—*Chairman.*

MEMBERS

2. Shri Hitendra Desai
3. Shri Krishan Kant
4. Professor P. G. Mavalankar
5. Dr. V. A. Seyid Muhammed
6. Shri Narendra P. Nathwani
7. Shri Meetha Lal Patel
8. Shri B. Shankaranand
9. Shri Madhav Prasad Tripathi.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

WITNESSES

1. Shri R. Krishnaswamy (*Director, Department of Heavy Industry*).
  2. Shri A. S. Rajan (*Development Officer, Directorate General of Technical Development*).
- (*The Committee met at 11.00 hours and again at 15.30 hours*)

(i) Evidence of Shri R. Krishnaswamy.

MR. CHAIRMAN : Mr. Krishnaswamy, you have been asked to appear before this Committee to give evidence in connection with the question of privilege against Shrimati Indira Gandhi and others—Mr. Dhawan and Mr. Sen, CBI man—for alleged obstruction intimidation, harassment and institution of false cases against certain officials who were collecting information for answer to certain questions in Lok Sabha on Maruti Ltd. I hope, you will state the factual position and your version of the facts freely and truthfully.

I may also inform you that the evidence that you may give before the Committee is to be treated by you as confidential till the report of the Committee and its proceedings are presented to the Lok Sabha.

Shri R. Krishnaswamy

Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. The evidence that you will give before the Committee may be reported to the Lok Sabha.

You may now please take the oath or affirmation as you like.

(*The witness then took oath*)

MR. CHAIRMAN : What was your designation when you were subjected to harassment and what is your present designation? Were you the person concerned who was asked by the former Minister of Heavy Industries to collect information about Maruti Ltd.? In the course of discharging your duty, what are the circumstances that led you to face harassment and other kinds of troubles? You may please give a connected story of the whole thing.

SHRI R. KRISHNASWAMY : I was Director in the Department of Heavy Industries in 1975 at the time when the whole incident occurred and at the moment, I am back again in the Department of Heavy Industries as Director.

About the incident as such, it is nearly two years now and I have kept some of my own notes, and may I have your permission to refer them to indicate the dates correctly?

MR. CHAIRMAN : Yes.

SHRI R. KRISHNASWAMY : Sometime in the month of March-April, 1975, a number of questions were tabled on Marun and related matters. I was incharge of the automobile industries and as a part of my charge, the Maruti factory was within my charge, since it was supposed to be engaged in the manufacture of automobiles. It was for me to handle any matter connected with Maruti. A series of questions were tabled and one of the questions by Shri Madhu Limaye, which was put down for answer on 12th March. In this question, he had asked for certain information regarding machinery imported and used at

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Maruti Ltd. and we had given our answers. Our answers were to the effect that as far as the Ministry was concerned, we had not allowed the import of such machinery as such imports were not permitted to them in terms of the Letter of Intent.

Following this question, there was another question by Shri Jyotirmoy Bosu to be answered on 16th April. This question was in the nature of asking for further details and follow-up of the question which Shri Madhu Limaye had asked. He asked for certain detailed names and addresses of the suppliers of the machines, and certain other facts. After this question was admitted, we got the notice. Since I was in charge of the automobile industry, I was given the question for collecting the required information. We had an internal discussion in the Ministry and my Joint Secretary and I decided that we would request Maruti to furnish the information so that it could be authentic. I was asked to ring up the Secretary of the Company, Mr. Rege. I spoke to him on the 9th April and I told him about this question and the need to collect certain information. As the information was required in great detail, we would like to send two of our officers from the DGTD, who could also assist in collecting the information. We assumed that these two technical officers could go round the factory and look at the machines and establish their place of origin and they could possibly also say something about the value. This was the type of information required by Shri Jyotirmoy Bosu. When I spoke to Shri Rege, he said: "Yes, you could send two officers". On 10th April, we sent two officers of the DGTD, Shri Khosla as also Shri Bharij. They went with a letter from Shri Ghosh, Joint Secretary to Shri Rege, in which three-four heads were given under which we wanted the information. These officers reached there, but around 10.30 a.m. they spoke to me on the telephone and said that they were not being allowed to collect any information.

MR. CHAIRMAN : When did they say so ?

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SHRI R. KRISHNASWAMY : Round about 10.30 a.m. on 10th April from the factory at Gurgaon. They said that they were not being allowed to collect the information. In fact they said that they were not being allowed inside the factory even and they were made to sit outside Mr. Rege's room. When, I asked them if I could speak to Mr. Rege. He was not available then. But a little later he came on the phone and when I told him that in pursuance of the previous day's telephone call, I sent these officers and they should be allowed to collect the information, he told me that he had to consult his Managing Director and as the Mg. Director was busy, he could not contact him and that he would only be able to tell me after he consulted his Mg. Director whether these officers could be allowed to collect the information. So I asked him how long he would take. He said that he was not certain how long it would take because they had a Board meeting that day and that all the Directors of the company were also present. So after some discussion, since he said that he was not sure whether these officers would be allowed to collect the information that day, I asked him whether they could come back and he would furnish the information. He said he would do that after consultation with the Mg. Director. So, I called these officers back to the Ministry. Later, in the day I tried again to contact Mr. Rege but he was not available.

Now round about the same time on the 10th I sent a letter to Mr. Cavale of the Projects and Equipments Corporation because there was a possibility that if imported machines were in the factory, it could have been supplied by the agents of the PEC. So, I wrote to Mr. Cavale and asked him to collect and furnish information which he might have on the subject. This letter was actually addressed by my Under Secretary, Mr. Gupta to Mr. Cavale. Again, on the same day, I asked Mr. Rajan of DGTD to also contact firms like Batliboi and others. . . .

SHRI KRISHAN KANT : What was Mr. Rajan there ?

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**SHRI R. KRISHNASWAMY :** He was Development Officer in DGTD. I asked him to contact the suppliers of machine tools so that if they had any information, they could also supply it. The idea was that apart from getting the information from Maruti itself, any other agencies which might have the information, we thought we should contact and get all this information, and then frame the reply to the question asked by Mr. Bosu.

On the 10th from Maruti Ltd. itself there was no information forthcoming and on 11th again I spoke to Mr. Rege in the morning and he again said that he was unable to consult his Mg. Director who was very busy and that I should contact him sometime in the afternoon of 11th. On 11th evening again I spoke to him. He said, 'I have no information but we would be working the next day (the next day was a Second Saturday) and that I could contact him on that day'. On the 11th there was no information from PEC or from any of the parties whom Mr. Rajan contacted.

According to our Ministry's time-table, the draft answer had to be submitted to the Minister by the 11th because our question-day was Wednesday and our system was that on the Friday before Wednesday the draft answer and notes for supplementaries had to be submitted to the Minister. The next day was Second Saturday. So, we thought that we could hold on for another day and see what information we could get before submitting the draft answer. At 10 O' clock that night, that is on the 11th, Secretary, Mr. Sondhi rang me up. He asked me whether I had personally sent telegrams to many of the private firms asking for information regarding this question. I told him that I have not done that but I would tell him the next day as I was coming to office, and explain to him what had been done to collect the information. I was bound to give a draft reply also on the same day. I had also explained to him that until that moment I had not got any information at all on which to base the draft. The next day, i.e. on the 12th I went to office

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and met the Secretary and since we were already one day late for submission of answer, Mr. Sondhi said that I should draft the reply on the basis of whatever information I had with me—and that was almost nothing at all—and so I prepared a draft reply, made out a note for supplementaries and sent it across to Mr. Ghosh's (our Joint Secretary) residence. This was the sequence of events until the reply to the question was drafted.

Now what would you want me to say further ?

**PROF. P. G. MAVALANKAR :** Did you again consult Mr. Rege on Saturday ?

**SHRI R. KRISHNASWAMY :** No. What I had done was that in case any further information was available I could have always given a supplementary note to the Minister. I waited for information but nothing came either from PEC or Maruti. But PEC I understand were trying to collect information till about the 15th, but they were not in a position to supply information before the Question Day. The draft answer went as I had drafted.

**SHRI KRISHAN KANT :** What was the draft answer ?

**SHRI R. KRISHNASWAMY :** I have a copy of that. Shall I read out ?

**MR. CHAIRMAN :** This is all that you could not collect information from Maruti. Even thereafter no such information came.

**SHRI R. KRISHNASWAMY :** As I was saying PEC was trying to collect until 15th. You will hear from the officers as to what happened.

**MR. CHAIRMAN :** You were asked to supply information to the hon. Minister. PEC also collected the information.

**SHRI R. KRISHNASWAMY :** They would have given the same to me. Nothing came until the date of the answer.

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I read Question by Shri Jyotirmoy Bosu. This is Starred Question No. 656 dated 16th of April :

Will the Ministry of Industry and Civil Supplies be pleased to refer to the reply given to the Unstarred Question No. 2980 on 12th March, 1975 regarding machinery in Maruti Car Factory, Gurgaon and state :

- (a) the names, addresses and full particulars of the dealers in the country from whom M/s. Maruti Limited has purchased machinery, etc. ;
- (b) full details of such purchases including value of each category of purchases ;
- (c) main line of business of the dealers from whom such purchases have been made ;
- (d) whether some of those dealers are also importers of machinery ; and
- (e) if so, the facts thereof.

The answer was in the name of Shri A. C. George, Minister.

- (a) to (e) : Government does not collect, nor is any industrial unit required to furnish detailed information with regard to machines purchased locally. Government as such has no information.

**MR. CHAIRMAN :** As it has been reported to us by Shri Madhu Limaye and Shri Kanwar Lal Gupta, because you were entrusted by the concerned Minister to collect information, you were subjected to various harassment and various kinds of trouble, etc. What exactly followed after you made an attempt to collect information and also before and during Emergency ?

**SHRI R. KRISHNASWAMY :** The question was answered on the 16th. Sometime before the actual answer, I do not have the exact date of the incident, but it might have been Friday, preceding

the reply to the question,—Mr. Rajan was called by Shri Pai in his house as he had an office in his house. Rajan reported to him. He was asked what was he collecting information about and what was the question and what had happened and whether he had threatened one of those suppliers of Machine Tools—i.e. Batliboi ? These questions were asked of Rajan. It was Friday preceding the date of the question i.e. 11th. I cannot give the exact date but as far as my recollection goes it was on the 11th before my draft answer to the Minister.

Actually that night Mr. Sondhi rang me up. I was not surprised because I had known during the day that Rajan had been questioned by the Minister and his Special Assistant. Thereafter on the 18th Rajan reported to me, that was in office around 2 O'Clock. He was given a message that CBI constables and inspectors were in his house and were waiting for him to return. He mentioned that to me and he was going to see the Minister about that time.

When I went back home that evening, I found that I was being followed by a scooter with two people sitting on the back. When I slowed down, they slowed down. When I stopped, they also stopped. They might have been following me earlier, but I observed them on the 18th and when I reached home they parked themselves just opposite to my house.

I wanted to check whether I was in fact being followed. I immediately went thereafter to a friend's house. I found that they followed me to my friend's house also. From there I went to Mr. Sondhi's house and reported to him that I was being followed on the 18th. Now this continued for about two or three weeks. Sometimes there was a scooter following me, sometimes an Ambassador Car with 4 or 5 people. I knew they were sitting outside my office in Udyog Bhavan also watching who were the visitors coming etc. I was under surveillance, close surveillance I should say, from that date onwards. I reported the

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facts as they were known to me to Mr. Sondhi as well as to Mr. Pai through his Special Assistant. On the 3rd of May, around 7.30 or 8, a party of CBI, consisting of one Deputy Superintendent and a few Inspectors, came to my house and showed me a warrant of search and they said that they were going to proceed with the search. I asked them whether they had informed my Secretary because I knew that Secretary was not in town. They said that they had taken care of that part of it and that the Secretary would be informed. I told them that I would allow them to proceed and that I will inform my Minister as to what is happening. I could not get the Minister. I spoke to Mr. Ghosh who was my Joint Secretary and requested him to keep the Minister informed that my house was under search. They went through whatever there was and the search continued till about two or three. They made some inventories. They took some papers from me and then they took me to my office. They made a search there of my papers and then they left around 5 or 6 O'Clock of that evening. This was on the 3rd of May.

**MR. CHAIRMAN :** This is conducting of a search in the office of a Central Minister. You had been an officer there. Actually it was one of the offices of the Central Minister. As such, I want to know whether the CBI had any authority to conduct search in the office of any Minister, without the permission of the Minister.

**SHRI R. KRISHNASWAMY :** The rule is not very clear in this respect. The convention until a few years ago was that they would not even register a case without informing the Secretary and getting his view. But in this case I don't think any convention was followed because neither the Secretary was informed nor the Minister was told in advance, that this was happening. As far as I know there is nothing preventing the CBI from ordering a search if they get a Court Order. But the convention over the years has been that in all cases of senior officers the Secretary would be consulted

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and in many cases the Minister would be consulted.

**MR. CHAIRMAN :** Here there was no Court Order.

**SHRI R. KRISHNASWAMY :** They took a warrant from the Court. What they have done was, that on 2nd of May, they registered a case under the Prevention of Corruption Act and they took a warrant from one of the Metropolitan Magistrates in Delhi and they came there with that warrant.

**MR. CHAIRMAN :** When was the case registered ?

**SHRI R. KRISHNASWAMY :** 2nd of May. It will be available on their records. They would have got it registered the previous day and they came to my house on the 3rd. After the search was made nothing further was heard from them. I continued to handle the same subjects and I continued to work in the Ministry. But sometimes in August of that same year. . . .

**MR. CHAIRMAN :** After promulgation of Emergency.

**SHRI R. KRISHNASWAMY :** . . .after promulgation of Emergency, a letter was written, I understand, to the Ministry in which they said that since there was a CBI case against me, the investigations would be hampered if I continued to remain in position and that I should be transferred or reverted to my parent department. I belong to Railway Service and I was on deputation to the Ministry. I still had about 7 or 8 months of my tenure to go. I would have finished the next March, that is, 1976. I protested against this, because, I said, if I were to be sent out, it would mean, there would be a sort of suspicion that there was something against me. My request was that I should be continued in the Ministry until the CBI were able to prove whether they had anything against me or otherwise. But then I was told, under the circumstances then prevailing, I should go on leave and go back to the department because that was the only way in which they could take the CBI close my case. This was what I was advised by my senior officers. In August

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this happened. They filed a court case against me under the Punjab Excise Act when they came to my house they were able to recover some quantity of liquor which was with me. So a court case was filed sometime around August of that year alleging that I had breached the Punjab Excise Act. Round about the same time, my wife was summoned by the Directorate of Enforcement on the ground that she had violated some provisions of the FERA. I was not clear what it was. I forgot to mention one thing. When they searched my house, within a couple of days following, they searched my father's locker in Madras. He retired from IA&AS and in 1962 he had a locker in Madras. That was opened on a warrant from Delhi and that was also searched. I was still on leave. There was a detailed examination by the CBI of me sometime in November.

No report was filed, I was already on leave for about four months. And then there was no word from the CBI as to what they had found against me. I felt personally that if I were to join back in Government service, I must be cleared totally before I join my parent department. My own position in my parent department was such that the people there would not have understood what had happened to me whereas, in my own Ministry, people understood what had happened to me. And so, I extended my leave on half pay for another two months hoping that the CBI report would be submitted by then. But, then the CBI had made no move to submit a report. My leave was coming to a close. In February I joined the Railways back at Delhi. The report by the CBI was finally submitted sometime in May or June 1976 to the Department of Heavy Industry. They examined the report and sent it to the Chief Vigilance Commissioner sometime in September 1976. I was acquitted of the charge of violation of the Punjab Excise Act, the following March 1977.

MR. CHAIRMAN : In November 1976 you were informed by the Vigilance Commission that there was no case against you.

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SHRI R. KRISHNASWAMY : Yes, Sir.

MR. CHAIRMAN : Then, go on.

SHRI R. KRISHNASWAMY : In March 1977, the Delhi Court acquitted me in the case of alleged violation of the Punjab Excise Act. We did not hear further from the Enforcement Branch. So I presumed that we did not violate the Foreign Exchange Regulations Act. That is all the information about this.

SHRI KRISHAN KANT : There is no case against you.

SHRI R. KRISHNASWAMY : Nothing to my knowledge.

MR. CHAIRMAN : What do you say about your wife ?

SHRI R. KRISHNASWAMY : We did not hear anything from the Enforcement Branch although it is more than clear from the information that they had found us not guilty. Since it is more than a year or so, I presume that there is nothing against us.

PROF. P. G. MAVALANKAR : Was there no formal intimation ?

SHRI R. KRISHNASWAMY : The CBI did not inform me. The C.V.C. clearly intimated about my case. I was intimated by the Ministry. I have a communication from the Department of Heavy Industry that no case has been established by the CBI.

SHRI MADHAV PRASAD TRIPATHI : What about the Punjab Excise case ? Was there a trial ?

SHRI R. KRISHNASWAMY : That was over as there was no violation of the Punjab Excise Act. There was of course a full scale trial. I had to engage a lawyer. to fight it out in the Court.

SHRI KRISHAN KANT : For FERA there was no trial.

SHRI R. KRISHNASWAMY : It was an examination before the Enforcement Officers.



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**PROF. P. G. MAVALANKAR :** Was your wife called once or twice or thrice ?

**SHRI R. KRISHNASWAMY :** Only once.

**MR. CHAIRMAN :** Have you anything more to say about the period when this search was made in your house and it was communicated to you after March 1977 ? Have you any kind of experience that created the trouble for you ? Was there any kind of intimidation that you had to face or any other kind of difficulties that you had to face ? If you want to narrate on these, you can do so now.

**SHRI R. KRISHNASWAMY :** Apart from what I have mentioned now, there was this kind of difficulty that occasionally I heard that the CBI, was trying to pressurise some witnesses against me. In the final results nothing came out of that. All this I heard from other people. There was no direct threat. I was not subjected to any other direct threat.

**MR. CHAIRMAN :** But one thing still remains unanswered. You were entrusted by the Ministry to collect information about Maruti in regard to a certain question. It appears that the trouble followed thereafter. Now tell us whether you have any direct knowledge or anything positive to show that there is or there are the agencies that started framing some kind of charges or some kind of information against you which provoked the CBI to conduct the search in your house. Have you any idea about the background story of the CBI action ?

**SHRI R. KRISHNASWAMY :** You want to know the background story of the CBI's search.

**MR. CHAIRMAN :** Have you any idea about this because the CBI suddenly searched your house ? Was there any complaint made against you ? It seems that they had some complaints against you. Have you any idea about that ? What are the agencies that made the CBI to lodge a complaint against you ? Have you any idea ?

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**SHRI R. KRISHNASWAMY :** In that fashion I won't be able to say. From my own knowledge I won't be able to tell this as to what started that complaint. I was surprised that there was any complaint at all considering my own record of service and my own standards of behaviour which I was used to adopt ; I was surprised that a search should have started first before any enquiry was started. Normally, if there was even a complaint against me—there could be any complaint—anybody could have written about that. But, the usual procedure would be to hold an enquiry and to go in for a further enquiry from the senior officers. If there was something *prima facie* found, then only a search could be ordered. In my case the whole thing was inverted—the search was ordered and then they tried to find out the basis for the search. So, I can say that this was something unusual and it was not an ordinary complaint. Beyond that I had no personal knowledge or anything that I could find out. I could not find out as to what really could have started this excepting that whoever has started it knows that the CBI had inverted the usual procedure.

**MR. CHAIRMAN :** Can you enlighten the Committee about one thing ? After the CBI's interrogations, search and things of that sort, had they submitted a report against you to the Vigilance Commission ? Did Vigilance Commission find nothing against you ? Have you seen or have you any direct knowledge of the nature of the report that was submitted to the Vigilance Commission by the CBI ?

**SHRI R. KRISHNASWAMY :** I was able to see only recently because, normally, I would not have had an occasion to see it. But, since I was summoned by the Shah Commission both in the September hearings and later, in January, I asked that I should be shown these reports because I came to know that even the lawyers to Mr. R. K. Dhawan and others had a look at these reports. I therefore wanted to have a look at the report. So, I was able to see it only recently—in January 1978 I have seen their report.

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MR. CHAIRMAN : Would you enlighten us about the nature of the report and also if there is any kind of an information as to who lodged the complaint against you? There are three aspects of it—have you any idea as to who are the persons who lodged the complaint against you; secondly, the nature of the complaint and thirdly the nature of the findings of the CBI against you.

SHRI R. KRISHNASWAMY : From the C.B.I.'s report, it seems that the report itself says that information was received from a source. That is their usual nomenclature. The CBI does not name the source. They merely say that the information was received from a source that I had my property or whatever my possessions were beyond the known sources of income. This was the basis of the charge. And in substantiation, they had said that "on the basis of a large number of shares, bank accounts and other property . . ." This is how they worded the charge. Now, in their final report, they were neither able to substantiate that my possessions were beyond my known sources of income nor were they able to prove whatever shares I had were obtained by other means which were not either reported to Government or which could not be accounted for within whatever savings that I could make. And they were not able to prove any of these charges on which they had based registration of their case. But I consider their report to be dishonest because even the way in which they argued out their case was on facts which were not added to their report. For instance, in the first paragraph of their report, they say that according to their calculations which were not attached to the report, they found that my total possessions were about Rs. 8,000 more than what could be computed as my income. Now, Sir, if I had had an opportunity to examine them, in detail, I would have wanted them to prove what was the basis of their calculation. But having not given the calculation they go on to say that since it is only Rs. 8,000, we do not consider

this to be a major case. This is the report which they start. That was the first paragraph.

Then the second paragraph was something about my record player. I had got a record player for a sum of Rs. 700 and odd. I had paid for it by cheque. According to them, the list price was Rs. 795 or so. Since I had paid only Rs. 700 and odd only or Rs. 720 or so, they found that about Rs. 70 was not accounted for and that the firm had shown some favour to me. When I had the record player, neither I dealt with them nor I had anything to do with them. But that was the amount what I paid.

The third case was about the foreign collaboration where a particular party had entered into a collaboration deal with the U.K. firm. There was some dispute about terms and conditions. The terms and conditions were not acceptable to the Indian party. They had come to me with an appeal because I was handling the case then. I had thought that the party would not come in on these terms and conditions and the technology would not come forth. I had thought that that was reasonable and I had gone to the Foreign Investment Board. It was presided over by the Secretary of Economic Affairs. For explaining the situation, I had to go to the Board twice but before I went each time I had obtained the approval and also the final order of the Secretary. But the CBI thought that the very fact that I had gone to the Board twice, showed I had shown some interest in that particular party.

There was one more charge which said that sometime in 1969, I had borrowed about Rs. 1,800 from a Nationalised Bank and since it exceeded the limit of one thousand rupees, I had failed to inform the Government. So, these were the charges. I do not remember the other cases.

DR. V. A. SEYID MUHAMMED : On Saturday, you rang up to Mr. Rege and got the information.

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**SHRI R. KRISHNASWAMY :** On Friday I rang up.

**DR. V. A. SEYID MUHAMMED :** And you were told the next day, that is, on Saturday, though it was not a working day.

**SHRI R. KRISHNASWAMY :** On Friday, he said that he had no information. I had asked him whether he would be working on Saturday. He said that he would be . . . but he did not say specifically. I did not contact him on Saturday.

**DR. V. A. SEYID MUHAMMED :** You did not contact him on Saturday.

**SHRI R. KRISHNASWAMY :** On Saturday, I had to submit my draft reply. I did not contact him.

**DR. V. A. SEYID MUHAMMED :** So, you did not contact him again.

**SHRI R. KRISHNASWAMY :** All that I can say is that it was highly unlikely because from the tone of Mr. Rege, I could easily understand that there was no intention of submitting the answer.

**DR. V. A. SEYID MUHAMMED :** In the capacity of answering the Parliament Question, did you have the previous experience of contacting persons and gathering information? Generally to give information to the Minister, did you have occasions to contact other people also to gather information?

**SHRI R. KRISHNASWAMY :** That is a part of my duty.

**DR. V. A. SEYID MUHAMMED :** Did you, on all occasions, get information or on some occasions you did not get the information?

**SHRI R. KRISHNASWAMY :** From which party?

**DR. V. A. SEYID MUHAMMED :** From various parties.

**SHRI R. KRISHNASWAMY :** In most cases, very often it usually happens when

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people know that Parliament is interested, information is forthcoming. But in some cases, the information does not come and by that time the dead-line is over and we are bound to answer the question.

**DR. V. A. SEYID MUHAMMED :** But there are occasions on which you could not get information.

**SHRI R. KRISHNASWAMY :** There could have been.

**DR. V. A. SEYID MUHAMMED :** In this instance, there was nothing extraordinary for which Mr. Rege did not give the information.

**SHRI R. KRISHNASWAMY :** There was something extraordinary because I had a direct contact with him and since I had taken him into confidence, I rang up to him twice during the day and still he did not submit the information. This was the extraordinary case.

**DR. V. A. SEYID MUHAMMED :** Apart from your inference and the CBI people following you, etc. because of juxtaposition of the events, you thought that there was some causal connection between what happened. That was your inference only. Do you have any other instance?

**SHRI R. KRISHNASWAMY :** It was slightly more than an inference because I was sure that there was neither any cause nor any other ground. So, I was a little more certain that this had connection with what I did for the collection of information. It was clear that what followed was a punishment for my having attempted to do the work.

**DR. V. A. SEYID MUHAMMED :** Apart from your inference of a casual connection, there was nothing tangible to show that there was really a connection.

**SHRI R. KRISHNASWAMY :** With the information which I had in my possession, as I had said, it was slightly more than an inference.

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**MR. CHAIRMAN :** There would have been certain cases where the information that you sought were not supplied. Can you give any such specific instance? Please also indicate the nature of the information you sought from the parties—which were not supplied, and what steps Government took against such parties.

**SHRI R. KRISHNASWAMY :** Off hand I cannot think of any party which had refused to give information of the type we faced in this case., *i.e.* where we faced a similar resistance for the giving of information.

**MR. CHAIRMAN :** If you have any previous case where such informations were denied by the party concerned from whom you sought them, please produce them to us.

**SHRI R. KRISHNASWAMY :** I will have to search for it, if at all it is there. I said that there were occasions when informations were not forthcoming, I would like to say that normally, when information is asked for a Parliament Question, there are not many cases where we have to deal with private parties—as in this case. Here it was a private firm. Normally, Parliament Questions deal with activities of Government or of government firms.

**MR. CHAIRMAN :** The question put by Dr. Seyid Muhammed is very relevant. If you have had any case where you sought information from a private party and you did not get it and where, thereafter, you did not take any action against such a party, please supply such information to this Committee.

**SHRI R. KRISHNASWAMY :** I will do it.

**SHRI HITENDRA DESAI :** When you prepared your draft reply to the question on 12th April, was the Minister satisfied with it?

**SHRI R. KRISHNASWAMY :** I had no direct contact with the Minister. I had forwarded my draft answer to the

Joint Secretary. I am not aware whether he had a discussion with the Minister or whether it was the subject-matter of a briefing session. Once I submitted my draft, my work was over.

**SHRI HITENDRA DESAI :** You did not hear anything from him?

**SHRI R. KRISHNASWAMY :** No, Sir.

**SHRI HITENDRA DESAI :** Was this question also replied to in Parliament?

**SHRI R. KRISHNASWAMY :** Yes. There were a few supplementaries. That is a part of the proceedings.

**SHRI HITENDRA DESAI :** Who was the Minister?

**SHRI R. KRISHNASWAMY :** It was in Mr. George's name; but the supplementaries were answered by Mr. Pai.

**SHRI HITENDRA DESAI :** With regard to the order of transfer, who passed it?

**SHRI R. KRISHNASWAMY :** The order must have been on the file. Probably the Secretary did it.

**SHRI HITENDRA DESAI :** You must have been conveyed the order.

**SHRI R. KRISHNASWAMY :** It was signed by the Deputy Secretary or the Under Secretary; but he would not have ordered, but for orders from the Secretary. The Secretary must have done it under the orders of the Minister.

**SHRI HITENDRA DESAI :** Did you approach anybody?

**SHRI R. KRISHNASWAMY :** Before that, I had represented that I should not be asked to go on leave.

**SHRI HITENDRA DESAI :** Did you do anything about that?

**SHRI R. KRISHNASWAMY :** There was nothing I could do about the order.

**SHRI HITENDRA DESAI :** What happened to the case under the Prevention of Corruption Act? You talked about

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the Vigilance Commission; but what happened to the case itself?

**SHRI R. KRISHNASWAMY** : It must have been closed, because CBI returned all the papers to me. They themselves, in their report, said that they forwarded it to the Ministry, recommending that the Ministry might take any action which it felt like taking. The intention was clear, viz. that they did not intend to go in for prosecution beyond that.

**SHRI HITENDRA DESAI** : Did you complain to any higher authority regarding this harassment?

**SHRI R. KRISHNASWAMY** : I kept my Secretary and my Minister, viz., Mr. Sondhi and Mr. Pai informed.

**SHRI HITENDRA DESAI** : When did you do it?

**SHRI R. KRISHNASWAMY** : Very soon. As and when things happened, I used to keep them informed.

**SHRI HITENDRA DESAI** : Was it in 1975?

**SHRI R. KRISHNASWAMY** : Yes, Sir.

**SHRI KRISHAN KANT** : When you were transferred, was it in any way immediately conveyed privately through some talk with officials; or did your Secretary say that this whole thing was in connection with the collection of information about Maruti?

**SHRI R. KRISHNASWAMY** : In the Ministry, we were very clear that the CBI action proceeded from the collection of information. But for the collection of information, all of us were clear that I would not have come to the notice of CBI. Specifically at the time when I was asked to go on leave, there was no mention of it. But I was asked to proceed on leave by a simple, two-line letter. I was asked to apply for it. While sanctioning the leave, it was said that at the end of the leave, my services would be placed at the disposal of my nearest department.

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**SHRI KRISHAN KANT** : It cannot be expected to be mentioned in the former. But your impression was that you were taken to task because of this.

**SHRI R. KRISHNASWAMY** : Yes.

**SHRI KRISHAN KANT** : I think government officers have to file annual returns of property.

**SHRI R. KRISHNASWAMY** : Yes.

**SHRI KRISHAN KANT** : You must have filed your return of shares.

**SHRI R. KRISHNASWAMY** : Yes; they were all there.

**SHRI KRISHAN KANT** : Before CBI filed the case about you, as it appeared in the report of the Shah Commission's proceedings in the Press, this question came up, viz., that you had more shares than your income otherwise would make it possible for you to have at the time of the enquiry. CBI must have called upon you and posted to you this question of shares.

**SHRI R. KRISHNASWAMY** : As I said, my father had retired as Accountant-General some time during 1962. He had a number of shares. He transferred shares having a face value or worth Rs. 25,000 to me. They were shares which he had acquired out of his own savings. Before accepting them I had taken permission from my Department. These were the shares on the basis of which CBI tried to make out a case that I had shares outside my known sources of income. With my own sources of income the shares bought were worth about Rs. 2,000.

**SHRI KRISHAN KANT** : Is it Rs. 2,000 or Rs. 5,000?

**SHRI R. KRISHNASWAMY** : The Shah Commission mentioned Rs. 5,000, but that is the current value. They were purchased at various times and the total amount paid was about Rs. 2,000.

**SHRI KRISHAN KANT** : Do you know whether, before filing the FIR in this

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case, the CBI had enquired from your Department about your annual returns of property ?

**SHRI R. KRISHNASWAMY :** They could not have done so because, if they had done it, the FIR would not have contained the statement that I possessed shares worth Rs. 25,000 which I could not account for. It is obvious from the wording of the FIR that they had not gone into my personal file, because, if they had consulted it, it is inconceivable that such an FIR should have been drawn up.

**SHRI KRISHAN KANT :** Did Mr. Dhawan ring you up at any time ?

**SHRI R. KRISHNASWAMY :** No, he did not speak to me directly.

**SHRI KRISHAN KANT :** Did he speak to any other officer in your Ministry ?

**SHRI R. KRISHNASWAMY :** As I have said, Mr. Rajan came to me to tell me that he was called by the Minister. Among the personal staff of Mr. Pai there was another Dhawan with the same initials and he also stepped into my room to find out what was the information that I was collecting. I told him what the question was and what I was collecting and then asked him who had asked him to find out. He said that Mr. Dhawan of the Prime Minister's Secretariat had asked him to find out who in the Ministry was doing this work. But Mr. Dhawan of the Prime Minister's Secretariat did not speak directly to me.

**SHRI KRISHAN KANT :** Is he related to the other Dhawan ?

**SHRI R. KRISHNASWAMY :** I shall be unable to say whether he is related or not.

**PROF. P. G. MAVALANKAR :** Was he an additional Private Secretary ?

**SHRI R. KRISHNASWAMY :** I think he was an Assistant Private Secretary because Mr. Sampat was the Special Assistant.

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**SHRI NARENDRA P. NATHWANI :** I want to ask you only one question by way of clarification.

After the case was registered and a search was made, did you try to meet the Minister ?

**SHRI R. KRISHNASWAMY :** Are you referring to the same day ?

**SHRI NARENDRA P. NATHWANI :** Any time later on. Did you ever meet him to acquaint him with your doubts or whatever you were feeling about this case ?

**SHRI R. KRISHNASWAMY :** As I have said, I rang up the Joint Secretary and then I got a message, some time around 12 o'clock, from the Minister's house that the search was on and that I should not come in the way. The message was 'Let the CBI prove whatever they can prove and don't come in the way'. Since this was the message Mr. Pai sent to me, I did not think it necessary to personally go and tell him because he knew, minute to minute, what was happening to me. I also came to know, a few days later, that he wrote a letter to the Prime Minister about the unreasonableness of this kind of searches. So, I did not see any point in meeting him about this. But I did meet him, however, when I was going on leave to thank him for the support he gave me and to tell him about my future plans.

**SHRI NARENDRA P. NATHWANI :** On the last occasion when you called on him before your return to the parent Department, was there any talk about this incident ?

**SHRI R. KRISHNASWAMY :** There was some talk about it. Mr. Pai said he was very sorry this sort of thing happened and he said that ultimately they could not touch me but right then there was nothing much which could be done, that I should proceed on leave and as things developed we could see what was to be done. He assured me that he would continue to give me his support.

**SHRI KRISHAN KANT :** You mentioned that the stereo you purchased was

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bought at a discount of about Rs. 60 and not Rs. 125 as the FIR stated.

**SHRI R. KRISHNASWAMY** : I think the listed price was around Rs. 795 and that I had paid around Rs 700. I will check up and tell you the exact amount of discount.

**PROF. P. G. MAVALANKAR** : You said that in March/April 1975 a series of unstarred questions were tabled by several Members on Maruti. Can you tell us your experience in regard to collecting information on other questions on Maruti prior to the starred question of Shri Jyotirmoy Bosu (No. 656) which was replied to on 16th April ?

**SHRI R. KRISHNASWAMY** : I would have to refresh my mind as to what happened because, though we have a list of these questions in the office, I do not have it here. But the only difference between the other questions and this particular question was that in the case of the other questions information in regard to certain action taken by the Ministry was to be furnished and we did not have to approach the party themselves to get the information. For instance, Mr. Madhu Limaye's question was whether any foreign machinery was imported by Maruti, to which our answer was that we had not given them any import licence and that the letter of intent lays down that no imported machinery would be allowed. So, we were able to answer this with the information available from our records and the knowledge we had in our possession : we did not have to get in touch with Maruti themselves. I think Mr. Jyotirmoy Bosu's question was the first one where we did not have the information in our possession and we were forced to approach Maruti to get the information. As far as I can recollect, there is no other question where we had to contact them for any information.

**PROF. P. C. MAVALANKAR** : In other words, you are saying that this was the first time that you had to contact Maruti, a private company, for getting the necessary information to supply it to Parliament ?

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**SHRI R. KRISHNASWAMY** : Yes, but I may explain that I was handling that Section only between May 1974 when I took over and April 1975 when this happened. I do not know the experience of other officers because Maruti was in the picture from 1970 onwards.

**PROF. P. G. MAVALANKAR** : Before I put my next question to him, Mr. Chairman, I would like to address this question to you. He says that he was in charge of this particular assignment only from May 1974 to April 1975, but questions on Maruti kept coming from 1971 onwards. So, it would be helpful to the Committee if all the data could be made available in regard to all questions relating to Maruti. In that context, I would like Mr. Krishnaswamy also to give us a note for the period between May 1974 and April 1975.

**MR. CHAIRMAN** : That would be a general question whether there have been any difficulties previously.

Mr. Krishnaswamy, if it is in your knowledge that there has been any difficulty in furnishing information earlier in regard to Maruti, please send us necessary information.

**SHRI R. KRISHNASWAMY** : I can make my own enquiries and give you a note.

**PROF. P. G. MAVALANKAR** : You tried your utmost to get information for Shri Basu's question. Shri Rege was saying all the time that he will have to consult his boss etc. He did not say 'no' at any point of time. Is that right ?

**SHRI R. KRISHNASWAMY** : I must have tried to contact him five-six times. I was told on some occasions that he was not available, when I rang up at the appointed time, we had sent two officers when he himself had agreed to receive them. When he returned these officers, I could understand that he was trying to avoid me. I inferred that he would not be giving me any information. I would not, however, say that he gave a clear 'no' to me in the conversation which I had with him.

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**PROF. P. G. MAVALANKAR :** Did you provide the draft for the Minister to answer in the House? Could you not have provided the answer saying that 'information is being collected and will be placed on the table of the House'. Why did you not provide such a draft?

**SHRI R. KRISHNASWAMY :** In my own contacts with Shri Rege, I made no headway at all in getting the information. Secondly, my impression was that however long we may wait, they would not give any information. Since they were a private party and the Government is not expected to keep this kind of information, I submitted the draft accordingly. There is a Lok Sabha rule that in respect of private parties, we are not expected to give detailed information. I submitted the draft for the answer and it was finally approved.

**MR. CHAIRMAN :** In reply to the question, it was stated :

"The Government does not collect... nor is an industrial unit required to furnish information with respect to machinery purchased locally. . ."

**SHRI R. KRISHNASWAMY :** What we meant is that we have not prescribed any proforma or data by which we get the information about the machinery. There are many proforma which they are required to fill in, but this kind of information has neither been prescribed by the Ministry nor the DGTD.

**SHRI KRISHAN KANT :** You were not sure whether Maruti was making the car with indigenous machinery and that is why you were trying to get the necessary information either through PEC or DGTD. They could have contacted the private parties who might possibly have supplied the imported machinery to Maruti. The import is under Government licence and how they sell, Government can enquire. You were competent to enquire how the imported machinery has been utilised.

**SHRI R. KRISHNASWAMY :** PEC imports machines from rupee payment East-

European countries. It has to be cleared by DGTD that these machines are not indigenously available. To buy those machines, a person does not need a licence. Some time in February, two officers had inspected Maruti to see the progress. There was a mention that imported machinery of a certain value was there, but there were no details. This could have been either obtained through PEC agents or possibly any other method of obtaining such machines. When we had to give information to Parliament, we had to be very certain. The question was very specific. Our intention was to check and make an inventory of the machines, if possible and say what was the place of origin. That is why, we sent a technical officer.

**SHRI KRISHAN KANT :** You are again Director of Automobile Industry.

**SHRI R. KRISHNASWAMY :** I am a Director, but not handling automobiles industry.

**SHRI KRISHAN KANT :** You got information later that Batliboi were supplying machinery to Maruti.

**SHRI R. KRISHNASWAMY :** We did not get any information by the time we replied.

**SHRI KRISHAN KANT :** Later on you got.

**SHRI R. KRISHNASWAMY :** The Ministry has not got. It is a matter of information which I have now from Cavle. They supplied some information to PEC, but it did not come to us. It was stopped from coming to us.

**MR. CHAIRMAN :** Stopped by whom?

**SHRI R. KRISHNASWAMY :** Cavle's version is that when he got the statement, he gave it to his Director, Shri L. K. Dhawan. He gave it to his chairman and they did not think it necessary to send it to us. Dhawan is the senior officer to Bhatnagar and Cavle.

**SHRI KRISHAN KANT :** He was given the information.



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**SHRI R. KRISHNASWAMY :** Mr. Bhatnagar had to get some information from Battliboi which he passed it on. But he was stopped by Mr. Dhawan.

**PROF. P. G. MAVALANKAR :** What you described as the unusual behaviour of Mr. Rege in not giving you the answer the necessary information which he has assured to give you made you to infer that there is no point in keeping the question in suspense and, therefore, you gave the draft answer. Is it right ?

**SHRI R. KRISHNASWAMY :** You may say so. But if there was any other information, I would have submitted it to the Minister.

**PROF. P. G. MAVALANKAR :** Mr. Rege said that he would consult his Mg. Director before he could get these two officers of your Ministry go inside the factory and collect the information by seeing things and verifying, etc. . .

**SHRI R. KRISHNASWAMY :** I did not say that. I said that they were not allowed to go in. When Mr. Rege came on the phone later, I asked him, 'would you like these officers to be retained so that the information can be given?' He said, 'There is no point in their staying on here. I will consult the Mg. Director and try to give you the information later.' Then I asked him, 'Should they come back?' and then they came back.

**PROF. P. G. MAVALANKAR :** Who is the Mg. Director ?

**SHRI R. KRISHNASWAMY :** The Mg. Director would have been Mr. Sanjay Gandhi.

**PROF. P. G. MAVALANKAR :** After this experience of yours, as you call it unusual—Mr. Rege's behaviour—, did you inform either your Minister or your immediate superiors ?

**SHRI R. KRISHNASWAMY :** Yes, I was daily keeping them informed. In fact, as I said earlier, that night when Mr.

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Sondhi rang me up, I told him that we were not making any headway in the collection of the information. I was keeping my own Joint Secretary briefed twice a day because there was very little time for collecting the information and prepare the answer. So briefing was taking place daily.

**PROF. P. G. MAVALANKAR :** On this particular question or on the previous questions and particularly, on this question, while you were dealing with the process of getting answers, did either the Minister or your senior officers call you personally and ask you any questions or seek your advice or guidance as to how to collect the information or you were giving the information to them and they were not calling you back ?

**SHRI R. KRISHNASWAMY :** Normally, the procedure in the Ministry is like this that when a notice of admission comes in, then the particular division which is handling it will only know. In fact the system was that even the starred question was finalised at the level of the Joint Secretary and directly submitted to the Minister without even going through the Secretary. Otherwise, the time was not enough for us to prepare it. Except for the briefing prior to the day of answering the question, normally, the Minister may not know what were the questions listed for a particular day because it was our duty to completely answer the question and submit it to him in a full pad. In this case, the only reason why I came to know that the Minister must have been aware was because he called Mr. Rajan before the draft answer was with him to find out what had really happened and how he was collecting the information. But normally he would not have been aware.

**PROF. P. G. MAVALANKAR :** Lastly, coming to the question of later events, you said there was a CBI inquiry, a raid on your residence, etc. You said that you informed the Minister as also the senior officials of the Ministry that you were under surveillance.

**SHRI R. KRISHNASWAMY :** Yes.

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**PROF. P. G. MAVALANKAR :** Did the Minister do anything futile in the matter by writing to you or doing anything ?

**SHRI R. KRISHNASWAMY :** Not to me.

**PROF. P. G. MAVALANKAR :** You have any knowledge of any reactions on his part on your telling him that you were under surveillance ?

**SHRI R. KRISHNASWAMY :** He said 'Let us see what they can do. Then we can see what we can do.' The anticipation then was that the CBI would not have gone to the length of a search and what followed thereafter and later events proved that we were not good anticipators.

**PROF. P. G. MAVALANKAR :** You said your father's locker was also opened in Madras. He had retired then ?

**SHRI R. KRISHNASWAMY :** He retired as Accountant-General in 1962.

**PROF. P. G. MAVALANKAR :** And this was opened in Madras in 1975 ?

**SHRI R. KRISHNASWAMY :** Yes, it might have been for this fact that . . .

**PROF. P. G. MAVALANKAR :** I am not asking the reason. But what did they find ?

**SHRI R. KRISHNASWAMY :** They found nothing. They found certain things which belonged to him and also certain things which belonged to my wife. It was all part of the same thing and it was not started as a separate case.

**SHRI MADHAV PRASAD TRIPATHI :** In the statement that you prepared and submitted to the Minister, did you mention therein that Mr Rege was trying to evade the issue and further time was necessary for collecting the information required ?

**SHRI R. KRISHNASWAMY :** As I said, I had kept the Joint Secretary informed from day to day as to the progress in the matter.

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**SHRI MADHAV PRASAD TRIPATHI :** In the statement was it not mentioned ?

**SHRI KRISHAN KANT :** You gave a certain note for supplementaries to the Minister. In that note did you mention that you were trying to get the information from Mr. Rege but you could not get it ?

**SHRI R. KRISHNASWAMY :** I had not put it down in writing in so many words. They were all aware of the steps taken by us.

**SHRI MADHAV PRASAD TRIPATHI :** Is there any officer under law who is empowered to enter the precincts of the factory and examine and inspect the machines ? If 'yes', whether his services were utilised ?

**SHRI R. KRISHNASWAMY :** The factory inspector could do that. But normally a DGTD Officer or the Ministry can ask for any information.

**SHRI MADHAV PRASAD TRIPATHI :** What I mean to say is that a person empowered to enter the precincts of the factory could have gone there with the powers he had.

**SHRI R. KRISHNASWAMY :** I would not be able to explain whether under the Factories Act there is any specific power but I do not think there is any particular law which enables us to go into a factory and ask for this kind of information. I am not aware.

**SHRI KRISHAN KANT :** Do you know the name of the CBI Officer who interrogated you twice ?

**SHRI R. KRISHNASWAMY :** Yes. He is the Deputy Supdt. of Police, Mr. Baijal.

**SHRI KRISHAN KANT :** He was the man who interrogated you twice ?

**SHRI R. KRISHNASWAMY :** He headed the search party and he also interrogated me on two occasions.

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श्री भीठा लाल पटेल : उन लोगों की आप के प्रति हमदर्दी भी थी या जानबूझकर हैरेसमेंट करने वाली बात थी या उनके दिमाग में यह था कि जानबूझकर हैरेसमेंट किया जाय या यह था कि वे आर्डर का पालन कर रहे थे ?

श्री आर. कृष्ण स्वामी : आर्डर का ही पालन कर रहे थे। इतना ज्यादा हैरेसमेंट नहीं था क्योंकि बाद में देखा फाइल में यह भी लिखा था कि नो अनइयू हैरेसमेंट शुड बी मेड।

"No undue harassment should be caused."

DR. V. A. SEYID MUHAMMED : The reply given by Shri A. C. George, Minister, was as under :—

'Government does not collect nor is any industrial unit required to furnish detailed information with regard to . . .'

That is the reply. When the Minister said that no industrial unit is required to furnish detailed information, that means that it is not required under law and, therefore, they are not bound to have that information.

SHRI R. KRISHNASWAMY : Since there is no prescribed pro forma, they are not required to furnish it. There is no pro forma in which they have to say what are the machinery you have to instal and wherefrom it came. We have not so far prescribed any returns whereby we may get such information.

It is only in that sense that we replied.

In the normal course they are not required to have this information as there are no returns.

DR. V. A. SEYID MUHAMMED : Shri Rege said that he would consult the Managing Director and let you know. That was the last conversation that you had with Shri Rege. There was no refusal.

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SHRI R. KRISHNASWAMY : He said that he had not been able to consult.

DR. V. A. SEYID MUHAMMED : Taking all this, there was nothing extraordinary to show that he had deliberately refused to give the information.

SHRI R. KRISHNASWAMY : They could have at least allowed the entry of the officers and could have given the information.

When I spoke to him on the very first day before sending the officers—to which he agreed—there must have been some consultation. It could be a second thought on their behalf that information should not be furnished.

MR. CHAIRMAN : The most important part of the question is—

'Whether some of these dealers are importers of the machinery.'

This question was very carefully evaded. The answer was :

"Nor is any industrial unit required to furnish detailed information with regard to machinery purchased locally."

The key word here is 'locally'. By using the word 'locally' the whole question (d) was evaded.

A is not permitted to purchase a machinery but B is permitted to purchase foreign machinery. If A purchased from B i.e. an indirect purchase was made, that is the question that has been asked and that part of the question was evaded. If that company had done indirectly, is that company not under obligation to furnish that information ?

SHRI R. KRISHNASWAMY : Maruu under the terms of letter of intent, were not allowed to import any foreign machinery. If they were to directly import any machinery, they would have to apply for an import licence. We would come to know. It has happened earlier in one case, they applied for it and we rejected it.

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If they had gone through the normal channels for the import of any machinery and thereby violated the terms and conditions of the letter of intent, we would have come to know because they would have applied in the normal course.

The only other way in which they would have got machine not made locally was the procedure of stock and sale method. That is why we asked the PEC—what was the machine which your agent supplied to Maruti because for buying those machines they did not need import licence? They could have walked to the shop of Batliboi and said, "Give me those machines". Those machines were imported by Batliboi. That is why we asked Batliboi to give information. We could not get information unless we made on the spot check and took an inventory. That is why we sent our officers to get inventory.

It did not suit them. I do not know why Maruti people did so.

MR. CHAIRMAN : Dr. Seyid Muhammed put this question—as it is a private company, if it purchased something from within the country, it was not under any obligation to furnish any information. But here is the case of Maruti. There is a categorical mention in the letter of intent that it should not have any import of any kind of machinery. It got from Batliboi. How can you say that the private company will not be under any obligation to furnish information if it used any kind of machinery which was not permitted either to be imported by it or to get in an indirect way?

SHRI R. KRISHNASWAMY : If somebody has imported, there is a bar in transferring that piece of equipment. If it is acquired locally. It is in that sense we have said 'machinery bought locally', there is no such bar as far as I know. That particular operation is called stock and sale method. No specific permission is required by anybody to buy those machines.

MR. CHAIRMAN : He has an obligation to furnish you any information. This is

what Mr. Rege did. I think there was nothing wrong in that. He can straight-away refuse also. That is the reason why myself and my friends put the question. This is a very crucial one. The question is: this being the main line of business of the dealers, from whom such purchases were made, the questionnaire was trying to get information as to whether Maruti got any kind of imports of either the machinery or parts as spare parts indirectly through some other agencies. If you had that information certainly, Maruti had no obligation to furnish you with that information. The question is: whether you had got this information earlier or not.

SHRI R. KRISHNASWAMY : We did not have that information earlier.

SHRI KRISHAN KANT : May I take it that in order to save harassment to the Minister, because you did not have the correct information, still the reply was drafted in the light of the Letter of Intent that no imports will be allowed and no imported machinery will be used. Taking the cover under the Letter of Intent this reply was drafted in that atmosphere. May I take it like that?

SHRI R. KRISHNASWAMY : I may put it this way, no unit is in the normal expected to furnish any information with regard to the machines purchased locally. Government as such has got no such information.

SHRI KRISHAN KANT : It was a very good way of evading the issue which might have been needed. It was a correct method of evasion of the issue by the Government. You can say that you are replying in terms of the Letter of Intent because the dealer is not importing anything. May I take it that the whole thing was drafted in a way to evade the issue of the questionnaire?

SHRI R. KRISHNASWAMY : No, Sir. I would explain that this way. If he had bought any machinery not locally but from abroad, we would have known it because some licence must have been issued. But, if he buys the machinery locally, as there

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is no prescribed forms there or there is no periodical return, we could not get information from the private parties. That is what we meant.

**SHRI KRISHAN KANT:** Have you got any pro forma or any method of collecting the information about the importers of a particular machinery and its sale to anyone? Have you any information on this?

**SHRI R. KRISHNASWAMY:** If a particular unit has imported machinery or if items of a certain machinery are imported by a firm, the information would be available in the D.G.T.D's Office.

**SHRI KRISHAN KANT:** Whether Batliboi bought or somebody else bought it, when once they sell that to a certain Indian concern, are they not asked to have a list or record to know how that imported machinery is utilised?

I want to know whether there is any pro forma or method to collect such an information?

**SHRI R. KRISHNASWAMY:** One of the conditions of the licence is this. In certain cases, there is prohibition of sale within a certain number of years. This is as per the regulations of the C.C.I. Office. If he has transferred that within that prescribed time, then he has to take the previous permission of the Chief Controller of Exports and Imports before doing so.

**SHRI KRISHAN KANT:** Suppose Mr. Batliboi was giving to Maruti what was asked for, under the rules or instructions, he has to keep a list or record. Is it not?

**SHRI R. KRISHNASWAMY:** If they are permitted to import a machinery from East European Countries, for whatever they import from those countries, they have to give a report to the Projects and Equipments Corporation on whose behalf they are doing this work. Even if they have sold it to a party, they should have reported the same to the Projects and Equipments Corporations.

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**SHRI KRISHAN KANT:** As the Government empowered to go and look into to see whether this equipment has been sold to a company or not?

**SHRI R. KRISHNASWAMY:** Which company are you referring to? Are you referring to Maruti?

**SHRI KRISHAN KANT:** Let it be any company—A, B, C or D. When you transfer something, how is it being utilised? Take for instance the tractors which many people are planning to import. They are German tractors. Is Government empowered to go and see in a factory or in a company that such and such an imported machinery purchased from somebody is or is not properly worked or not? What is the situation?

**SHRI R. KRISHNASWAMY:** I would not be able to tell you the party's name. But may I say that normally, if such an inspection is ordered by the D.G.T.D. it is always accepted?

**SHRI KRISHAN KANT:** When it pertains to a Parliament question, you are trying to send some people to examine that.

**SHRI NARENDRA P. NATHWANI:** There are some questions put to you regarding furnishing of information. There was a virtual refusal. That was the impression that you gathered, that Maruti virtually refused to give you that information. Was that your impression?

**SHRI R. KRISHNASWAMY:** Yes, that was my impression.

**SHRI NARENDRA P. NATHWANI:** There are two aspects of the question. One is that information is required by the industries for the industrial purpose; the other is that the Ministry is concerning itself for its own purpose when an information is required by it.

Regarding obligation to furnish information with respect to a question the Ministry itself wants in that connection perhaps, a

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reference to the forms prescribed by the Ministry may be useful. Here, you were aware that you were eliciting this information for giving answer to Parliament. So, you know that when Parliament wants a certain information, you were acting on behalf of Parliament. In that sense, you were aware of it when you were drafting these answers. Is it not ?

**SHRI R. KRISHNASWAMY :** Yes, Sir. It is precisely because of that I not only asked Maruti but I had asked all the agencies to give the information. The idea was that information from as many sources as possible by the Ministry must be collected; they should be cross-checked and then furnish an accurate report to Parliament.

**SHRI NARENDRA P. NATHWANI :** Kindly try to understand me. I am trying to emphasise the obligation of the party concerned. Here it is the Maruti concern which has to give the information. In order to satisfy yourself whether that answer is correct or not—in that context—I am pursuing this matter. The information was sought for for placing the same before Parliament. Here you were acting on behalf of Parliament. You know that it is obligatory on any person to answer or to give information which Parliament wants. Were you aware of that or not ?

**SHRI R. KRISHNASWAMY :** I was aware of it.

**SHRI NARENDRA P. NATHWANI :** Therefore, according to you, it is obligatory on a party or a person or firm or anybody to supply the information when that is sought to be placed before Parliament.

**SHRI R. KRISHNASWAMY :** I was aware that I had to do my best to give the information. But, I cannot say whether Maruti was aware of this or not.

**SHRI NARENDRA P. NATHWANI :** I am not concerned with Maruti, but with your drafting of this answer.

**SHRI R. KRISHNASWAMY :** I was perfectly aware of the fact.

**DR. V. A. SEYID MUHAMMED :** You were not aware that Maruti knew that it was for a parliamentary purpose.

**SHRI R. KRISHNASWAMY :** I had told him for what purpose we needed this information. I was not sure how far Maruti were aware of this obligation\* on their part in furnishing that information.

**SHRI B. SHANKARANAND :** Is there any rule or law whereby DGTD can enter into private party's factory and do inspection ?

**SHRI R. KRISHNASWAMY :** I am not aware whether there is any sanction.

**SHRI B. SHANKARANAND :** I am talking about the legal sanction. Not your opinion.

**SHRI R. KRISHNASWAMY :** That is a matter to be checked up. I am not sure.

**SHRI B. SHANKARANAND :** How many questions regarding Maruti you handled in the Ministry ?

**SHRI R. KRISHNASWAMY :** Approximately during that period of one year and a half it would have been 6 or 7 or 8 or 10.

**SHRI B. SHANKARANAND :** Which was the last question on Maruti you handled ?

**SHRI R. KRISHNASWAMY :** Mr. Limaye's was the previous one.

**SHRI B. SHANKARANAND :** Date ?

**SHRI R. KRISHNASWAMY :** That was put down for answer sometime in March, may be 7th or 8th.

**SHRI B. SHANKARANAND :** Did you not handle Mr. Jyotirmoy Bosu's question ?

**SHRI R. KRISHNASWAMY :** I handled the question.

**SHRI B. SHANKARANAND :** Which was the last in sequence of date—Mr. Madhu Limaye's or Mr. Jyotirmoy Bosu's ?

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**SHRI R. KRISHNASWAMY :** Prior to Mr. Bosu's question as far as I am aware, there was a question from Mr. Madhu Limaye. There could have been something in-between. I don't have the entire list with me.

**SHRI B. SHANKARANAND :** Which was the last question? On what date was it answered?

**SHRI R. KRISHNASWAMY :** I will not be able to say unless I have the full details of the questions.

**SHRI B. SHANKARANAND :** During your regime what happened, I am asking. You have said this. You were handling the questions regarding collection of information about Maruti. You said 6 or 7 or 8 or 10. Which was the last question you handled?

**SHRI R. KRISHNASWAMY :** I was in the Ministry till August, 1975. There might have been one or two more questions.

**SHRI B. SHANKARANAND :** I am asking about you, not about others. Till August I am asking.

**SHRI R. KRISHNASWAMY :** This question was answered on 16th of April. After 16th of April, as you know, the Parliament continued in session until early May.

**SHRI B. SHANKARANAND :** Don't confuse yourself. In the Ministry, till August, which was the last question regarding Maruti which you handled?

**SHRI R. KRISHNASWAMY :** I will have to check up and then tell you. I don't have the information now with me.

**SHRI B. SHANKARANAND :** You can check up and let us know, because I have to put questions on that point. I will await for your answer and then I will put the question.

**MR. CHAIRMAN :** That is why I asked you to supply all the information.

**SHRI B. SHANKARANAND :** I asked a specific question. Did you handle the collection of information regarding Maruti after the question of Mr. Jyotirmoy Bosu?

**SHRI R. KRISHNASWAMY :** This is a matter I will have to check up because I do not have that information with me. There could have been a few questions till the end of the Parliament session.

**MR. CHAIRMAN :** It is a pertinent question. He wants to know, because you experienced certain difficulty in this case, did you experience any difficulty in regard to the other question also.

**SHRI R. KRISHNASWAMY :** My memory is not that perfect, I will have to check up.

**SHRI B. SHANKARANAND :** You are replying to the questions that I have put to you. You have said, you are not sure. It is better you check up and come before the Committee again.

**MR. CHAIRMAN :** There is only one clarification which I want from you. You said that you had drafted the reply for the Minister. That is in regard to the question of Mr. Jyotirmoy Bosu. Did he accept your draft *in toto* or did he change it in any way?

**SHRI R. KRISHNASWAMY :** I have to see the original. By and large, I think, it was mostly the draft which was accepted. There might have been some changes in expression I am not sure. The file is not available. Unless I see that I can't say. I will have to check up.

**MR. CHAIRMAN :** Regarding information about Maruti, you had consultation with Rege. At no time he informed you or any authority.

**PROF. P. G. MAVALANKAR :** After Friday evening or night you considered the matter as hopeless as regards getting information.

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**MR. CHAIRMAN:** More than that. Had he informed you afterwards that he had any consultation with the Managing Director?

**SHRI R. KRISHNASWAMY:** Including the last time that I spoke to him he made it out as if he was not able to consult the Managing Director.

**Mr. CHAIRMAN:** Honourable Minister also did not ask you to try to get information again from Mr. Rege. No?

**SHRI R. KRISHNASWAMY:** Directly he did not ask.

**MR. CHAIRMAN:** Mr. R. K. Dhawan was referred to by another Dhawan, who happened to be in the staff of Mr. Pai. He met you and informed you that Mr. R. K. Dhawan wanted to find out who are collecting information about Maruti in this Ministry. Apart from that have you any other direct or indirect information by which you can say that Mr. R. K. Dhawan had any interest in regard to this matter?

**SHRI R. KRISHNASWAMY:** Two things were there. One was this. Mr. Rajan was also asked by the Minister. When he

came back to the Ministry he told me this, that he was questioned by the Minister about information being gathered and he understood that there was an enquiry from the PM's Secretariat. That was there at that point of time. Later on, on 15th of April, Rajan reported to me that R. K. Dhawan had spoken to him directly. From that also I knew that they were interested in this question. But nobody spoke to me directly as I mentioned.

**MR. CHAIRMAN:** We wanted to have certain information. It is necessary for us. We have to lay down certain procedure. It may be that he may be called to give further evidence before the Committee for more than once.

**SHRI B. SHANKARANAND:** That is why I told that he should come again with all the particulars.

**MR. CHAIRMAN:** But this is all for today. Now, he can go.

*(The witness then withdrew)*

*(The Committee then adjourned for lunch till 15.30 hours.)*



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(The Committee reassembled at 15.30 hrs)

(ii) Evidence of Shri A. S. Rajan, Development Officer, DGTD.

MR. CHAIRMAN: Mr. Rajan, you have been asked to appear before this Committee to give your evidence in connection with the question of privilege against Shrimati Indira Gandhi and others viz. Shri R. K. Dhawan and Shri Sen for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited. I hope you will state the factual position and your version of the events freely and truthfully. I may inform you that evidence that you give before the Committee is to be treated by you as confidential till the report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege.

The evidence which you are giving before the Committee may be reported to the House. You may please take oath or affirmation as you like.

(The witness then took oath)

MR. CHAIRMAN: We first want that you may give your version about any kind of obstruction, intimidation, harassment that you faced in the course of discharge of your duty for collecting information for answering certain questions in Lok Sabha and also whether any kind of case was instituted against you and whether you suffered in any way or you were subjected to any kind of difficulties, intimidation. You give us a correlated version of your experience about the whole matter.

SHRI A. S. RAJAN: There was a question in the Parliament on 16th April raised by Shri Jyotirmoy Bosu.

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MR. CHAIRMAN: Would you kindly tell us, what was your designation at that time?

SHRI A. S. RAJAN: It was Development Officer, DGTD.

MR. CHAIRMAN: What is it now?

SHRI A. S. RAJAN: Now also it is Development Officer.

MR. CHAIRMAN: Are you still continuing there?

SHRI A. S. RAJAN: Yes, Sir.

In connection with this Parliament question, Shri Krishnaswamy, rang me up and asked me to give information about the machinery imported by Maruti. I did not have that information with me and I asked him to get in touch with the Projects & Equipment Corporation or Batliboi & Co., their agents. He asked me to ring up Batliboi & Co. I, therefore, gave a ring to them and asked them to get in touch with Mr. Krishnaswamy and to supply whatever information they have on this subject. This is all what I did. Then, round about the middle of April, Mr. Pai, the then Minister of Industrial Development . . .

SHRI KRISHAN KANT: When did Mr. Krishnaswamy give you ring?

SHRI A. S. RAJAN: Round about 10th April, 1975.

PROF. P. G. MAVALANKAR: He telephoned you or met you?

SHRI A. S. RAJAN: He gave me a ring.

MR. CHAIRMAN: What kind of information Mr. Krishnaswamy wanted from you?

SHRI A. S. RAJAN: He asked me the quantum of imported machinery Maruti possessed and the manner in which these were obtained. Round about 14th April, 1975, Mr. Pai, Minister of Industrial Development, called me to his residence

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and asked me whether I had given any information pertaining to Maruti and whether I have given any instruction to the P.E.C. to supply information pertaining to Maruti. I informed the Minister that Mr. Krishnaswamy asked me to give a ring to Batliboi. I told him that I did not have any information about Maruti to be given to anyone.

**SHRI KRISHAN KANT :** What did you tell Batliboi when you rang up?

**SHRI A. S. RAJAN :** I told them to get in touch with Mr. Krishnaswamy as he wants some information about Maruti.

**SHRI KRISHAN KANT :** You did not tell him what information was required?

**SHRI A. S. RAJAN :** No.

The Minister asked me to put on record that I contacted Krishnaswamy, that Krishnaswamy gave me a ring and on his insistence I contacted Batliboi & Co. and then I asked Batliboi to get in touch with Krishnaswamy to give information pertaining to Maruti.

Round about 15th April 1975 I got a ring and the caller said that he was from the PM's Secretariat and he introduced himself as R. K. Dhawan. He enquired from me whether I had given any information either to Shri Krishnaswamy or to Shri Bhatnagar of P.E.C. and whether I had threatened P.E.C. of the consequences if the required information was not supplied by them. I told the caller that I did not give any information to anybody and for that matter, I have no information. I told him, "If you require any information, you should get in touch with the Department of Heavy Industry".

I requested him to get in touch with the Department of Heavy Industry.

**SHRI NARENDRA P. NATHWANI :** You had informed either Mr. Krishnaswamy or Mr. Bhatnagar.

Shri A. S. Rajan

**SHRI KRISHAN KANT :** He asked Mr. R. K. Dhawan to get in touch with the Department of Heavy Industry.

**SHRI A. S. RAJAN :** Yes, the Department of Heavy Industry who were dealing with the subject because I was not handling this subject.

**SHRI KRISHAN KANT :** This happened on 15th?

**SHRI A. S. RAJAN :** Yes.

**SHRI NARENDRA P. NATHWANI :** Shri T. A. Pai called you on 14th April?

**SHRI A. S. RAJAN :** On 14th the Minister called me and on 15th Mr. Dhawan gave me a ring. On 18th April, 1975, within two days of the incident, I was in my office and I got a call from my house that some people from the CBI were in my house. I brought this to the notice of my Secretary, Technical Development, Shri B. J. Sahaney, and Mr. M. Sondhi, Secretary, Department of Heavy Industry. When I went to my house, I found CBI officers were waiting for me and they told me that my house be searched. The next day I reported this matter to my Secretary again and then I had become a victim of circumstances I do not know.

**MR. CHAIRMAN :** For how long they had searched? Did they take anything?

**SHRI A. S. RAJAN :** They took some papers from me. They were my personal papers.

**PROF. P. G. MAVALANKAR :** On the very day you informed Mr. Sondhi and Mr. Sahaney?

**SHRI A. S. RAJAN :** Before and after that I informed. Then, I had been subjected to various hardships.

**PROF. P. G. MAVALANKAR :** What are those?

**SHRI A. S. RAJAN :** I was completely demoralised and my prestige was very much lowered in the eyes of my colleagues.

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**MR. CHAIRMAN :** You specifically tell what do you mean by 'demoralised'. Give us some specific facts. What do you mean by 'demoralised'? Is it that you were obstructed to in the discharge of your duties or what is the exact nature of demoralisation? Just by saying 'demoralised', does not mean anything.

**SHRI A. S. RAJAN :** People talked very ill of me. I was very much harassed. I had a mental shock because for no fault of mine, police conducted raids. Police raids in house means complete demoralisation and consequently my wife became very seriously ill and I had to suffer mental agony. My wife almost died. She became hysterical.

**MR. CHAIRMAN :** Was any step taken against you after your house was searched?

**SHRI A. S. RAJAN :** Because they registered a case against me.

**MR. CHAIRMAN :** Do not get nervous now. Please tell us this. On 18th your house was searched and your papers were taken. Then, please tell us chronologically. Naturally, it itself was demoralising. Thereafter, a case was instituted?

**SHRI A. S. RAJAN :** Yes.

**MR. CHAIRMAN :** What are the charges?

**SHRI A. S. RAJAN :** Disproportionate wealth.

**MR. CHAIRMAN :** Have you got any copy of charges with you?

**SHRI A. S. RAJAN :** No.

**MR. CHAIRMAN :** Have you seen the charges?

**SHRI A. S. RAJAN :** Only at that time when he brought the search warrant, he showed me the charges.

**MR. CHAIRMAN :** A copy was shown to you in the Shah Commission?

**SHRI A. S. RAJAN :** Yes. The charges are disproportionate wealth and some favours shown to some firms.

*Shri A. S. Rajan*

**MR. CHAIRMAN :** Were you subjected to any kind of suspension?

**SHRI A. S. RAJAN :** No. But harassment by police officers was there asking me to bring this and bring that.

**MR. CHAIRMAN :** Your house was searched and a case was instituted against you, but you continued as Development Officer, DGTD?

**SHRI A. S. RAJAN :** Yes.

**MR. CHAIRMAN :** There was no suspension or transfer for you?

**SHRI A. S. RAJAN :** Only a case was registered against me and police harassed me.

**MR. CHAIRMAN :** How many times were you interrogated by the police?

**SHRI A. S. RAJAN :** About 6 or 7 times.

**MR. CHAIRMAN :** Where did they interrogate you?

**SHRI A. S. RAJAN :** In their office.

**MR. CHAIRMAN :** What did they ask you?

**SHRI A. S. RAJAN :** They asked me about the statement and other things. They also asked me about my property. They were just questioning on that only.

**MR. CHAIRMAN :** About the firm you mentioned, they said that you have shown some favouritism. Did they mention the name of the firm?

**SHRI A. S. RAJAN :** Yes. The name of the firm is "R. K. Machine Tools".

**MR. CHAIRMAN :** Your case was closed then?

**SHRI A. S. RAJAN :** Yes.

**MR. CHAIRMAN :** How it was closed?

**SHRI A. S. RAJAN :** They could not find anything.

**MR. CHAIRMAN :** Was any report sent to the Vigilance Commission?

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**SHRI A. S. RAJAN** : Yes, it was sent to the Vigilance Commission.

**MR. CHAIRMAN** : When did they send their report to the Vigilance Commission ?

**SHRI A. S. RAJAN** : Round about the end of 1976. I am not sure about the date.

**SHRI NARENDRA P. NATHWANI** : But roughly you can say.

**SHRI A. S. RAJAN** : But they did not show it to me. After the Vigilance Commission, my Department asked the explanation from me.

**MR. CHAIRMAN** : Do you know what was the reaction of the Vigilance Commission ? Have you, at any time, been informed about the reaction of the Vigilance Commission regarding the report that was submitted against you by the CBI ?

**SHRI A. S. RAJAN** : My Department asked me for my explanation on these favours which I explained to my Department.

**MR. CHAIRMAN** : Who was the Head of the Department ?

**SHRI A. S. RAJAN** : The Head of the Department was Secretary, Industrial Development, Mr. Marate.

**MR. CHAIRMAN** : There was nothing against you ?

**SHRI A. S. RAJAN** : I gave my explanation.

**MR. CHAIRMAN** : To your Department ?

**SHRI A. S. RAJAN** : Yes, Sir.

**MR. CHAIRMAN** : Not to the Vigilance Commission ?

**SHRI A. S. RAJAN** : No, Sir.

**MR. CHAIRMAN** : Then the matter was dropped ?

**SHRI A. S. RAJAN** : Yes, Sir. I was absolved of these charges.

*Shri A. S. Rajan*

**SHRI KRISHAN KANT** : Is no case pending against you in any court ?

**SHRI A. S. RAJAN** : They have absolved me of these.

Sir, may I submit that not only I suffered, but my promotion, the normal promotion which I would have got in 1976, was denied to me because of the CBI case. Actually this case had been examined about seven or eight years ago, and the Head of the Department had already pronounced that there was no *mala fide* on my part. And this old case was linked up with this now and I was charged on that.

**MR. CHAIRMAN** : Similar charge or the same charge ?

**SHRI A. S. RAJAN** : The same thing which was closed eight years back was reopened. On that plea only my house was searched.

**SHRI NARENDRA P. NATHWANI** : In respect of the same firm ?

**SHRI A. S. RAJAN** : Yes.

**SHRI NARENDRA P. NATHWANI** : In respect of the same transaction ? You say that before eight years a charge was levelled against you...

**SHRI A. S. RAJAN** : It was alleged.

**SHRI NARENDRA P. NATHWANI** : An allegation or whatever it was was levelled against you of showing favour to a firm eight years ago. They must have referred to some specific instance. What we want to know is whether it was a similar charge or the same charge. I will give an example. Suppose eight years ago you were told, in 1970, that you showed favour in respect of a particular transaction. Now, eight years later, it may be stated that, in 1970, you had shown favour in respect of this very same transaction. Then, it is the same charge. But if it is said that, in 1976, you had shown favour to this firm, then it becomes a similar charge but not the same charge. You may bear this distinction in mind and explain.

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Shri A. S. Rajan

SHRI A. S. RAJAN : The same thing which was closed was reopened again.

MR. CHAIRMAN : He says, it is the same thing, not similar.

SHRI NARENDRA P. NATHWANI : It may be relating to another transaction . . .

SHRI A. S. RAJAN : The same thing which was closed was reopened. That was the pretext on which my house was searched.

SHRI HITENDRA DESAI : On 14th April, the then Minister, Shri T. A. Pai, called you and he asked you to put it on record. Did you put it on record ?

SHRI A. S. RAJAN : Yes, Sir.

SHRI HITENDRA DESAI : Have you got a copy of that ?

SHRI A. S. RAJAN : No, Sir.

SHRI HITENDRA DESAI : You do not keep a copy of that ?

SHRI A. S. RAJAN : No, Sir. On the very day, I typed and gave it to him.

SHRI HITENDRA DESAI : That is with the Minister ?

SHRI A. S. RAJAN : I gave it to him.

SHRI HITENDRA DESAI : Now I am talking of 15th April when you received some telephone message from a person purporting to be Mr. R. K. Dhawan. You never knew Mr. R. K. Dhawan before ?

SHRI A. S. RAJAN : No, Sir.

SHRI HITENDRA DESAI : Did you put that in writing ?

SHRI A. S. RAJAN : No, Sir.

I want to make one thing very clear. You asked me about my suffering. It was a mental agony that I suffered for two and a half years. Not only that, what I would have got normally as promotion, the senior post, that has been denied. Uptill now I have not got it.

MR. CHAIRMAN : You say you had given the report to the then Minister, Shri T. A. Pai. Do you remember the approximate date ?

SHRI A. S. RAJAN : It was somewhere between 10th and 14th. This happened on 10th April.

PROF. P. G. MAVALANKAR : Am I right in saying that you met the Minister on 14th April at his instance at his residence in the evening ?

SHRI A. S. RAJAN : Yes, Sir. At about 2 or 2.30 p.m.

PROF. P. G. MAVALANKAR : Did you say that you were not connected with questions on Maruti as Development Officer in DGTD ?

SHRI A. S. RAJAN : No. I have connection with machinery.

PROF. P. G. MAVALANKAR : A little while ago you said in your statement that you were not dealing with Maruti . . .

SHRI A. S. RAJAN : The information that they asked for was not with me.

PROF. P. G. MAVALANKAR : From among the officers why did the Minister call you in particular on 14th April at 2 p.m. at his residence ?

SHRI A. S. RAJAN : I have no idea, may be because I am dealing with machine tools.

PROF. P. G. MAVALANKAR : That is why he called you and then he gave you this information. What did you tell the Minister ?

SHRI A. S. RAJAN : The Minister asked me whether I had given any information pertaining to Maruti and also whether I had given any instructions to the PEC to supply the information pertaining to Maruti.

MR. CHAIRMAN : Did you give any written statement to the Shah Commission ?

SHRI A. S. RAJAN : Yes.

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MR. CHAIRMAN : Would you give a copy of that to us also ?

SHRI A. S. RAJAN : I do not have it now, I can give it.

MR. CHAIRMAN : You can send it.

SHRI A. S. RAJAN : Yes.

PROF. P. G. MAVALANKAR : You were telling the Committee that you wrote to the Minister, that at his instance you had typed out something and given it to him. Can you give us a gist of what you wrote ?

SHRI A. S. RAJAN : I simply wrote the same thing, what I have said.

SHRI NARENDRA P. NATHWANI : What did you type out ?

SHRI A. S. RAJAN : "Mr. Krishnaswamy gave me a ring to give factual information about the machinery imported by Maruti. Since the information was not available with me, I requested Mr. Krishnaswamy to contact PEC or Batliboi for obtaining the information."

PROF. P. G. MAVALANKAR : You said that the call came from the Prime Minister's Secretariat and the announcer described himself as R. K. Dhawan, and that was on 15th April.

SHRI A. S. RAJAN : Yes.

PROF. P. G. MAVALANKAR : Do you remember at what time this telephone came ?

SHRI A. S. RAJAN : May be in the morning, in the forenoon.

SHRI HITENDRA DESAI : At your residence ?

SHRI A. S. RAJAN : No, in the office.

SHRI NARENDRA P. NATHWANI : You just now told us in reply to a question by Mr. Desai that you did not know Mr. R. K. Dhawan. You say the phone came from the Prime Minister's Secretariat from Mr. R. K. Dhawan. Why do you say it was from him ?

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SHRI A. S. RAJAN : He announced like that, that he was from the Prime Minister's Secretariat, and that he was Mr. R. K. Dhawan. I will have to take it at its face value.

SHRI NARENDRA P. NATHWANI : Was this the first message that you received from Mr. Dhawan, or was there any message on a previous or subsequent occasion ?

SHRI A. S. RAJAN : No. This was the first and last time.

SHRI KRISHAN KANT : Is it a fact that you later on went to Sanjay Gandhi and met him ?

SHRI A. S. RAJAN : Yes.

SHRI KRISHAN KANT : Through somebody ? With whom did you go ?

SHRI A. S. RAJAN : With Mr. Lal of Batliboi.

SHRI KRISHAN KANT : On what date did you go ?

SHRI A. S. RAJAN : Two or three months after the raid.

SHRI KRISHAN KANT : Along with Mr. Lal of Batliboi.

SHRI A. S. RAJAN : Yes.

SHRI KRISHAN KANT : Why ?

SHRI A. S. RAJAN : Because the whole thing happened to be about Maruti. Since nothing had come out of my sufferings and since it happened to be about Maruti, though probably I might go and explain the matter to him.

PROF. P. G. MAVALANKAR : Was it during the emergency ?

SHRI A. S. RAJAN : Three months after the raid.

PROF. P. G. MAVALANKAR : Did you meet him during or before the emergency ?

SHRI KRISHAN KANT : You are not sure ?

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SHRI A. S. RAJAN : In June.

PROF. P. G. MAVALANKAR : Can you recollect specifically whether you met Sanjay Gandhi after the proclamation of the emergency ?

SHRI A. S. RAJAN : It was three months or so after the raid.

PROF. P. G. MAVALANKAR : When was the raid ?

SHRI A. S. RAJAN : April 18th.

SHRI KRISHAN KANT : You went to Sanjay Gandhi along with Lal of Batliboi and you met him where ?

SHRI A. S. RAJAN : In his factory.

SHRI KRISHAN KANT : At what time.

SHRI A. S. RAJAN : May be in the morning.

SHRI KRISHAN KANT : Mr. Lal of Batliboi introduced you. What did he tell about you ?

SHRI A. S. RAJAN : He said : "He is Rajan. His house has been raided, and it is about Maruti. You may be able to help him out of this."

SHRI KRISHAN KANT : What did he ask you then ? Can you give us a gist of the conversation ?

SHRI A. S. RAJAN : I just told him that a question came in Parliament and I gave some information. The whole episode was about Maruti, and I explained to him that I had nothing to do with it, I had not done anything but my house was raided.

PROF. P. G. MAVALANKAR : Who suggested the meeting ?

SHRI A. S. RAJAN : Some well-wishers told me that since the whole episode was about Maruti, I should go and see him.

MR. CHAIRMAN : Who are the well-wishers ?

SHRI A. S. RAJAN : Some of my friends and colleagues.

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SHRI KRISHAN KANT : What did Sanjay Gandhi ask you ?

SHRI A. S. RAJAN : He asked me nothing. I just told him. Then he asked :

"Why were you collecting information about Maruti ?" I said : "I was not collecting, it was the Ministry which was doing this." He did not say anything else.

SHRI KRISHAN KANT : Did the harassment stop after that ?

SHRI A. S. RAJAN : No relief was given to me.

SHRI KRISHAN KANT : How did you speak to Mr. Lal of Batliboi ?

SHRI A. S. RAJAN : Because they supplied the machinery to Maruti.

SHRI KRISHAN KANT : You know that Batliboi were supplying machinery to Maruti, they had relationship with Sanjay ?

SHRI A. S. RAJAN : I knew, because I am in machine tools. I know the agents.

SHRI KRISHAN KANT : There were six or seven agencies, yet you went only to Batliboi, and Mr. Krishnaswamy also asked you, which means you know that some machinery was being imported by Batliboi and supplied to Maruti. It is because of that the question is there.

SHRI A. S. RAJAN : They are suppliers of machinery to Maruti.

SHRI KRISHAN KANT : Which they are importing.

SHRI A. S. RAJAN : Yes.

SHRI KRISHAN KANT : You knew that earlier ?

SHRI A. S. RAJAN : Yes.

SHRI KRISHAN KANT : You thought they had good connection.

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**SHRI A. S. RAJAN :** I was told : he knows about you.

**SHRI KRISHAN KANT :** What is Mr. Lal's designation in Batliboi ?

**SHRI A. S. RAJAN :** I think he is Deputy General Manager.

**SHRI KRISHAN KANT :** Is he still there ?

**SHRI A. S. RAJAN :** Yes.

**SHRI KRISHAN KANT :** Who is the General Manager ?

**SHRI A. S. RAJAN :** There is no General Manager here in Delhi.

**SHRI KRISHAN KANT :** It means that he has direct connection and you knew this connection and you approached Mr. Lal.

**SHRI A. S. RAJAN :** Correct.

**SHRI KRISHAN KANT :** Did you have any talk with Mr. Lal, before you went, about the information being collected ? Did you have any talk with Mr. Lal about Mr. Krishnaswamy or Mr. Cavle or Mr. Bhatnagar ?

**SHRI A. S. RAJAN :** No, Sir.

**SHRI KRISHAN KANT :** You explained to him only that you were collecting the information.

**SHRI A. S. RAJAN :** I was not collecting the information.

**SHRI KRISHAN KANT :** You rang up only Mr. Lal of Batliboi.

**SHRI A. S. RAJAN :** I rang up someone else, Mr. L. M. Adeshra. I spoke to him about this. I asked him to get in touch with Mr. Krishnaswamy to get the information.

**SHRI KRISHAN KANT :** Do you know whether he got in touch with him or not ?

**SHRI A. S. RAJAN :** I have no idea.

**SHRI KRISHAN KANT :** Later on, during the investigation by the CBI, did

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this question of Maruti come up for discussion ?

**SHRI A. S. RAJAN :** No, Sir.

**SHRI KRISHAN KANT :** Later on, you came to know that everything was because of the question on Maruti.

**SHRI A. S. RAJAN :** Yes, Sir.

**SHRI KRISHAN KANT :** How did you come to know that the whole thing was done because of the question on Maruti ?

**SHRI A. S. RAJAN :** On the 10th April, I was asked by the Ministry ; on the 14th I was called by the Minister who never calls me on matters like this ; on the 15th, Mr. Dhawan rang me up and on the 18th, my house was raided. Within a week, I got in so much of difficulty and mental agony.

**SHRI KRISHAN KANT :** Everybody knew in the Department about it.

**SHRI A. S. RAJAN :** Yes, Sir.

**PROF. P. G. MAVALANKAR :** For how long your meeting with Mr. Sanjay Gandhi lasted ?

**SHRI A. S. RAJAN :** About 10—15 minutes.

**PROF. P. G. MAVALANKAR :** Besides what he said to you, was there anything else mentioned ?

**SHRI A. S. RAJAN :** He did not say anything else.

**PROF. P. G. MAVALANKAR :** Was Mr. Lal present at this meeting ?

**SHRI A. S. RAJAN :** Yes, Sir.

**PROF. P. G. MAVALANKAR :** What did he say ?

**SHRI A. S. RAJAN :** He told him, "Here is Mr. Rajan ; he is suffering."

**SHRI KRISHAN KANT :** Did Mr. Lal tell Mr. Sanjay Gandhi, "Here is Mr. Rajan



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who is suffering. Because there is a misunderstanding about Mr. Rajan, that he is involved in the collection of information on the question of Maruti, he is suffering" ?

SHRI A. S. RAJAN : He told him something in Hindi.

SHRI KRISHAN KANT : In your presence ?

SHRI A. S. RAJAN : In my presence.

SHRI KRISHAN KANT : Mr. Sanjay Gandhi asked you whether you were collecting information about Maruti.

SHRI A. S. RAJAN : Yes, Sir. But I was not collecting the information.

SHRI B. SHANKARANAND : Since how many years you are in the present position ?

SHRI A. S. RAJAN : 15 years.

SHRI KRISHAN KANT : What is your grade ?

SHRI A. S. RAJAN : Rs. 1100—1800.

SHRI KRISHAN KANT : What is the annual increment ?

SHRI A. S. RAJAN : Rs. 50.

SHRI B. SHANKARANAND : Please allow me to examine him. What is your next grade ?

SHRI A. S. RAJAN : Next is selection grade, that of Development Officer.

SHRI B. SHANKARANAND : Selection grade is not given on promotion, not on seniority. Is it correct ?

SHRI A. S. RAJAN : It is by seniority.

SHRI B. SHANKARANAND : Selection grade is not given on promotion. Is it correct ?

SHRI A. S. RAJAN : I cannot say. Selection grade is given by seniority also.

SHRI B. SHANKARANAND : Only seniority ?

SHRI A. S. RAJAN : It is departmental selection.

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SHRI B. SHANKARANAND : On merit also ?

SHRI A. S. RAJAN : "Merit" is a very big term.

SHRI B. SHANKARANAND : Selection grade is given not only on merit ? Is it correct ?

SHRI A. S. RAJAN : Yes, Sir.

SHRI B. SHANKARANAND : On merit also ?

SHRI A. S. RAJAN : Yes, Sir.

SHRI B. SHANKARANAND : You said that there was a case against you about 7 or 8 years ago.

SHRI A. S. RAJAN : Yes, Sir.

SHRI B. SHANKARANAND : Was there any adverse remark in your C.R. ?

SHRI A. S. RAJAN : No, Sir.

SHRI B. SHANKARANAND : Have you brought your C.R. with you ?

SHRI A. S. RAJAN : They do not give it.

SHRI B. SHANKARANAND : Mr. Chairman, we should call for the C.R. and see it.

SHRI A. S. RAJAN : If there is any adverse remark, it is always given to me. It has not been given to me.

MR. CHAIRMAN : The question put by the hon. Member is as to whether any adverse remark was written against you in the C.R.

SHRI A. S. RAJAN : No, Sir.

MR. CHAIRMAN : The Confidential Report was not shown to you ?

SHRI A. S. RAJAN : No, Sir.

MR. CHAIRMAN : I do not know if it is permissible to see the C.R.

SHRI B. SHANKARANAND : The Committee is entitled to call for any record.

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You said that about 7 or 8 years ago, the case was closed. Have you anything to show in writing that the case was closed?

**SHRI A. S. RAJAN :** I have not been told anything.

**SHRI B. SHANKARANAND :** You are a very senior officer. You have admitted yourself that there was a case against you about 7 or 8 years ago.

**SHRI A. S. RAJAN :** Not a case; only allegations.

**SHRI B. SHANKARANAND :** Whatever it may be, oral or in writing? Was an inquiry held?

**SHRI A. S. RAJAN :** Yes, Sir, not on me. The department did that.

**SHRI B. SHANKARANAND :** Is there anything in writing with you to show that the case was closed?

**SHRI A. S. RAJAN :** It was an allegation.

**SHRI B. SHANKARANAND :** You said that an inquiry was held.

**SHRI A. S. RAJAN :** No inquiry against me, they never asked me anything.

**SHRI B. SHANKARANAND :** How do you know that there was an allegation against you?

**SHRI A. S. RAJAN :** Some allegations were examined by the department.

**SHRI B. SHANKARANAND :** You yourself told the Committee that there was an allegation against you. Did your department inform you about the allegation?

**SHRI A. S. RAJAN :** My bosses were asked.

**MR. CHAIRMAN :** Did your boss inform you that certain allegations had been made against you?

**SHRI B. SHANKARANAND :** Please allow me to pursue my own way of examining.

**SHRI B. SHANKARANAND :** You had just now told before us that there was the same case. You have said that. You

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remember it. Now you are telling that there was no case, no writing, no enquiry. Just five minutes ago, you told before this Committee that there was the same case. If I am not wrong, the hon. Members would recall that he had said that the same case was reopened. This was the wording. Now you cannot deny this fact; you cannot say there was nothing. Now I want to know whether your earlier statement is correct or wrong.

**SHRI NARENDRA P. NATHWANI :** Mr. Chairman . . .

**SHRI B. SHANKARANAND :** Let me put questions.

**SHRI NARENDRA P. NATHWANI :** I am not addressing you.

**SHRI B. SHANKARANAND :** This is very unfair. Please do not address. . . . Let me go on record. If the Members want to help him, I do not want to interfere. I have put it very clearly. My question is very clear, not ambiguous.

**MR. CHAIRMAN :** I have asked the officer concerned to take note of everything.

**SHRI B. SHANKARANAND :** Mr. Chairman, my question is very clear. He had just now told before this Committee that the same case was reopened. Now he is telling that there was no allegation; he did not know, there was nothing in writing. I want to know whether the previous statement is correct or the present statement is correct.

**SHRI NARENDRA P. NATHWANI :** Mr. Chairman . . .

**SHRI B. SHANKARANAND :** My question is very clear.

**MR. CHAIRMAN :** He has a right to put questions.

**SHRI B. SHANKARANAND :** This is a very important question. Let the witness answer my question.

**SHRI NARENDRA P. NATHWANI :** The same statement that he had made, that statement may be read out. I agree

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with you that he is entitled to put questions, his question is right and justified. Let him read out that statement so that there may be no confusion.

MR. CHAIRMAN : This is a very important question. You can also ask him questions.

SHRI B. SHANKARANAND : You please bring the typed copy of what he had said.

SHRI A. S. RAJAN : I may also be wrong.

SHRI B. SHANKARANAND : You had said that the case was registered. When?

SHRI A. S. RAJAN : When.

SHRI B. SHANKARANAND : You had said that the case was registered. When was it registered?

SHRI A. S. RAJAN : In 1975.

SHRI B. SHANKARANAND : Which month?

SHRI A. S. RAJAN : April.

SHRI B. SHANKARANAND : What were the charges?

SHRI A. S. RAJAN : Disproportionate wealth and favours shown.

MR. CHAIRMAN : This he had stated categorically.

SHRI B. SHANKARANAND : Let me ask. Otherwise, it is very awkward for me also.

MR. CHAIRMAN : This question was asked by several of us.

SHRI B. SHANKARANAND : Have you anything to say that the case was registered in writing?

SHRI A. S. RAJAN : In the Shah Commission.

SHRI B. SHANKARANAND : Have you anything to show in writing that the case was registered?

MR. CHAIRMAN : Were you shown, in the Shah Commission, any report?

SHRI B. SHANKARANAND : Have you anything to say that the case was registered? This my question. Do you have anything to say that the case was registered?

SHRI A. S. RAJAN : I was told.

SHRI B. SHANKARANAND : He was told that a case was registered against him.

SHRI A. S. RAJAN : I am getting confused. I am not a legal man.

MR. CHAIRMAN : The hon. Member is asking a very straight question. A case was registered against you after the raid in your house and after some interrogation. You said : a case was registered.

SHRI A. S. RAJAN : This is what I am telling.

MR. CHAIRMAN (cd) : You were told by whom, that is the question. How did you come to know that a case was registered against you?

SHRI A. S. RAJAN : When the raid took place, I came to know that.

MR. CHAIRMAN : Was any summons issued to you?

SHRI A. S. RAJAN : No.

MR. CHAIRMAN : Did you appear before any court?

SHRI A. S. RAJAN : No.

MR. CHAIRMAN : Any court issued any kind of summons?

SHRI A. S. RAJAN : No.

MR. CHAIRMAN : By whom were you told that a case was registered against you?

SHRI A. S. RAJAN : In the search warrant it had been stated that they have registered a case.

PROF. P. G. MAVALANKAR : On 18th April, a search warrant was issued by a CBI Official and you saw that wherein it had been stated that your house was going to be raided because of the case registered against you. Is it right?

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SHRI A. S. RAJAN : Yes, Sir.

SHRI B. SHANKARANAND : . . . \*

PROF. P. G. MAVALANKAR : I take objection to this. I am only asking the witness to recapitulate the events.

SHRI B. SHANKARANAND : You are explaining on his behalf. In that case, I do not want to ask questions. This is also highly objectionable.

PROF. P. G. MAVALANKAR : Don't take this posture.

(Interruptions)

MR. CHAIRMAN : If you think that we have something to discuss about the procedure of this Committee, I can ask the witness to withdraw for sometime. Let us have a discussion among ourselves.

SHRI B. SHANKARANAND : I have no point to discuss at this stage with the Committee. I am putting a very clear question.

SHRI A. S. RAJAN : I am not able to follow the question. I am getting confused.

SHRI B. SHANKARANAND : Are my questions complicated ?

MR. CHAIRMAN : Mr. Rajan, you may kindly withdraw for sometime.

(The witness then withdrew)

(Shri A. S. Rajan was called in again)

SHRI B. SHANKARANAND : Mr. Rajan, what you said is being read out. You please say whether it is correct or not.

"MR. CHAIRMAN : Then the matter was dropped.

SHRI A. S. RAJAN : Yes, Sir. I was absolved of these charges.

SHRI KRISHAN KANT : Is no case pending against you in any court ?

SHRI A. S. RAJAN : They have absolved me of these.

Sir, may I submit that not only I suffered, but my promotion, the normal promotion which I would

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have got in 1976, was denied to me because of the CBI case. Actually this case had been examined about seven or eight years ago, and the Head of the Department had already pronounced that there was no *mala fide* on my part. And this old case was linked up with this new and I was charged on that.

MR. CHAIRMAN : Similar charge or the same charge ?

SHRI A. S. RAJAN : The same thing which was closed eight years back was reopened. On that plea only my house was searched."

SHRI B. SHANKARANAND : Is what you said correct or not ?

SHRI A. S. RAJAN : Earlier it was an allegation, not a case.

SHRI B. SHANKARANAND : You said, Mr. Marathe, Secretary, asked your explanation ?

SHRI A. S. RAJAN : Not Mr. Marathe, he has come now. My department asked for the explanation.

SHRI B. SHANKARANAND : You gave the explanation ?

SHRI A. S. RAJAN : Yes, Sir.

SHRI B. SHANKARANAND : Have you got a copy of that explanation ?

SHRI A. S. RAJAN : I do not have it, but I can give you.

SHRI B. SHANKARANAND : Could you produce it ?

SHRI A. S. RAJAN : Yes. It is in my Department and I can produce it.

MR. CHAIRMAN : Why should we depend on that ?

SHRI B. SHANKARANAND : Because it was he who gave. He will produce the copy of it.

Since how long you know Mr. Lal, the Deputy General Manager of the Batliboi ?

SHRI A. S. RAJAN : About 6-7 years.

SHRI B. SHANKARANAND : He knows Batliboi since 6-7 years. That is what he said.

\*Expunged as ordered by the Chair.

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Have you had any connection with Maruti?

SHRI A. S. RAJAN : No.

SHRI B. SHANKARANAND : What exactly is the nature of your duty, Mr. Rajan, because we do not know what exactly is the nature of your duty?

SHRI A. S. RAJAN : Assistance to industry.

SHRI B. SHANKARANAND : What exactly do you do? We do not know the nature of your job.

MR. CHAIRMAN : What is the nature of your job as Development Officer of the DGTD?

SHRI A. S. RAJAN : I process the capital goods applications.

SHRI B. SHANKARANAND : What do you mean by "process"? We do not know what is process. What do you mean by 'processing the applications'?

SHRI A. S. RAJAN : When the applications come to the Department, I go as representative of my Department to process the applications in the meetings. I go and attend those meetings.

SHRI B. SHANKARANAND : So, you alone are not responsible for anything on any application?

SHRI A. S. RAJAN : No.

SHRI B. SHANKARANAND : Who are the persons in the meeting?

SHRI A. S. RAJAN : There are about 15—20 people.

SHRI B. SHANKARANAND : From various Departments?

SHRI A. S. RAJAN : From various departments and our department.

SHRI B. SHANKARANAND : And all of you together decide?

SHRI A. S. RAJAN : That is right.

SHRI B. SHANKARANAND : You said there was a case registered against you.

SHRI A. S. RAJAN : I want to make it more clear on that. When the search

warrant was shown to me it was registered as "R. C."—Registered Case.

SHRI B. SHANKARANAND : Where was the case registered?

SHRI A. S. RAJAN : Delhi.

SHRI B. SHANKARANAND : Did you enquire about the case?

SHRI A. S. RAJAN : No.

SHRI B. SHANKARANAND : Why did you not enquire about the case? You are an accused and you were demoralised and you were not happy. But you did not go to the court to enquire about the case. Why did you not go to the court?

SHRI A. S. RAJAN : Why should I go there?

SHRI B. SHANKARANAND : I am asking you as an ordinary man. There was a case registered against you. But you did not go to enquire about it?

SHRI A. S. RAJAN : It has been shown to me in the warrant.

SHRI B. SHANKARANAND : Did you go to enquire about the case?

SHRI A. S. RAJAN : No.

MR. CHAIRMAN : I want to know whether there is any scope for any person unless he is summoned by the court to know anything from the court whether a case has been instituted against him or not. Is there any scope? Suppose my house has been searched. Unless and until I get a summons from the court, is there any opportunity for me to get a formal information from the court whether a case has been instituted against me? I want to know the legal position.

SHRI NARENDRA P. MATHWANI : If I like, I can go and enquire whether in fact there is a case instituted or not in anticipation of summons or warrant issued against me. But in this case he has stated that the warrant has been shown to him.

MR. CHAIRMAN : You told Mr. Sanjay Gandhi that you did not give information to anybody about Maruti. You

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have said so. You have not given any kind of information to anybody regarding Maruti ?

SHRI A. S. RAJAN : Yes, it is correct.

MR. CHAIRMAN : But in your earlier statement you have mentioned that when the hon. Minister asked you to provide information about Batliboi, you said that Batliboi supplied machinery to Maruti. How could you know that Batliboi supplied machinery to Maruti Ltd. ?

SHRI A. S. RAJAN : Because I have come to know from the Batliboi Company only.

MR. CHAIRMAN : Did you ever enquire from them what type of machinery were being supplied by Batliboi to Maruti Ltd. ?

SHRI A. S. RAJAN : No.

MR. CHAIRMAN : Then, what did you report to the hon. Minister when Mr. Krishnaswamy told you that you can get information from Batliboi ? How did you come to know ?

SHRI A. S. RAJAN : Because they are the agents of the Czechoslovakian machines.

MR. CHAIRMAN : You presumed that they might have supplied some imported goods to Maruti ?

SHRI A. S. RAJAN : Correct.

MR. CHAIRMAN : Did you ever meet the hon. Minister, Shri T. A. Pai, in this connection ?

SHRI A. S. RAJAN : No. Only on that day I met him when he called me.

MR. CHAIRMAN : What did he exactly ask you ?

SHRI A. S. RAJAN : He asked me whether I have given any information about Maruti to Mr. Krishnaswamy and Mr. Bhatnagar of PEC.

MR. CHAIRMAN : What did you say at that time ?

SHRI A. S. RAJAN : I said that I had not given anything.

Shri A. S. Rajan

SHRI B. SHANKARANAND : Mr. Chairman, we should get a copy of the statement which he has filed with the Shah Commission.

MR. CHAIRMAN : I have already said that. This will be done not only in his case but in the case of everybody who appeared before the Shah Commission and who will be summoned before this Committee, so that it will be helpful for us to understand things.

SHRI KRISHAN KANT : The CBI interrogated you. On how many occasions ?

SHRI A. S. RAJAN : Six or seven times.

SHRI KRISHAN KANT : One was about helping R. K. Machine Tools . . .

SHRI A. S. RAJAN : They asked me about disproportionate wealth ; they were asking me for my property statement which I gave.

SHRI KRISHAN KANT : For the departmental inquiry, did they take up only R. K. Machine Tools or anything else ?

SHRI A. S. RAJAN : There were two things : R. K. Machine Tools and Daulat Engineering.

SHRI KRISHAN KANT : Showing favours in respect of what ? Raw materials ?

SHRI A. S. RAJAN : Import of raw materials.

SHRI KRISHAN KANT : Did any Departmental Committee interrogate you ?

SHRI A. S. RAJAN : No, Sir.

SHRI KRISHAN KANT : They gave you in writing and you replied in writing ?

SHRI A. S. RAJAN : Yes, Sir.

SHRI KRISHAN KANT : Six or seven years ago also, was the same procedure adopted ?

SHRI A. S. RAJAN : I was not asked anything.

PROF. P. G. MAVALANKAR : I want to know, apart from this question put by

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Mr. Jyotirmoy Bosu, with other questions put by other hon. Members of Parliament during that time on Maruti, whether you were in any way connected as Development Officer, DGTD, for collecting information on Maruti.

SHRI A. S. RAJAN : No, Sir.

PROF. P. G. MAVALANKAR : This was first and the last time you were involved in Maruti ?

*Shri A. S. Rajan*

SHRI A. S. RAJAN : Yes, Sir.

MR. CHAIRMAN : That is all. Thank you. You can go now. If required, you may be called again.

*(The witness then withdrew)*

*(The Committee then adjourned.)*

Thursday, the 23rd March, 1978

**PRESENT**

Professor Samar Guha—*Chairman.*

**MEMBERS**

2. Shri Hitendra Desai
3. Shri Krishan Kant
4. Professor P. G. Mavalankar
5. Dr. V. A. Seyid Muhammed
6. Shri Narsingh
7. Shri Narendra P. Nathwani
8. Shri B. Shankaranand
9. Shri Madhav Prasad Tripathi

**SECRETARIAT**

Shri J. R. Kapur—*Chief Legislative Committee Officer*

**WITNESS**

Shri T. A. Pai, (*Member, Lok Sabha, former Minister of Industry and Civil Supplies*).

(*The Committee met at 14.30 hours.*)

**Evidence of Shri T. A. Pai, M.P.**

**MR. CHAIRMAN :** Mr. Pai, you have been requested to appear before this Committee to give evidence on the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited. I hope you will state the factual position and your version of the events freely and truthfully.

(*Direction 58 was read out*)

(*The witness then took oath*)

**MR. CHAIRMAN :** Now, I request you to give your version of the account

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of the question of privilege that has been brought against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, etc. The officers were performing their duty. I will be glad if you state the facts.

**SHRI T. A. PAI :** Sir, I think a copy of the statement that I have filed before the Shah Commission has also been filed with you.

**MR. CHAIRMAN :** Will you kindly recapitulate what you have stated there ?

**SHRI T. A. PAI :** If you like, I will read out the same. It reads as follows :

"I understand that the father of Shri Krishnaswamy, formerly Deputy Secretary in the Ministry of Heavy Industry, has complained to the Shah Commission about the excesses committed on his son by the previous Government. Shri Krishnaswamy was working as Deputy Secretary in the Ministry of Heavy Industry. There were a spate of questions in Parliament on Maruti Limited and he was required to collect information and submit to the Minister for a reply. One of the questions was whether Maruti Ltd. has imported any machinery and they were not permitted to import machinery under the terms of the licence granted to them. The Ministry had not given any permission, but it was possible for Maruti Ltd. to purchase or get imported to particular types of machinery wanted under stock and sale arrangement of the Project Equipment Corporation. The Ministry was totally unaware of what was happening. Shri Krishnaswamy in the course of gathering this information to reply to this question had got in touch with Shri Rajan, an officer of the DGTD to ascertain. Shri Rajan also was directed to contact the Project Equipment



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Corporation who in turn informed him that M/s. Batliboi must have imported and supplied this machinery to the Maruti. Shri Krishnaswamy contacted M/s. Batliboi through Shri Rajan. He also seems to have made efforts to ascertain these facts from the Maruti factory.

This seems to have upset Shri Sanjay Gandhi and Shri R. K. Dhawan, P.S. to the then Prime Minister, contacted me and complained that my officials were harassing M/s. Batliboi, and that they insulted them in the presence of some European visitors. It was my duty to find out the truth and, therefore, I sent for the Manager of M/s. Batliboi who denied any kind of harassment from my officers who were only seeking some information and it was not true that any foreigners were present at that time. I had also contacted Shri Krishnaswamy and told him while dealing with the public there should not be impression of any pressurisation. Next day, I think it was about the middle of April 1975, Shrimati Indira Gandhi had returned from some tour. She called me to her residence No. 1, Saffdarjang Road. She was completely upset and furious. She accused my officers of being corrupt while they were talking of political corruption. She referred to the harassment to the Manager of M/s. Batliboi. She was very angry and she also told me that I had advised her against Shri Sanjay. I thought it was not worthwhile replying to her as I felt she was unreasonably angry. She also called Shri Dhawan and told him to ask Shri Sen to start CBI enquiries against all these officers. Subsequently I heard Shri Rajan's

house was raided by the CBI without permission of DGTD, Shri Rajan complained to me about this. Shri Krishnaswamy also complained that he was being pursued by the CBI. Subsequently Shri Krishnaswamy's house was also raided, and contrary to the practice, the Additional Secretary in charge of the Department of Personnel was informed about this when the search was already going on. Later on I was informed that the Secretary Heavy Industry Shri M. Sondhi was also under surveillance, because he was supposed to have made some comment in a private party about political corruption."

Mr. Chairman, in the rest of this statement I had only described what happened to these officers. But I do not know what upset these people because this question could have been answered by me without any problem. The question was whether any licence had been granted for import of machinery and whether they had purchased some imported machinery from anybody in India. We did not permit them to import any machinery because it was against the terms of the licence. On whether they have bought any machinery locally, I had found out there was one loophole, you see, under the various contracts that were entered into with the East European countries, I think machinery to the extent of Rs. 5 to Rs. 6 crores was being imported. This was under the stock and sale agreement. I think about 50% of the machinery imported from those countries came under this. This did not require any licence to purchase. Anybody could pay money in rupees and buy this machinery. This machinery was also imported. Imports were arranged by the Project Equipment Corporation, under the Ministry of Commerce; and all that they had to do was to get a clearance

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from the DGTD, that these machines were not made in India; and that their imports were allowed. They were practically sold against rupees; and they were as freely available as any Indian machinery. If this question had been asked, there was no problem for me to say, 'Yes'. There was nothing wrong technically. It was only a loophole which had been provided for, that had been taken advantage of.

Anybody could take it. It is not one particular person alone that could take it. It was a system that provided it. But I don't even now really know what upset these people so much. In fact, Mr. Dhawan telephoned to me a few days prior to this complaint; and he named the officers also. He mentioned Mr. Krishnaswamy and Mr. Rajan. I did not know Mr. Rajan as an officer, by name. I knew Mr. Krishnaswamy, because he was working under the Ministry of Heavy Industries. Therefore, I knew him. They were harassing outsiders, because certain answers had to be collected; and they mentioned the name of Messrs. Batliboi. If anybody had complained to me that my officers were harassing anybody, I would have deemed it my duty to enquire. I myself sent for the Manager of Batliboi, because the complaint was that the officer insulted the Manager in the presence of some Europeans. I asked: "Did my officers contact you?" He said: "Yes". "What is it about?"—I asked. "They wanted to know whether any machinery was imported", I was told. I asked: "Were they rude?" Even while asking for information, one can be rude. They said, 'No'. Then I asked: "Were any Europeans present there?" He said: 'No'. So, I knew that the complaint that Mr. Dhawan had brought to my notice was absolutely false. Of course, I did not pursue it, because it was not a query from the Prime Minister herself. If she had wanted me to clarify I would have done it. Since Mr. Dhawan asked me to do it—and since I for one did not attach more importance to it than required—I kept quiet. The very next day, when Mrs. Gandhi called me, she brought the

complaint to my notice. She was very angry. Unfortunately, I could not tell her that this information was all wrong, and that I had satisfied myself. So, I kept quiet; and in a moment of anger, she asked Mr. Dhawan to see that these people were proceeded against. The charges that she made, were not that they were collecting information. She did not make any reference to the questions. She only alleged corruption; but I knew that the previous day the complaint that had been made to me related to Mr. Krishnaswamy and Mr. Rajan. They were also being accused of corruption. When she said that, I felt very unhappy. I wrote a letter to her, in which I brought it to her notice. Because, she had instructed the Ministers that whenever the officers did their duty properly . . . . . (*Qorum Bell*). She had written to all the Ministers that if any officer committed any mistake, we should give him all support and he should not be harassed if we are satisfied that the mistake was *bona fide*. So, I wrote to her a letter when I knew that it was going to take a serious turn, when I saw that Rajan's house was raided and Krishnaswamy's house was raided. I did it because of this background; otherwise, I would have never known it, even if their houses had been raided. When their houses were raided, I called Rajan and asked him what the charges against him are? He said, "Sir, I have bought a house and they say it is 'assets in excess' ". Unfortunately, in all our investigations we do not take into consideration the liabilities. A car was in excess, but he had borrowed money from the very Government to buy the car.

From all these things I had found that the charges were not very serious. So, I wrote a letter to her: "My officers were only doing their legitimate duty in collecting information about this Question. Now they are being harassed. And you told us that I should give them protection whenever were harassed. Now I seek your intervention". I sent this letter because I thought that later on when she cooled down she could reconsider whatever she had said.

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But in reply I got a letter strongly worded. "I am amazed that you have linked up this matter of the Question and the raids. Here are the charges against them." and she enclosed a list of charges framed against these officers. And then I knew I would not be believed unless these charges were investigated and they were proved to be innocent. It was a very difficult position for me to face.

Subsequently I heard that two officers of the PEC got into difficulties. As I could see, all their fault was only this. First, Krishnaswamy had contacted Mr. Rege of the Maruti factory for information, and he made it clear that he was not asking for his private benefit, that he had to prepare an answer for a Question, and so he wanted the information. Mr. Rege himself had said, "We do not have the information" or something like that. Naturally, he got into touch with Mr. Rajan, who is the DGTD officer connected with machinery imports. He said that the information could be got from PEC, one Mr. Cavale. The last officer said that the information could be got from those from whom the import had been ordered. He got in touch with them.

I found that for all the trouble that these four people were involved in supposed criminal charges their only fault was that one was asking for information from the other. All the four of them got into difficulties merely because of the Question asked. If the question had not been asked, these people would not have had the trouble. That is all that I can say. Later on, Mr. Sondhi also was being pursued.

**SHRI KRISHAN KANT :** For the same Question ?

**SHRI T. A. PAI :** No. My whole Ministry came into trouble, I do not know why, what for. I was thinking why this Question was so important, whether it was an effort to demoralise the Minister, because I did not know what else was coming. In fact, to a very large extent it had demoralised the officers because they had

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done nothing, and I had given them an assurance also. At one time I said : "If my resignation can help you, I am prepared to resign, but I will have to make a statement on the floor of the House why I have resigned. What do I tell them? Immediately, the same charges that have been made against you will be put up before the House, unless some court discharges you as innocent." I had also told them : "If it comes up before a court, you can call me as your defence witness and, as your Minister, I am prepared to come and depose for you." That is the assurance I had given them.

If you want to ask any question, I am prepared to answer.

**MR. CHAIRMAN :** You mentioned about a few letters that were exchanged between you and the Prime Minister. How was it happened ?

**SHRI T. A. PAI :** I had told my officers that I would stand by them because the charges sent to me appeared to me rather silly. In the case of Mr. Sondhi, for instance, Mr. Sen had come and told me that one of the charges against him was that a licence for expansion to the Premier Automobiles had been given. I told Mr. Sen that it was not Mr. Sondhi who gave it but it was a Cabinet decision presided over by the Prime Minister herself and, therefore, how could it be a charge. He listened to me and subsequently when the charges were made against Mr. Sondhi, I saw that that was one of the charges. He had come to see me to fulfil the formality that before proceeding against the Secretary, the Minister was kept informed.

**MR. CHAIRMAN :** You said that you straightaway wrote a reply. Is that correspondence available ?

**SHRI T. A. PAI :** I can give a copy of that to you. The original letter I do not have. When I got that letter from her, I wrote a letter in my own hand addressed to her personally and I enclosed the copy of my earlier letter also because I did not want to give her an impression that I was keeping any correspondence relating to it.

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SHRI B. SHANKARANAND : Why did you not send her reply back to her ?

SHRI T. A. PAI : It is upto me. She sent a letter back to me saying that they believed that they were all corrupt and it was nothing to do with that case.

MR. CHAIRMAN : Would you kindly produce the letter received from the Prime Minister ? That will be a very important piece of evidence.

SHRI T. A. PAI : Of course.

MR. CHAIRMAN : Is there any other correspondence relating to this or any other matter ?

SHRI T. A. PAI : In the course of five years, this is the only confrontation that I had. On any other matter, I must say, at no point of time, she had interfered with my answers or the questions which were looked after by me exclusively.

SHRI KRISHAN KANT : He gave evidence before the Shah Commission. We want a copy of that also.

SHRI T. A. PAI : As a matter of fact, as soon as this was read, Justice Shah asked me only one question : Were the officers going out of the way to collect the information ? I said, no. They were asked to get as much information as possible and it was their duty to furnish the information to me.

SHRI B. SHANKARANAND : I will ask questions after I get a copy of that letter. I have to ask some very important questions. That is a very important piece of evidence.

SHRI HITENDRA DESAI : Can you remember the exact date on which she called you ?

SHRI T. A. PAI : About the middle of the month. It was before I answered the question in Parliament. Only two of us were present in the room, when the conversation took place.

SHRI HITENDRA DESAI : You are satisfied that but for the collection of certain information, the trouble for the officers would not have arisen ?

SHRI T. A. PAI : Yes. They were all directly involved in collecting this information.

SHRI B. SHANKARANAND : It is your conjecture.

SHRI T. A. PAI : May be. Even if they were corrupt, it could have been brought to my notice and I would have been asked to verify about it. If Mr. Dhawan had not talked to me previously, I would not have known what he was talking about to me.

SHRI HITENDRA DESAI : Could you have answered the Question without this information being collected ?

SHRI T. A. PAI : I wanted to know whether we had got all the information that I was asked to furnish. About the buying itself, there was nothing wrong about it.

SHRI HITENDRA DESAI : Even without collecting the information, you could have answered the Question in the Lok Sabha.

SHRI T. A. PAI : No.

श्री नरसिंह यादव : क्या आपके पास उनके खिलाफ पहले भी कोई कम्प्लेंट करप्शन की थी ?

SHRI T. A. PAI : I had no complaints of any kind of corruption against them.

MR. CHAIRMAN : You also verified that.

SHRI T. A. PAI : I verified. As to what the charges were, one charge against Mr. Krishnaswamy was that he was having some shares. His father was a retired Accountant General of Tamil Nadu. He had been given those shares. What was wrong in having those shares ?

SHRI KRISHAN KANT : You told us that Mr. Dhawan rang you up earlier ?

SHRI T. A. PAI : Two or three days earlier. I do not remember the date.

SHRI KRISHAN KANT : The Question according to the information with

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us is dated 16th April. Mrs. Indira Gandhi called you on the 15th April?

SHRI T. A. PAI: I do not remember the exact date.

SHRI KRISHAN KANT: When Mr. Dhawan rang you up?

SHRI T. A. PAI: It must be four or five days earlier than the question was asked. The officers were ready with the answer much earlier. But the supplementaries were given to the Minister in the morning next day, because they were not in possession of all this information. They had to collect it from outside and I would have given them the bare minimum answer if they had asked.

SHRI KRISHAN KANT: When Mr. Dhawan rang you up, did he mention the names of Mr. Krishnaswamy and Mr. Rajan? Did he give in detail whether they belonged to your Ministry?

SHRI T. A. PAI: They were under my Ministry.

SHRI KRISHAN KANT: But he did not specify whether Mr. Rajan belonged to DGTD.

SHRI T. A. PAI: He said, "Rajan of DGTD."

SHRI KRISHAN KANT: What about Mr. Krishnaswamy?

SHRI T. A. PAI: Heavy industry.

SHRI KRISHAN KANT: When you met Mrs. Gandhi the next day, you had already enquired about it; you knew the whole thing. Did you meet Mr. Rajan before you met Mrs. Gandhi or later on?

SHRI T. A. PAI: He said that he had only given the information.

SHRI KRISHAN KANT: What did Mr. Dhawan ask you on the phone?

SHRI T. A. PAI: He only complained to me about the harassment by some officers and to Batliboi that they were insulted in the presence of some Europeans.

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SHRI KRISHAN KANT: When you met Mrs. Gandhi, was Mr. Dhawan called in your presence?

SHRI T. A. PAI: Mr. Dhawan was outside. While we were going out, and she was outside the room.

SHRI KRISHAN KANT: Outside the room, what did she tell Mr. Dhawan?

SHRI T. A. PAI: She said: call Mr. Sen and tell him to have their houses raided.

SHRI KRISHAN KANT: She mentioned only these two names or all the four names.

SHRI T. A. PAI: She only mentioned two names; she also mentioned to me about the harassment caused. She did not give the names of the officers whose houses were to be raided.

SHRI KRISHAN KANT: But she mentioned only these two names.

SHRI T. A. PAI: She did not mention the names; she had referred to me about the harassment and then she said: raid their houses. Mr. Dhawan had mentioned to me earlier the names of Mr. Krishnaswamy and Mr. Rajan. And subsequently these houses were raided.

SHRI KRISHAN KANT: In whose presence, did she mention the names?

SHRI T. A. PAI: She did not mention the names; she told him: their houses should be raided.

SHRI KRISHAN KANT: The names were not mentioned. It means either they might have talked earlier or Mr. Dhawan must be knowing the sequence.

SHRI T. A. PAI: Mr. Dhawan must have carried to her this impression that these officers were corrupt, that these officers were harassing and that Mr. Batliboi was being harassed in the name of this question.

SHRI KRISHAN KANT: You must have seen the press report. Mr. Dhawan had said before the Shah Commission that Mrs. Gandhi gave these four names.

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It means the names were not given in your presence; they might have been given otherwise.

SHRI T. A. PAI : Yes.

SHRI KRISHAN KANT : It can be taken that way. Then the letter which Mrs. Gandhi wrote to you where she had mentioned the charges...

SHRI T. A. PAI : The list of charges is also there. I will give you the whole correspondence.

SHRI KRISHAN KANT : You contacted the Manager of M/s. Batliboi & Co. before going to Mrs. Gandhi?

SHRI T. A. PAI : Yes.

SHRI KRISHAN KANT : And you were assured at that time by him that there was no harassment?

SHRI T. A. PAI : Yes.

SHRI KRISHAN KANT : When Mrs. Gandhi was asking you that day regarding officers seeking information in the presence of European visitors, you knew that what she was saying was not correct. You have mentioned that in the evidence. She was very angry, and all that.

SHRI T. A. PAI : Yes.

SHRI KRISHAN KANT : Now, I come to the reply you gave to Mr. Jyotirmoy Bosu's Question. The Question was :

- “(a) names and addresses and full particulars of the dealers in the country from whom M/s. Maruti Ltd. has purchased machinery, etc. ;
- (b) the full details of such purchases, including the value of each category of purchase ;
- (c) the main line of business of the dealers from whom such purchases have been made ;
- (d) whether some of those dealers are also importers of the machinery .

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(e) if so, the facts thereof.”

The reply that you gave was :

“Government does not collect, nor in any industrial unit required to furnish, detailed information with regard to machines purchased locally. Government has, as such, no information.”

I would like to know whether the type of information that your officers were collecting was relevant to this question. Was it necessary for you to collect this information for answering supplementaries or to satisfy yourself? You knew that the lacuna was already there; they could certainly get imported machinery; this point was not in the agreement or licence that you had given. I want to know whether your officers were really trying to get information about this question. What was the approach of your Ministry in collecting this information?

SHRI T. A. PAI : If it was an imported machine, we would have had that information on record because the licence has to be applied for and all that. Naturally when the question was asked whether there was any imported machinery, the only possible thing was to be informed whether they had bought any machine under the Stock and Sale arrangement. I came to know, while going through the note for supplementaries, that there was an arrangement to import this machine under the PEC; a person could buy it. And I realised that there was a lacuna—as I was going through it. In the Parliament if I had been pursued, I would have said, “As things stand, technically it is right; it was purchased locally against rupees”. And for any machinery purchased locally, our Ministry would not ordinarily have any information. Regarding imported machinery, there would be, because, when a licence is granted, our Ministry is responsible for also clearance of the capital goods licence. Such capital goods that were imported, therefore, would have been known as part of the information to our Ministry. Therefore, if they had collected

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this information, it was only to see that enough material was provided to me for answering supplementaries. In fact, M/s. Batliboi & Co., I am told, supplied this information, but it was late; it came to the PEC and did not go beyond that. By that time, the question had been answered in Parliament.

**SHRI KRISHAN KANT** : So it means it was a regular thing for the officers to give you all possible information for answering supplementaries that may be put in view of any situation that may arise in the House; and where you may not give information, the Speaker may direct you to give the information ?

**SHRI T. A. PAI** : It is possible that the man who asked the question knew more than what I did and that he was asking the information from me to confirm it. If I had not said that I did not have it and would have to get the information, either I would have to deny it or agree to it.

**SHRI KRISHAN KANT** : I would like to ask you one or two things on the basis of your statement made before the Shah Commission, a copy of which has been given to the Committee, because that might be helpful in our arriving at some conclusion. This is about the licence :

Were the charges in respect of the Bokaro Steel Plant different from that of the Automobiles or were they collective.

**SHRI T. A. PAI** : A series of charges were collective and he has been cleared of all these charges by the CBI.

**SHRI KRISHAN KANT** : About the other part, you have already said you are going to furnish us those letters.

**PROF. P. G. MAVALANKAR** : Apart from this particular question in which information on Maruti was sought and which was not available because of the circumstances that you have just now narrated, did you answer any questions on Maruti prior to this particular question ?

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**SHRI T. A. PAI** : Any number of them.

**PROF. P. G. MAVALANKAR** : Did you also answer similar questions on Maruti after this particular question ?

**SHRI T. A. PAI** : Not many because, I think, afterwards the Emergency came.

**PROF. P. G. MAVALANKAR** : So, before this you answered many questions and afterwards also you might have, but not many ?

**SHRI T. A. PAI** : I don't quite remember.

**PROF. P. G. MAVALANKAR** : When all these questions were directed to your Ministry and you answered them, as you have said, in Parliament . . .

**SHRI T. A. PAI** : Not all. Some of them were addressed to the Finance Ministry . . .

**PROF. P. G. MAVALANKAR** : But you answered those which related to your Ministry. Was this the only instance of this kind ?

**SHRI T. A. PAI** : As a matter of fact, there was a complaint that the Prime Minister's Secretariat was calling for the files and preparing answers, but so far as my Ministry was concerned, there was not one single instance of that type.

**PROF. P. G. MAVALANKAR** : In this particular instance, when the Prime Minister called for you, you said she was upset and angry . . . . .

**SHRI T. A. PAI** : But she never referred to any question : I must say that also. She had complained about the corruption of my officers. She did not refer to any question : she referred to harassment.

**PROF. P. G. MAVALANKAR** : Harassment of whom ?

**SHRI T. A. PAI** : Batliboi.

**PROF. P. G. MAVALANKAR** : By the officers of your Ministry ?

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SHRI T. A. PAI : Yes.

PROF. P. G. MAVALANKAR : But this is with regard to the question on Maruti. I would like to ask you this question. You said that, in your experience, this was the first time the Prime Minister was upset and angry and all the rest of it. Did you ever try to ask yourself this question as to why she took such an unusual course ?

SHRI T. A. PAI : Well, as Mr. Shankaranand says, it might be my conjecture. I was just wondering—that it could not be on this question because there is nothing in the question which can upset anybody. There was nothing to hide, also, from the House. Granting that he had imported some machines, he could have claimed perfect legitimacy for doing this saying that—in the procedure that we had laid down there are loopholes and anybody could have taken advantage of them. This is because some people could have imported this machinery with a licence and some others could buy this machinery without a licence because it was available on stock and sale.

PROF. P. G. MAVALANKAR : When you were told that these officers who were collecting information on Maruti were harassing Batliboi and were corrupt, did you at any stage try to get the same information collected by some other officers from the Ministry ?

SHRI T. A. PAI : I had verified with Batliboi directly and when their Manager denied having been harassed, that part of the story was incorrect, but Dhawan had not made any allegation of corruption against these people; only Mrs. Gandhi told me that.

PROF. P. G. MAVALANKAR : After it was told to you that these officers were corrupt did you think of having other officers to collect the information for answer to a question in the Parliament ?

SHRI T. A. PAI : Mr. Krishnaswamy was of the rank of the Deputy Secretary; this information is processed by the Addi-

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tional Secretary and then the Secretary. He did not supply this information directly to me.

PROF. P. G. MAVALANKAR : You said, you had already done on your own some enquiry and satisfied yourself.

SHRI T. A. PAI : I had called Rajan and asked him : What did you do ? I had also called Krishnaswamy. They said, "I did not have the information. I asked Mr. Rajan, where I can get it. Rajan told me to get it from PEC". I heard at the same time that two of my officers got into some problems, as also two officers of the PFC were in difficulties on account of the information being sought.

PROF. P. G. MAVALANKAR : You said that you got the point confirmed from Batliboi that there was no harassment of any kind or humiliation because no foreigners were present. About corruption charges also, on your own you got certain information and were satisfied. Could you then tell us in support of your conjecture or inference about this whole matter by way of circumstantial evidence or anything else that you may be in possession of ?

SHRI T. A. PAI : Even now, I have not been able to see through this upset; may be that they wanted to see that there was a sort of demoralization in the whole staff in handling any such question that might come thereafter on Maruti; it might be. Sometimes I thought they may have the apprehension that these questions were originating from the Ministry also. Somebody might have leaked out information to the Opposition, because Opposition was having all the information which we did not have.

MR. CHAIRMAN : Have you any positive information that any kind of information regarding Maruti leaked out of your Ministry ?

SHRI T. A. PAI : No. I always liked questions coming up because as a Minister I found that I got more information



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about things that were happening and so, I, for one, welcomed these questions and I did not hesitate to answer.

Then, for the first time, I was also finding out many things which would not have come to my notice if this question of not only Maruti but also any question has not been asked.

It was also for the first time that we could also advise the Secretaries of the things that are happening which they may not be aware of and of a policy changes that are required to set right matters could be drawn up.

Therefore, I welcomed any type of questions and did not at any time object to questions.

**SHRI NARENDRA P. NATHWANI :** Firstly, I understand that Mr. Sanjay Gandhi was issued the licence to manufacture car on the clear understanding that there was no import of components from outside but that he would use only indigenous components.

**SHRI T. A. PAI :** He had, if I remember right, an indigenous design and used indigenous machinery.

**SHRI NARENDRA P. NATHWANI :** That was the *sine qua non* and that was what weighed with the Government also in granting the licence.

**SHRI T. A. PAI :** Correct.

**SHRI NARENDRA P. NATHWANI :** Therefore, it may be technically not illegal to buy locally for rupees an imported machine but it would be in substance against the spirit of the licence that was given to him.

**SHRI T. A. PAI :** I do not know. The letter of intent was given very much earlier. On those conditions it would have been impossible for anybody to make a car. I am only pointing out the loophole. Now, for instance, we say that the Premier or the Hindustan Ambassador has an indigenous content of 98-99 per cent but

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the point is that very indigenous part has been made with foreign collaboration or it comes to that whatever is locally available but if a party does not import it himself and if somebody else has imported that part, if a party could use it, is it illegal? Now the point is that 50000 cars are to be made. One car may be made with these but if you go into a large-scale manufacture, it would be impossible to buy the same component and make the production programme.

**SHRI NARENDRA P. NATHWANI :** But if that component happens to be an important part, a substantial part, a valuable part, then to have utilised such a part even if in one or two cars only and displaying it as a 100 per cent locally made car would be detrimental to the interests of the company in the public eye if that fact comes to be known. What I am trying in other words to argue is this : that if it had been found that he had purchased one imported machine for the purpose of manufacturing one car or at least one or two cars, that disclosure would have been very detrimental to the company. Correct?

**SHRI T. A. PAI :** Yes.

**SHRI NARENDRA P. NATHWANI :** Therefore the information that we were seeking was quite vital and the company was deeply interested in seeing that this information if it was true did not reach you and through you to the Parliament.

**SHRI T. A. PAI :** The question was not about the imported component, it was about the imported machinery.

Apart from the conditions that he must use indigenous components, one of the conditions was that he would not be permitted any import of machinery for manufacturing the car. Now the question was whether our Ministry had permitted any imports or whether he had purchased any machinery for his manufacturing programme.

The second thing was possible even without our knowledge and even

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if the information had come to our notice, technically he would have been still right. He would have said that he purchased the machines locally. But the people who had asked this question from me, they wanted to find out how much machinery had been imported. They might not have been aware of the PEC arrangement that was already in existence. I would have had to explain it. Therefore, my concern was to get as much information as possible on this so that the House could be kept informed of the actual truth.

**SHRI NARENDRA P. NATHWANI :** It was well understood that they would not import any machinery for manufacturing cars. Am I right ?

**SHRI T. A. PAI :** Yes.

**SHRI NARENDRA P. NATHWANI :** If they imported machinery for manufacturing car, this was in violation of the agreement.

**SHRI T. A. PAI :** True. But they had got arrangement to buy something which they would not have imported through PEC. It was a different matter. Perhaps there was more to it than we know.

**SHRI NARENDRA P. NATHWANI :** In any event, the question of having used imported machinery for manufacturing car was very important question.

**SHRI T. A. PAI :** Yes.

**SHRI NARENDRA P. NATHWANI :** You read out the statement which you made before the Shah Commission. May I take it that its contents are quite true according to you ?

**SHRI T. A. PAI :** Yes.

**SHRI NARENDRA P. NATHWANI :** In paragraph 2 you have stated —

“This seems to have upset Shri Sanjay Gandhi and Shri Dhawan, P. S. to the then Prime Minister who contacted me and complained of my officers...”

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I am talking to you about the time. You said it was about the middle of April, 1975. Can you tell me whether it was before or after your answer to the question in Parliament ?

**SHRI T. A. PAI :** It was before.

**SHRI NARENDRA P. NATHWANI :** Mrs. Gandhi called you.

This is what you stated—

“She called me to her residence. She was completely upset and furious”.

I am asking you about the interview. Did you get an impression that she wanted you also to pursue the matter further ?

**SHRI T. A. PAI :** No. She could, in fact, tell me plainly.

**SHRI NARENDRA P. NATHWANI :** Sometimes lifting of an eyebrow is more eloquent than an express command.

**SHRI T. A. PAI :** She knew my nature also that I would not take that in that light.

**SHRI NARENDRA P. NATHWANI :** Did she not convey to you that she did not like this matter of Maruti being pursued by your Department ?

**SHRI T. A. PAI :** I had answered any number of questions.

**SHRI NARENDRA P. NATHWANI :** Did she not convey that it should not be disclosed that factory was using imported machinery for preparing something which was against the spirit of the agreement.

**SHRI T. A. PAI :** I did not get the impression that she wanted me to withhold the information or be careful at the time of answering the question.

**SHRI NARENDRA P. NATHWANI :** And not to pursue the matter further. The question of your withholding anything will not arise.

**SHRI T. A. PAI :** The matter has gone far ; I would not hold it back ; there is no harm in my knowing it.

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**SHRI NARENDRA P. NATHWANI :** There was this question of showing strong disapproval about the enquiry being pursued by the officers. Did she convey that impression?

**SHRI T. A. PAI :** No. I said, she was unreasonably angry. Why she was angry, I do not know. I never saw her being angry so much. There is no question of my arguing with her or trying to pacify her. Mr. Shankaranand said that it was quite possible she might have been feeling that these officers have been harassing people, and that they were corrupt. But she went on so strongly, I don't know why.

**SHRI NARENDRA P. NATHWANI :** In your letter you said this. This is the relevant portion :

"I also complained to her that my officers were being harassed, obviously because they were collecting some information in the discharge of their responsibilities."

That was what you felt. Even now, today also, do you feel so?

**SHRI T. A. PAI :** If this question had not come, there would not have been any trouble.

**MR. CHAIRMAN :** He has said that. Now, what is the procedure of collecting information in regard to a question? Does it come to the Minister? Or, is the Secretary to deal with it? If there is a difficult question will the Secretary bring it to the Minister?

**SHRI T. A. PAI :** The Secretary will deal with it. They put up a note. There are certain limits. There is a procedure laid down by Lok Sabha Secretariat. There are certain things which need not be answered. Information need not be gathered. They put it to the Speaker. In spite of that, the Speaker may say, 'No. This question must be answered'. Officers get the information. The draft reply is put up before the Minister for approval.

A supplementary note is also put up for the Minister. It does not mean that it stops there. If they later on get any information, they can also put it up before me, because, that would help me to answer the questions more clearly.

**MR. CHAIRMAN :** Questions about Maruti were known to everybody; it was known to the House; it was known to you. The issue of Maruti was a sensitive issue. It became sensitive both inside the House and outside the House.

Before the officers enquired into it directly from the Maruti and, thereafter, from Mr. Batliboi, did any of the officers concerned with this have any consultation with you?

**SHRI T. A. PAI :** It was not necessary. If they have to collect the information, they could go about it. If information is required, the first source is the factory itself and if they contacted the factory itself, there was nothing wrong. But, if the factory was not prepared to give the information, we had to have it from other sources. If Maruti had told us that they had got this information, we would have furnished the same to the House, stating that this was the information supplied by the company.

**MR. CHAIRMAN :** This question was answered by Mr. George. It appears to me that one of the question was answered by him. Have you any idea whether Mr. George was also consulted?

**SHRI T. A. PAI :** No. The procedure was like this. Mr. George was in charge of the Heavy Industry sector. There were a number of questions put up before me for my final approval. Perhaps he knew as much as I knew.

**MR. CHAIRMAN :** I wanted to know about a particular question. You yourself said—it appears because the question related to Maruti—that this question upset the Prime Minister. Can you cite any example in relation to the reply to any question and for collection of information in regard to that question whether there

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was any confrontation either with the Prime Minister or any other Ministers? Has it ever happened?

SHRI T. A. PAI : No. Because, for most of the controversial questions, regarding the allotment of land etc., were not relating to my Ministry.

That is why I am saying that all other questions related to the collection of information on Maruti.

MR. CHAIRMAN : What I wanted to know was this. You assumed it—you said it—and, if this is an assumption by its very nature and if it is generalised, then the assumption itself might be questioned. So, I want a categorical answer from you whether you had any experience whatsoever in regard to the collection of any information in regard to any question where this kind of confrontation or this kind of anger was shown by the former Prime Minister or by some others.

Had there been any such experience on your side?

SHRI T. A. PAI : No, Sir.

MR. CHAIRMAN : So, this is the only isolated case. Or can you say that this is a particular case?

SHRI T. A. PAI : I must say in fairness to her that at no time when I met her had she ever discussed with me the affairs on Maruti. I came to know before I became the Heavy Industries Minister that capital was collected from the dealers and it had run into crores of rupees or so and if this capital is collected and invested in fixed assets, and if there was a run and they withdrew the deposits, which they could, it would be dangerous. Therefore, it would be better not to do that. That is the only thing that I had apprised her. About the rest of it, about the Maruti, she had never talked to me at any time.

MR. CHAIRMAN : Shri D. P. Chattopadhyaya also, when we examined him, said that he met the former Prime Minister. He also almost exactly expressed the same thing before us. I want to know

from you whether both of you, one after another, when you met the former Prime Minister, found the former Prime Minister furious and full of anger?

SHRI T. A. PAI : Most of these things I came to know only before he came. What happened was this. I had narrated about that to two persons only—one was Mr. C. Subramaniam to whom I had told him all that had happened and that he should speak to the former Prime Minister. The other person to whom I had brought that to the notice was Shri Haksar. I have not told any other person about what all had happened. I did not know that Shri D. P. Chattopadhyaya was asked to suspend these officers. In my case, there was no such direction given. I did not know why he had been given that direction in respect of the two people. In respect of these two officers, suspension took place immediately Shri D. P. Chattopadhyaya told me this after the Shah Commission. He said that he was there in the house when I was called. I went straight to the room and then came back. Perhaps, he was there waiting to be called inside.

MR. CHAIRMAN : So, this is your contention that before the Shah Commission you never compared your experiences with that of Shri Chattopadhyaya on any time.

SHRI T. A. PAI : Yes. We never compared our experiences.

MR. CHAIRMAN : You have said that when Mr. Dhawan telephoned to you making a complaint that the two officers have behaved rudely when they met the Baliboi men you did not take much notice about it.

I would like to know had there been any occasion when Mr. Dhawan on his own dared to seek any information from you without having the advice either from the Prime Minister or consultation from the Prime Minister? Is that kind of super-authority enjoyed by any Additional Private Secretary of the Prime Minister?

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**SHRI T. A. PAI :** Ordinarily if anyone of these people seek information we take it that she wanted it but in the case of Mr. Dhawan I must say that there was also no other occasion when he contacted me. If the Prime Minister wanted any information to be discussed with me it was Mr. V. Ramachandran who came to me on policy matters. So, there was no question of Mr. Dhawan contacting me for this and that. While I find my other colleagues used to go to him I did not have any such pleasant or unpleasant experience.

**MR. CHAIRMAN :** Did it not strike as unusual to you that Mr. Dhawan being one of the Secretaries could dare to ask such question without making reference to the Prime Minister ?

**SHRI T. A. PAI :** So far as I was concerned if anybody brought any complaint to me I used to listen to it and verify. When he brought to my notice I did not take it that it was Prime Minister's Secretary who was bringing to my notice. He brought this complaint and I just wanted to verify.

**MR. CHAIRMAN :** If a Member of Parliament or even a public body brought a complaint, that is one aspect, but did it not strike you absolutely extraordinary that Mr. Dhawan should seek certain information from the Minister concerned of his own ? Had he a blanket authority to seek information from any Minister ?

**SHRI T. A. PAI :** If he had asked me any question, I do not know, what I would have told him. Since it was a complaint I had to accept it. If there were any complaint it was my duty to verify it.

But he did not mention that the complaint is from the Prime Minister. He only said that my officers were harassing.

**MR. CHAIRMAN :** I want to know this from you because we will call Mr. Dhawan and we will tell him here is a Minister who says that Mr. Dhawan has made some unusual complaint which relates to a factory which is a very sensitive

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subject. We want to know whether the Secretary in the Secretariat of the Prime Minister had any blanket authority either to make complaints or ask for investigations of such complaints. That will give us the idea of functioning of the Secretariat of the Prime Minister.

**SHRI T. A. PAI :** From this incident, I do not think that you can draw the inference. There are many incidents which might help to draw the inference that you want. In this case, a complaint was brought to my notice and I thought it was legitimate and I must verify it because if my officers had done something wrong, I would certainly find fault with them because I do not want any officer of mine to harass anybody else. And when I contacted the Manager of Batliboi and asked whether it was true and even if he had said it was not true, then the emphasis was that two Europeans were present and in their presence this was asked; and he denied that Europeans were there, and this was a false complaint. I was very much satisfied that the complaint was not true.

**MR. CHAIRMAN :** Suppose your Secretary receives certain complaints about, say Mr. Chattopadhyaya and the functioning of some of his officers, then in that case will your Secretary directly ask Mr. Chattopadhyaya or lodge a complaint with him ? Or will he tell you about the complaints so that you can contact Mr. ....

Will it not be the proper course of action ?

**SHRI T. A. PAI :** If Mrs. Gandhi asked Mr. Dhawan to contact me, that was a different matter. I do not know whether Mr. Dhawan himself brought it to my notice.

**SHRI MADHAV PRASAD TRIPATHI :** Did you on any occasion tell Mr. Dhawan that his complaint was baseless ?

**SHRI T. A. PAI :** No. I would not have told him. I do not give him so much importance as others did.

**SHRI MADHAV PRASAD TRIPATHI :** But you were making enquiry.

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SHRI T. A. PAI : Certainly if anyone brought it to my notice, as a Minister, I would always keep my eyes and ears open.

SHRI MADHAV PRASAD TRIPATHI : When such a complaint came and you found that there was no foundation, you could have gone to her and said so.

SHRI T. A. PAI : I could have gone to her. But when this complaint was there, she had gone out. I remember it because I was having lunch at that time; I do not remember the date. I was told that there was an urgent call from the Prime Minister's house and I left my lunch to attend the telephone.

SHRI KRISHAN KANT : According to what you had told this Committee earlier, first Mr. Dhawan gave you a ring asking about two officers and harassment to Batliboi company people in the presence of foreigners and later on you talked to Mr. Krishnaswami and Rajan to find out the truth; then you contacted Batliboi and then you were satisfied that no truth was there. When you went to the Prime Minister and when she was talking to you

about Batliboi and other things could you not have connected these things and Maruti in your mind?

SHRI T. A. PAI : I did so.

MR. CHAIRMAN : Would you give us a copy of the letter? It is a photostat copy.

SHRI T. A. PAI : Tomorrow itself I shall send it to the secretariat; it is a photostat copy.

SHRI KRISHAN KANT : In the light of the subsequent letter, you knew that it was in pursuance of Mrs. Gandhi's orders to Mr. Dhawan that it was done. It was not a conjecture?

SHRI T. A. PAI : It is not a conjecture.

MR. CHAIRMAN : Thank you Mr. Pai. Mr. Shankaranand will ask you one or two questions next time when we meet on Wednesday at 3.00 p.m. that is 29th March, 1978.

*The witness then withdrew.*

*(The Committee then adjourned)*

Wednesday, the 29th March, 1978

PRESENT

Professor Samar Guha—*Chairman*

MEMBERS

2. Shri Hitendra Desai
3. Professor P. G. Mavalankar
4. Shri Narsingh
5. Shri Narendra P. Nathwani
6. Shri B. Shankaranand
7. Shri Madhav Prasad Tripathi

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer*

WITNESS

Shri T. A. Pai, (*Member, Lok Sabha, former Minister of Industry and Civil Supplies*)

(*The Committee met at 15.00 hours*)

Evidence of Shri T. A. Pai, M.P.

SHRI T. A. PAI : I, T. A. Pai, swear in the name of God that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false.

MR. CHAIRMAN : We have received the note that we asked for regarding the letter that was written to you by Mrs. Gandhi and also its enclosures. Naturally this would form very very vital documents. I would request you to read it out and then attest the whole thing.

SHRI T. A. PAI : The only photostat copy I had is with you.

MR. CHAIRMAN : You please read it out.

SHRI T. A. PAI : Do you want me to read it out or sign it ?

MR. CHAIRMAN : You read it and then you sign it.

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SHRI T. A. PAI : Do you want me to go through all the enclosures also ?

MR. CHAIRMAN : It will be good if you read it. This is one of the most important documents.

SHRI T. A. PAI : I am reading the letter :

"Dear Shri Pai,

I am amazed to read your letter of the 5th May and the aspersions cast against the CBI. Your presumption that the CBI searched the houses of some officers of your Ministry because of their enquiries in connection with answers to Parliament Question to which you have referred to in your letter, is totally baseless. I have made enquiries and find that the CBI received information that some officers of your Ministry were in possession of a large number of shares and were living rather lavishly. According to the normal practice, the CBI made confidential verification and the information was found to have some basis. During the course of preliminary enquiries, it also came to the notice of the CBI that some industrialists were regularly visiting your officers. The CBI registered a case and obtained the permission of the Court to search the houses on the basis of facts which had already come to the notice of CBI. I also understand that the Additional Secretary of your Ministry was informed about this.

As a result of the search, the CBI has found that the officers in question seem to be in possession of assets disproportionate to their known sources of income. I am enclosing a note received from the CBI, which explains the position in detail.

I agree with you that protection should be given to officers for honest decisions taken in good faith but this certainly does not mean that corrupt officials should take undue advantage of their position. I have made it clear more than once that in order to tone up the administration, we have to take stern

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action against corrupt officials. While investigations against these officers are bound to take sometime, even at present there seems to be sufficient material to cast doubt on their integrity. Therefore, they do not seem entitled to any support.

Yours sincerely,

Sd/- Indira Gandhi."

Now the enclosures :

"1. SHRI R. KRISHNASWAMY : Information was received about Shri Krishnaswamy sometimes back that he was in possession of a large number of shares and was living rather lavishly. As after a confidential verification this information was found to have some basis in truth, a case against him was registered by the CBI. Also as immediate search appeared necessary, his house was searched after obtaining a search warrant and informing the Addl. Secretary, Ministry of Heavy Industry.

As a result of his house search it has been found that he is in possession of shares and other assets, etc. worth about Rs. 1,50,000. According to Shri Krishnaswamy, shares worth about Rs. 25,000 were given to him by his father. Even if they are left out of consideration his present assets would amount to about Rs. 80,000. Included in these assets is a cash deposit of Rs. 20,000 in State Bank of India. Shri Krishnaswamy could not give the source of this cash deposit and so, it seems rather suspicious.

Also, from some bills etc. found in his house it appears that Shri Krishnaswamy has a fairly high standard of living. Therefore, for an officer of his status (he has put in only about 17 years of service and till recently was only a Dy. Secretary and his gross salary was only about Rs. 1600 per month) and his style of living, which would not leave much room for savings, his assets seem to be on the high side.

Several bills and cash-memos were also recovered from which it appears that he

is paying about Rs. 260 per month on account of school fees of his daughter and son and he is a member of the expensive Gymkhana Club and his style of living is rather high for an officer of his status. He must also be spending considerable money on his drinks because 6 sealed bottles of imported scotch whisky/brandy and 2 half bottles of imported whisky were found in his house. His keeping of so many bottles without any permit is an offence under the Punjab Excise Act applicable in Delhi. This matter is, therefore, being reported to the Delhi Police for necessary action.

NOTE ON R.C. 19/75-DELHI  
AGAINST SHRI A. S. RAJAN,  
DEVELOPMENT OFFICER  
(TOOLS), D.G.T.D.

#### Registration of case

On receipt of information to the effect that Shri A. S. Rajan, Development Officer (Tools), D.G.T.D. had shown undue favour to M/s. R. K. Machine Tools, Ludhiana and was in possession of assets disproportionate to his known sources of income, a case (RC. 19/75) was registered on 17-4-75 after a confidential verification showed that the information had some basis in truth.

#### Search Warrant

2. Since it was felt that if immediate search was not conducted valuable evidence necessary to substantiate the allegation may be lost, a search warrant was obtained from the court of Addl. Chief Metropolitan Magistrate, New Delhi on 18-4-1975.

#### Search of the residence of the accused

3. After informing a senior officer of the Ministry the search of the residential premises of the accused Shri A. S. Rajan at 21/91, Lodhi Road, New Delhi was conducted on 18-4-75 in the presence of two independent witnesses.

4. The house search of the accused and the scrutiny of the documents seized during search, made so far, has revealed



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that Shri A. S. Rajan owns the following immovable assets :

- (i) A house in Maharaja Nagar, Tirumawalli, Tamil Nadu constructed on a plot 524 sq. yds. in 1971. Shri Rajan has declared Rs. 40,600 as the cost of construction of this house.
- (ii) A plot measuring 522 sq. yds. for Rs. 13,121 at Anna Nagar, Madras purchased in 1973.
- (iii) Agricultural land measuring 0.51 acres at Kunnakudi, Tamil Nadu purchased for Rs. 4,000 in the name of his wife in 1970.
- (iv) Agricultural land measuring 0.39 acres at Kunnakudi, Tamil Nadu purchased for Rs. 3,500 in the name of his wife in 1969.

5. The house search also revealed that the accused Shri A. S. Rajan is in possession of costly movable assets in the form of a fiat car 1969 model, a T.V. set purchased on 29-1-1975 for Rs. 3,085 and Allwyn Refrigerator purchased in 1966 for Rs. 1,387. The accused Shri A. S. Rajan is insured for Rs. 10,000 and his wife Smt. Lakshmi Rajan is insured for Rs. 5,000. The search also revealed purchase of two FDRS for Rs. 5,000 and Rs. 2,250 in the names of the daughter and wife of the accused respectively. A receipt dated 17-7-1968 indicates a deposit of Rs. 9,000 in cash with M/s. Sundaram Finance Ltd., Madras in the name of his wife, Mrs. Lakshmi Rajan.

6. Shri Rajan is also maintaining accounts with a number of banks but details relating to these accounts have yet to be collected.

#### Conclusion

7. From the facts mentioned above, it will be seen that excluding the bank accounts about which an enquiry has still to be made, Shri Rajan has acquired assets worth Rs. 80 to 90 thousands during the last 6 or 7 years which does seem to be on the high side considering the net pay that he would have drawn during this period. The investigation is in progress."

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SHRI HITENDRA DESAI : Did you receive the original letter from Shrimati Indira Gandhi ?

SHRI T. A. PAI : Yes.

SHRI HITENDRA DESAI : How was it delivered ?

SHRI T. A. PAI : It was delivered at my house by hand delivery.

SHRI HITENDRA DESAI : What was your reaction on receipt of this letter ?

SHRI T. A. PAI : As a matter of fact, in my letter I had not referred to my discussion with her ; I did not refer to the fact that she was angry. After having said that, I wanted that she could even reconsider. That is why I have written that letter. When I found that she was taking a stand on this issue, I sent her even the copy of the letter that I have with me, saying if this is the stand you are taking, I do not think I should have a copy of this letter. My friend, Shri Shankaranand asked me why I did not return her letter also. I do not know how she would have felt, if I had returned that letter. Sending a copy of my letter is one thing, but sending her back the letter would have been considered an affront, even if I were in her position.

SHRI HITENDRA DESAI : I want to know whether you are satisfied with this or not, with the contents of the letter.

SHRI T. A. PAI : No, I was not. She made allegations against them. But my opinion about their innocence is something different. Yet, once allegations are made, enquiry has got to be done by an independent agency to decide whether they are true or not.

SHRI B. SHANKARANAND : Mr. Pai, you have stated in your evidence before this Committee that Mrs. Gandhi never discussed the Maruti affair with you.

You have said that Mr. Dhawan only complained against the harassment by the officers of some Balliboi & Co. or something like that. That was the only telephone as far as the question and the

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answer of this Maruti business in Parliament is concerned. That is what you have said.

**SHRI T. A. PAI :** Yes.

**SHRI B. SHANKARANAND :** Now, after this, I would read the Question and the answer, for refreshing your memory, which was given in Parliament :

"Purchase of Machinery by  
M/s. Maruti Ltd.

\*656. **SHRI JYOTIRMOY BOSU :** Will the hon. Minister of INDUSTRY AND CIVIL SUPPLIES be pleased to refer to the reply given to Unstarred Question No. 2980 on 12th March, 1975 regarding Machinery in Maruti Car Factory, Gurgaon and state :

- (a) the names, addresses and full particulars of the dealers in the country from whom M/s. Maruti Ltd. has purchased machinery etc. ;
- (b) full details of such purchases including value of each category of purchase ;
- (c) main line of business of the dealers from whom such purchases have been made ;
- (d) whether some of those dealers are also importers of machinery ; and
- (e) if so, the facts thereof ?

**THE MINISTER OF STATE IN THE MINISTRY OF INDUSTRY AND CIVIL SUPPLIES (SHRI A. C. GEORGE) :** (a) to (e) Government does not collect nor is any industrial unit required to furnish detailed information with regard to machines purchased locally. Government has, as such, no information."

**"SHRI JYOTIRMOY BOSU :** Sir, I have already given a notice under Direction 115 alleging that the hon. Minister, Shri A. C. George had misled the House in the matter of giving information on Maruti's importation of industrial hardware.

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In that context, may I ask the hon. Minister to tell us correctly and truthfully whether it is a fact that regarding a limited company of Ring Road, Lajpat Nagar, Delhi and also of 414/2, Vir Savarkar Road, Prabha Devi, Bombay, there was an arrangement between Maruti and the said company to hand over the import documents to another company of Home Street, Bombay for clearing such imported hardware and whether Government is aware of this fact or not. I am now in possession of the full documentary evidence.

**THE MINISTER OF INDUSTRY AND CIVIL SUPPLIES (SHRI T. A. PAI) :** So far as we know, the licence under which the Maruti came into existence was on a condition that the design would be indigenous and no imports would be allowed. The Ministry has not been asked for imports: nor have we permitted any imports. If such allegations are made, I am unable to verify them and give the information.

**SHRI JYOTIRMOY BOSU :** My question has not been answered.

**MR. SPEAKER :** How does it arise from this ? The Minister has replied to the question.

**SHRI JYOTIRMOY BOSU :** There is information that Maruti used industrial hardware as dummy. I have given information about two firms—one having an office in Delhi and the other at Bombay. I am not giving the names just now but I shall give that in due course. I am asking the hon. Minister whether it is a fact that the import documents were handed over to the firm at Home Street, Bombay while the Delhi firm cleared the consignment through their dummy office. That is how the consignments to Maruti Limited at Gurgaon came by Black and Berg and the cargo arrived in August, 1973 at Bombay.

"Is that correct or not? Be careful, I have got all the documents.

**SHRI T. A. PAI :** So far as I am concerned, whatever be my relations with

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Government and the particular company, I can furnish the information. What an individual party does outside, how am I expected to furnish information if the hon. Member wants me to furnish the information?

MR. SPEAKER : Please do not make it a debate. Ask a straight question. I think he has given his answer.

SHRI JYOTIRMOY BOSU : There is no shadow of doubt I am alleging that although the import licences were not given and taken in the name of Maruti, the dummy firms used that for importation of industrial hardware solely for the use of Maruti Ltd. That is how they hood-wink. I can give evidence on it and I take the full responsibility on it. I have got documents.

MR. SPEAKER : There is no question of taking responsibility. The question asked is replied to by him. If there is anything else, that is a different matter.

SHRI JYOTIRMOY BOSU : They are fully in the know how to bypass the rules and laws. They used the industrial hardware as dummy.

MR. SPEAKER : This cannot arise out of this.

SHRI JYOTIRMOY BOSU : They used this as dummy. They cannot trespass the conditions in letter or in spirit."

"SHRI T. A. PAI : So far as I am concerned, I strongly deny the allegation that we have done anything wrong in helping the Maruti to get anything imported. But, I am unable to answer every allegation because it looks as if we can furnish any information that is called for.

SHRI JYOTIRMOY BOSU : I am sure the Minister is misleading the House.

SHRI R. S. PANDEY : May I know when is Maruti car coming in the market? I have read about it in the newspapers.

MR. SPEAKER : That does not arise out of this.

SHRI R. S. PANDEY : May I know when is it coming?

श्री जनेश्वर मिश्र : अध्यक्ष महोदय, मुझे अखबारों में पढ़ने का मिला था कि मारुती कार के एक मालिक का प्रधान मंत्री जी ने कहा कि अपने पद से इस्तीफा दे दीजिये, क्योंकि सरकार की बदनामी होती है। मंत्री जी को इसके बारे में जवाब देना चाहिये।

SHRI T. A. PAI : An industrial licence is given to a company. Who manages it, who resigns and who comes, it is not my affair, I am unable to furnish such information."

SHRI B. SHANKARANAND : When you replied in the Parliament, questions were put to you and to your colleague, Mr. A. C. George that you both were misleading the House and both of you had emphatically denied. When you denied this, were you really misleading the House?

SHRI T. A. PAI : No.

SHRI B. SHANKARANAND : Do you know that Mr. A. C. George was misleading the House?

SHRI T. A. PAI : No.

SHRI B. SHANKARANAND : When was this question received by your Ministry?

SHRI T. A. PAI : I do not know.

SHRI B. SHANKARANAND : How many days earlier?

SHRI T. A. PAI : You can find out from the Speaker's office.

SHRI B. SHANKARANAND : The notice had come to your Ministry.

SHRI T. A. PAI : It was sent by the Lok Sabha Sectt. By what date, I do not know.

SHRI B. SHANKARANAND : Who handles the questions in your Ministry?

SHRI T. A. PAI : They sent first to the Addl. Secretary who was incharge then

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and he would supply it to the Deputy Secretary who was to collect the information.

**SHRI B. SHANKARANAND :** Without bringing to your notice ?

**SHRI T. A. PAI :** Yes.

**SHRI B. SHANKARANAND :** Before the information is collected, the Question and Answer does not come to your notice.

**SHRI T. A. PAI :** Only when the final reply is to be given, it comes to me with whatever notes they have.

**SHRI B. SHANKARANAND :** About the officers who were collecting the information, you had not directed them to collect the information.

**SHRI T. A. PAI :** Whether personally I asked them to carry out all these investigations ? No. But they were doing it as a duty to be furnished to the Minister.

**SHRI B. SHANKARANAND :** You have said that till the final reply was finalised by you, you had no knowledge about the Question and also the Answer that was prepared. How many officers do you consult before finalising the reply ?

**SHRI T. A. PAI :** I do not consult anybody because the notes are given and based on the notes, if I am satisfied, I send the file back. We do not have consultation at that stage. The only consultation that we have is on the morning of the day when the Answers are to be given.

**SHRI B. SHANKARANAND :** This is the only day of consultation with the officers.

**SHRI T. A. PAI :** We just discuss whether any supplementaries are possible on the Question and what should be the answers. We anticipate the supplementaries in spite of all the information given there and then prepare ourselves to answer those questions on the floor of the House.

**SHRI B. SHANKARANAND :** When was the final reply finalised ?

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**SHRI T. A. PAI :** I do not remember the date when it was finalised.

**SHRI B. SHANKARANAND :** It is on record that the Question was answered on 16th April. That you do not dispute.

**SHRI T. A. PAI :** That I do not dispute.

**SHRI B. SHANKARANAND :** You had the briefing on that morning for supplementaries.

**SHRI T. A. PAI :** Yes.

**SHRI B. SHANKARANAND :** Whatever the briefing, the notes were prepared and they were finalised.

**SHRI T. A. PAI :** Yes.

**SHRI B. SHANKARANAND :** May I know for which particular question of Mr. Jyotirmoy Bosu, (a), (b), (c), (d) and (e), your officers were collecting the information as alleged ?

**SHRI T. A. PAI :** As a matter of fact, we note the type of questions. Mr. Jyotirmoy Bosu had asked us to do more than what we were expected to do. The question was whether we had allowed any imports which, obviously, we could find out. But since we had not got the clearance of those imports which would have been there if the imports were allowed, we had no information on that. Whether they had imported it and taken delivery from some firm about which he was not only prepared to give the address but also the street number and the house number, I think, it was too much for us to find out all the information that he wanted. Obviously, he had more information with him because every time he was saying, "I have got documents to prove." So far as we are concerned, it is a fact that we would not have been in a position to collect it from anywhere. But at the same, we had to ensure whether there was anything that was going wrong at our back since the person who asked the question had more information than we had and whether there were any slippages anywhere.

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Obviously, the first source was the company itself and when the company was contacted, we were told that it was not possible to give that information.

**SHRI B. SHANKARANAND :** You are telling something which I have not asked. Please listen to my question again. I will read the Question. Mr. Jyotirmoy Bosu has asked a Question in Parliament; the Question came and the replies were collected. There are five questions, (a), (b), (c), (d) and (e). I want to know for which particular question your officers or the officers concerned were collecting the information. That is my simple question. You can read the questions again.

**SHRI T. A. PAI :** I cannot say for which particular question. I do not want any cross-examination on this because I can only say that for the questions asked by Mr. Jyotirmoy Bosu on that day, the information was being collected. I cannot say for which specific question...

**SHRI B. SHANKARANAND :** Mr. Pai may be supplied a copy of the questions.

**MR. CHAIRMAN :** I want to draw your attention to what Mr. Pai was saying. He was saying that he did not ask for any particular type of information in regard to an answer in regard to any of the questions. He was saying this and now I am saying that only just to get himself confirmed to answer he asked for information as he had fear that the questioner might be having more information than Mr. Pai; and in order to safeguard himself, he wanted to collect as much information as possible. He did not ask specifically that this type of information should be collected; only relevant information should be collected; if possible, more information should be collected.

**SHRI B. SHANKARANAND :** The whole question of privilege has arisen because the officer was harassed for collecting information to be supplied to the Minister in order that he might reply in the House.

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**MR. CHAIRMAN :** I appreciate your question.

**SHRI B. SHANKARANAND :** The entire issue revolves around this question of mine, that is, the officer who was collecting material for the benefit of the Minister to enable him to reply to a question asked in Parliament. That was the purpose of collecting information and material. Now I want to know from the ex-Minister for which particular question this particular information was being collected. Let him say something about it.

**SHRI T. A. PAI :** I did not ask my officer to collect information in regard to a particular question. The usual procedure is to collect as much information as possible so that the question may be answered. We were able to furnish information was best as we could. It would be difficult for me to say for which particular question they had collected information and for which particular question they did not collect information. - Before my evidence before you, I did not say that ..... In response to your question, I only stated what I knew and I can only say that if the idea is that our officers were collecting information which was not their business, it is for this Committee to come to any decision they like. But I can only say that they were collecting this information.

**MR. CHAIRMAN :** I have observed that whatever conclusion we will arrive at, that is our concern.

**SHRI B. SHANKARANAND :** He has not made it clear. He should say that he was collecting information because he was briefed on the morning of 16th when the question was replied.

**SHRI T. A. PAI :** The information was collected before the 16th.

**SHRI B. SHANKARANAND :** For which particular question, they were collecting the information.

**SHRI T. A. PAI :** They were collecting information. The question is that the

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answer was placed before me on the 16th and we discussed whether there were going to be supplementaries. But the question had been answered, so far as I am concerned, by my Ministry, when they put up those notes and took my signature for the final reply to be given; and the meeting on the 16th was not for reply to my question but for the supplementaries that were likely to come up. The information that my Ministry would be collecting was for the entire set of questions and not one particular item under it.

**SHRI B. SHANKARANAND :** Were the supplementaries also finalised on the 16th?

**SHRI T. A. PAI :** Supplementaries were thought of well in advance.

**SHRI B. SHANKARANAND :** Was the information on probable supplementaries finalised on the 16th?

**SHRI T. A. PAI :** If any information came after it was put up to me, that would be given as a supplementary information to me. In supplementaries, one has to anticipate the supplementary that might come, and if the relevant information is not in the record, it will have to be found out and put up.

**SHRI B. SHANKARANAND :** I agree. But I want to know whether the note for supplementaries was also finalised on the 16th morning.

**SHRI T. A. PAI :** There is no note on supplementaries. We discuss the possible supplementaries orally, and we get prepared. How do we know what kind of supplementaries will be asked?

**SHRI B. SHANKARANAND :** You have said that you were not misleading the House; the reply was not misleading. The reply given is: 'Government does not collect, nor is any industrial unit required to furnish, detailed information with regard to machines purchased locally; Government has, as such, no information.' By this, Mr. Jyotirmoy Bosu asked, whether Mr. George or you were not misleading the House, and you said that you did not

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**SHRI T. A. PAI :** At that point of time, we had no information. We had been denied this information.

**SHRI B. SHANKARANAND :** You have emphatically said that you have no authority to collect the information because you have no administrative control over the functioning of private companies. May I know for what purpose was the information being collected from these people?

**SHRI T. A. PAI :** I think, as a Member of Parliament, you would not be satisfied by my denying everything. If I can get the information, there is no point in denying that to you.

**SHRI B. SHANKARANAND :** You were having the information.

**SHRI T. A. PAI :** I did not have the information. As a matter of fact, these people got into difficulties for getting that information.

**MR. CHAIRMAN :** You have categorically mentioned that there is no obligation or authority on the part of the Ministry to get any kind of information from any private sources. In that case, he wants to know, why this information was collected from Battliboi or Maruti.

**SHRI T. A. PAI :** I do not think that there was any harm in trying to get as much information as possible. But if I gave a reply to Parliament saying this, then I think I may have to collect information from everywhere; this might set up a precedent for collecting information; the next day somebody might ask what was the machinery installed in the factory of Tata at Jamshedpur. Therefore, while answering questions in Parliament, we might say that. But if supplementaries had been asked in a way which would catch me, I do not know what I would have done. But it is a fact that at that moment I did not have any information. And I have personally, as a Minister, believed in giving as much information as possible to the House and

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not deny it. Very often I used to be pulled up by the Speaker why I was voluntarily giving information.

**SHRI B. SHANKARANAND :** Here in this case, the Speaker had disallowed the supplementary. The Speaker has said :

"How does it arise out of this ?  
The Minister has replied to this question."

The Speaker said :

"Please do not make it a debate. Ask a straight question. I think he has given his answer."

Again :

"There is no question of taking responsibility. The question asked is replied to by him. If there is anything else, that is a different matter."

Then :

"This cannot arise out of this."

He was saying this consistently.

**SHRI T. A. PAI :** Will you kindly see the question asked by Shri Jyotirmoy Bosu ? He was saying that he had documentary evidence with him, and that I was misleading the House. He said that it did not arise.

**SHRI B. SHANKARANAND :** I will again put the question. What was the purpose of collecting the information when you were emphatic that you had no administrative control over them ?

**MR. CHAIRMAN :** This question has been repeatedly asked and he has answered what he wanted to.

**SHRI T. A. PAI :** If you want to draw the inference that my officers were wrong, in collecting this information, that it was not necessary to do so, you are free to do so. But as a Minister, I expected as much information as could be collected.

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**MR. CHAIRMAN :** I do not want any observations from you. That we will decide. This is one of the crucial points and I do not want the witness to make any observations. We will consider that at the penultimate stage.

**SHRI B. SHANKARANAND :** Not only his observations, but his conjectures are also being recorded.

**MR. CHAIRMAN :** I do not want his observations like this. He has replied to your question. If he cannot furnish you any further information, the right of your inference from his evidence will remain exclusively with you.

**SHRI B. SHANKARANAND :** It is not for my personal consumption; it is for all of us.

Who were the officers, who briefed you on that morning ?

**SHRI T. A. PAI :** I do not remember.

I think, that usually, these questions were briefed by Shri S. M. Ghosh, Additional Secretary.

**SHRI B. SHANKARANAND :** You never came across the officers who were collecting information.

**SHRI T. A. PAI :** I have already answered that. During the preparation of the question, no; but when there were complaints about their harassment, I called them.

**SHRI B. SHANKARANAND :** That I will ask later on but during the course of preparing the answers did you meet any of these officers who were collecting it ?

**SHRI T. A. PAI :** Never.

**SHRI B. SHANKARANAND :** You had discussion and briefing from your officers. Secretary and the Addl. Secretary—they were the only persons who briefed you ?

**SHRI T. A. PAI :** I do not remember whether the Secretary was also present. How can I say ? Usually it is the dealing

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officer from the Department who will come and not the entire Ministry to help me unless I want more information.

**SHRI B. SHANKARANAND :** On that day who were the officers present ?

**SHRI T. A. PAI :** How do I know ?

**SHRI B. SHANKARANAND :** That the file will explain.

**SHRI T. A. PAI :** Even the file may not explain because, at that time, no signatures are taken.

**SHRI B. SHANKARANAND :** From the replies you have given and Mr. A. C. George has given in the House with reference to this question, the main reply, I should say—you could have replied even without collecting the information.

**SHRI T. A. PAI :** Yes, we could have replied even without collecting the information.

**SHRI B. SHANKARANAND :** I will come to the next point.

**SHRI T. A. PAI :** But I would also like to add that even if we can answer any question, for supplementaries we must have such information. The type of supplementaries that Mr. Jyotirmoy Bosu had asked had nothing to do with the information we were likely to collect.

**SHRI B. SHANKARANAND :** That you have replied.

Then, though I may not ask this question but still for clarification I am asking. Are your replies scrutinised by the officers of the Lok Sabha before they are replied ?

**SHRI T. A. PAI :** I do not know whether they were scrutinised.

**SHRI B. SHANKARANAND :** You have functioned as a Minister.

**SHRI T. A. PAI :** That you must also know. You were also Parliamentary Affairs Deputy Minister. So far as I am concerned, the replies were not submitted there.

**MR. CHAIRMAN :** After the replies that are being formulated by the Minister, if there is any change anywhere, that would create a suspicion that it has been scrutinised and changed. Only on that occasion the Minister may intervene or interfere or raise any objection to it. Therefore, your question is absolutely, I should say, without any relevance to the matter.

**SHRI B. SHANKARANAND :** Were these replies, before they were replied in the House, scrutinised by the officers of the Lok Sabha ?

**SHRI T. A. PAI :** I do not know.

**SHRI B. SHANKARANAND :** Yes, I want to know.

**MR. CHAIRMAN :** I am sorry I am not allowing this question. You have put very nice questions, but this is not a relevant question. It is absolutely an imaginary question. This is a domain which is exclusively under the Speaker. Only the Speaker can answer it—whether a question is replied and whether the reply sent by the Minister concerned is being scrutinised or not and, if scrutinised, whether there is any authority for any officer to change it without referring to the Minister and whether it will not violate the Rules of Procedure, etc.

Therefore, this question, in this matter is not very relevant. You may please pass on to the next question.

**SHRI B. SHANKARANAND :** Are you responsible to the House or your Ministry's officers in so far as replies to the questions are concerned ?

**SHRI T. A. PAI :** I think. I am responsible.

**SHRI B. SHANKARANAND :** You have said that you had no administrative control over the functioning of the private companies. Did your officers have any direct access to the records of the private companies ?

**SHRI T. A. PAI :** Not to the records.

**SHRI B. SHANKARANAND :** You have said that you had no administrative



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responsibility to collect information from the private companies. I ask further a question—were you a final authority to approve of the replies to be given in Parliament?

SHRI T. A. PAI : Yes.

SHRI B. SHANKARANAND : The replies may not be to the satisfaction of the Member who is asking the question. They may or may not satisfy him. Is it correct?

SHRI T. A. PAI : Yes.

SHRI B. SHANKARANAND : Was there an occasion for you, because on the 16th morning, the probable supplementaries were also discussed and you were satisfied with the briefing by the officers?

SHRI T. A. PAI : Yes.

The papers would have been cleared very much earlier.

SHRI B. SHANKARANAND : On the morning of 16th April, you had briefing and you were satisfied with the briefing by the officers. This is my simple question.

SHRI T. A. PAI : I would like to know what exactly do you want?

You have been emphasising briefing. I want to tell you what is briefing. I was not tutored by them on that day what the answer should be. The answer had been cleared and the usual procedure is to send all the information for the supplementaries. If I am satisfied on going through them, I would not even have asked that. A number of questions were coming up.

On that, whether there was any discussion, I am unable to say. I do not remember.

SHRI B. SHANKARANAND : Are you satisfied with the discussion?

SHRI T. A. PAI : How can I tell you? I am telling you about the procedure. You are asking me whether I can recall whether there was any particular discussion with my officers on this question.

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Well, I am unable to say that. I don't remember. I have discussion with them off and on. When I think some information has not been provided sufficiently, I do discuss matters.

SHRI B. SHANKARANAND : Mr. Chairman, Mr. Pai was expecting supplementaries to the main question asked in Parliament. They were expected supplementaries. Officers collected information till the date of the reply. Till that date officers collected the information, who were briefing you.

SHRI T. A. PAI : I don't know what my friend wants from me. I have answered very plainly about the procedure. The usual procedure is this.

MR. CHAIRMAN : Your answer was very clear and categorical. The point was this. If you visualised certain supplementaries, did you try to get information about that thing, beyond the scope of the question.

SHRI T. A. PAI : No. But the fact is, the information that was being collected was received from Batliboi by the PEC, which has enquired of them and it was not referred back to us. I would request Mr. Shankaranand to tell me what he wants plainly. I will answer plainly also.

SHRI B. SHANKARANAND : I am not trying to drive you to something. Not at all. On 16th this was to be answered. Well, till that date your officers collected information. I want to know whether they had briefed you.

SHRI T. A. PAI : I told you this. The usual procedure is this.

MR. CHAIRMAN : You said that you do not remember. It is accepted. I have got no experience of functioning as Minister. But it is seen from general common sense point of view that officers come on the day of questions. It is a day to day affair. All kinds of information are collected. Things can be discussed. It is a natural common practice and there is nothing particular about it all.

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**SHRI B. SHANKARANAND :** When Mrs. Gandhi called you on that day, you said, you had to give up your lunch and your rest and so on on that day. Is it right? May be the day of confrontation, on which day you had to give up lunch. Phone call came to your house. You had to rush to Mrs. Gandhi's house. At what time do you usually take your lunch?

**SHRI T. A. PAI :** Between 12-30 and 1.

**SHRI B. SHANKARANAND :** Most probably you must have met Mrs. Gandhi between 1 and 2 at her residence.

**SHRI T. A. PAI :** Probably, Yes.

**SHRI B. SHANKARANAND :** You have talked to Mrs. Gandhi. There were information but you never referred to Maruti affairs. You have told that you were there with Mrs. Gandhi. Were you there for about half-an-hour or 10 to 15 minutes. You must have, at that time, a very brief talk with her.

**SHRI T. A. PAI :** I do not remember that.

**SHRI B. SHANKARANAND :** You have told that she was on tour and she had just come from tour. You went there. May be, perhaps, she was tired.

**SHRI T. A. PAI :** Tired she was. I do not want to say anything in conjecture. It may be wrong for me to say whether she was tired or not and whether she showed anger also for the reason—I do not know.

**SHRI B. SHANKARANAND :** She had just returned from tour. That you have said.

**SHRI T. A. PAI :** Yes.

**SHRI B. SHANKARANAND :** You have also said that you have replied many questions on Maruti even before and after this particular question.

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**SHRI T. A. PAI :** Not on particular question but only on the question of Maruti.

**SHRI B. SHANKARANAND :** You have replied many a time in the House and there was no occasion and you have said only on this point she was angry and she was never angry otherwise. That you have already said. Can you not imagine she was tired and she was not in her mood and so she got angry?

**SHRI T. A. PAI :** Well, I only told you that I suffered without telling anybody. Therefore, whether she was tired or not, all that I was saying was that when the Prime Minister could ask somebody to raid the house of somebody, I thought it was too much.

**SHRI B. SHANKARANAND :** You disagreed with her.

**SHRI T. A. PAI :** I was shocked.

**SHRI B. SHANKARANAND :** My question was : did you disagree with her?

**SHRI T. A. PAI :** Disagreed on what?

**SHRI B. SHANKARANAND :** Shocking is something. Or she may be angry and it might have shocked you.

**SHRI T. A. PAI :** I won't get shocked if I agreed with her.

**MR. CHAIRMAN :** It was a shock of disappointment or deep pain.

**SHRI T. A. PAI :** It was a shock of deep pain.

**SHRI B. SHANKARANAND :** Did you agree with her?

**SHRI T. A. PAI :** Agreed with what?

**SHRI B. SHANKARANAND :** She was telling that the officers were corrupt and action should be taken.

**SHRI T. A. PAI :** She did not tell me that action should be taken against these officers.

**SHRI B. SHANKARANAND :** My next question is this. You have said, Mr.

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Pai, I will read it what you have said last time. It is on page 19.

I will now read out the relevant portion at page 19 of the proceedings of this Committee meeting held last time.

"Shri T. A. Pai : If it was an imported machine . . . . as I was going through . . . . technically it is right."

Now, it is only for the first time when you went through the Note for Supplementaries on 16th March, you came to know that there was a lacuna.

SHRI T. A. PAI : No supplementaries were given to me even before that.

SHRI B. SHANKARANAND : But before that, the final reply was prepared and did you change the final reply after reading the supplementaries? The reply was finalised on 14th. But did you change that reply in view of the Note for supplementaries?

SHRI T. A. PAI : I did not have to change because . . . . .

SHRI B. SHANKARANAND : Did you change?

SHRI T. A. PAI : No. I did not change, because by the same reason I would have explained to the Parliament that that was available on rupee payment.

SHRI B. SHANKARANAND : Out of these 4 officers, how many were under your direct administrative control? The four officers are : Mr. Krishnaswamy, Mr. Rajan, Mr. Cavale and Mr. Bhatnagar.

SHRI T. A. PAI : Mr. Krishnaswamy and Mr. Rajan were directly under my administrative control.

SHRI B. SHANKARANAND : When Mrs. Gandhi said 'Raid the houses of these officers' was there anybody else also there?

SHRI T. A. PAI : Only Mr. Dhawan. Nobody else.

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SHRI B. SHANKARANAND : Now I will put one question—a very simple one. You have stated before this Committee : "I wrote a letter in my own hand addressed to her personally and I enclosed the copy of my earlier letters also because I did not want to give her an impression that I was keeping any correspondence relating to it." You have said it. Now, the copy of the letter . . .

SHRI T. A. PAI : This is exactly what I wanted. But the original of the letter was sent . . .

SHRI B. SHANKARANAND : The letter which she wrote to you back—does it form part of the correspondence or not?

SHRI T. A. PAI : It does. The correspondence ends not with that letter, but with my returning of that letter.

SHRI B. SHANKARANAND : You did not retain any correspondence?

SHRI T. A. PAI : Any copy of the correspondence. I would like the Committee to appreciate one thing. If I had sent her letter back to her . . . That is why I did not send. You can keep it on record.

SHRI B. SHANKARANAND : Please do not argue.

MR. CHAIRMAN : Whether it was a slip of your tongue and whether you want to change it, that is a different matter. If there is any, the question is very pertinent. Why did you keep the letter?

SHRI T. A. PAI : Mr. Chairman, If I said 'any' it was with respect to the correspondence that I carried on with her pleading for my Officers. Well she did not agree. She sent this letter. I sent my letter back. If the word 'any' includes this letter, I did not mean it and I did not want to send this letter . . .

SHRI B. SHANKARANAND : What was the purpose of your sending back the correspondence to her?

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SHRI T. A. PAI : It was out of pain, that I did not agree with what she has said. But I was helpless because she has made some allegations and until the allegations were disproved, the Officers were under great strain.

SHRI B. SHANKARANAND : At one stage, you have said "the whole Ministry was demoralised." That is what you have said. Is that correct ?

SHRI T. A. PAI : Yes.

SHRI B. SHANKARANAND : Then, why did you not resign ?

SHRI T. A. PAI : On what issue ?

SHRI B. SHANKARANAND : Because your Ministry was demoralised.

SHRI T. A. PAI : I did not want to oblige her by resigning. I wanted to fight it out. I wanted to be dismissed. Because, what wrong have I done ? I have already said, that if I had resigned, I would have to come and give an explanation in the House and the explanation is, either I will have to take the blame . . .

SHRI B. SHANKARANAND : Because you have said this—I never expected this reply from you—for your information and for the information of this Committee, Mr. Chairman, I may tell you that Dr. S. P. Mookerjee, who was the Minister of Industry, Dr. John Mathai, who was the Finance Minister, Mr. Mahabir Tyagi, who was the Minister for Rehabilitation, Mr. M. C. Chagla, the Foreign Minister and Mr. Ashok Mehta, who was the Minister for Petroleum—they had resigned because they disagreed with the stand taken by the respective Prime Ministers. Whether you know these incidents or not—I do not know.

MR. CHAIRMAN : You mentioned some of the Ministers who had resigned. In the case of Dr. S. P. Mookerjee, I know it very intimately at that time . . .

SHRI B. SHANKARANAND : Mr. Chairman, I am putting a very simple question.

MR. CHAIRMAN : I want that you should kindly formulate the question precisely.

SHRI B. SHANKARANAND : I will put it again. When you disagreed with the Prime Minister on a certain stand that she had taken, it was your duty to resign.

SHRI T. A. PAI : Well, I don't think that duty has been prescribed, Mr. Shankaranand. I was not obliged to resign . . .

SHRI B. SHANKARANAND : May I request the Chairman that the witness should not argue with the Members ? If that is the practice, I would not ask questions.

SHRI T. A. PAI : May I submit that if the idea is to cast aspersion on me that I did not resign, I would like to say that they obviously resigned because of great differences.

SHRI B. SHANKARANAND : I am sorry, Mr. Pai, I never intended to cast a slur on you. It is a question which followed when you said that you 'wanted to fight it out'. Otherwise I would not have put this question. There is no question of casting any aspersion on you.

SHRI T. A. PAI : You got my answer that I wanted to fight it out.

MR. CHAIRMAN : When there is any such thing you want to ask, you refer it to me.

SHRI B. SHANKARANAND : If I want to cast any slur . . .

MR. CHAIRMAN : Mr. Shankaranand, on this aspect I want to make it very clear. You are a Member of Parliament. He is also a Member of Parliament. So I allowed a certain latitude. But I do not like this kind of discussion. You should refer it to me and Mr. Pai also should refer it to me. There should not be any interlocking this way.

SHRI B. SHANKARANAND : We are both Members of Parliament and this is a Parliamentary Committee. Even in the House, are we not asking the resignation

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of the Ministers in the heat of the debate? Does it mean casting aspersions on them. Let not this be taken in that way.

**MR. CHAIRMAN :** Please ask the question. About drawing inference, it is our job. There is no question of interlocking amongst yourselves.

**SHRI B. SHANKARANAND :** Have you got the original letter received by you from Mrs. Gandhi?

**SHRI T. A. PAI :** It is with the Shah Commission.

**SHRI B. SHANKARANAND :** Did the Commission ask you to produce it or you voluntarily produced it?

**SHRI T. A. PAI :** They asked me to produce it.

**SHRI B. SHANKARANAND :** Did you pass on the information about this affair to Mr. Madhu Limaye?

**SHRI T. A. PAI :** No.

**SHRI B. SHANKARANAND :** Mr. Madhu Limaye has said this before this Committee; for your information, it has gone on record.

**SHRI T. A. PAI :** I want to tell you. . .

**SHRI B. SHANKARANAND :** Please wait a minute. Mr. Chairman, I am not for having arguments. Mr. Pai, Mr. Madhu Limaye has said that you have given him the information. He has taken your name.

**MR. CHAIRMAN :** Mr. Shankaranand, will you quote it from the papers? I will also see it. It is in page 22. It says: "I will place before the Committee the statement made by Shri T. A. Pai, former Minister of Industry, Government of India, before the Shah Commission." This is not a certified copy. Mr. Pai gave it to him.

**SHRI B. SHANKARANAND :** Is it correct? This is a very brief question.

**SHRI T. A. PAI :** Yes. I gave the same information and the same copies, which you had asked for. He said that he could

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not get it from the Shah Commission. He asked for it, after he raised the issue before the House. I did not give it for raising it in the House as a privilege issue. After raising it as a privilege issue, he asked me. I said: "You can get it from the Shah Commission." Then I said: "I cannot give anything more than what is available with the Shah Commission."

I have answered the question, and also amplified it.

**SHRI B. SHANKARANAND :** What was the reason?

**MR. CHAIRMAN :** He has given the reason. He has given the categorical reason. He has given it after it was raised and accepted for reference to the Privileges Committee.

**SHRI B. SHANKARANAND :** When did you give it?

**SHRI T. A. PAI :** After he raised the question.

**SHRI B. SHANKARANAND :** After this privilege issue?

**SHRI T. A. PAI :** Yes.

**SHRI B. SHANKARANAND :** I would put a very simple and straightforward question with reference to your reply to Mrs. Gandhi's letter, enclosing the copy of your earlier letter. I say, or may I take it that your letter to her, which you said you have enclosed with another letter to her, you are not producing it before the Committee, because the production of it would be most inconvenient to you?

**SHRI T. A. PAI :** You may draw that inference. You may draw whatever inference you want to draw. I am not responsible for it.

**SHRI NARENDRA P. NATHWANI :** Maybe I am a dull-headed person. But, still, as a Member of the Committee, I am entitled to follow the proceedings.

**MR. CHAIRMAN :** He is challenging the witness about his *bona fides*. He is entitled to, whether the witness accepts it or not.

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SHRI T. A. PAI : What is there for me to feel inconvenient about ? It was my letter to her. In her reply she refers to my contention that my officers were being harassed by the CBI because they are asking questions which she has denied. Obviously, you can think of the type of letter. I can write. Why should I hide it from you ? What is it that I have to hide from you ? If I had returned her letter, then you can draw the inference that I am hiding something. If I have not written that letter, there would have been no reference to it in her reply.

SHRI NARENDRA P. NATHWANI : The insinuation is that you did not write such a letter. Because, if you have written it, you would have produced a copy. I am a dull-headed person, but that is my understanding.

MR. CHAIRMAN : The cross-examiner is challenging the *bona fides* of the witness. The witness has a right to give his defence.

SHRI NARENDRA P. NATHWANI : In a court of law, you require written instructions before you put such a question.

MR. CHAIRMAN : I want to ask one or two questions of the witness. It is perhaps known to you that in the case of most of the illustrious persons who were Ministers, when they resigned, in most of the cases, as far as I know—not in all cases but in most of the cases—the resignations were based on very vital issues, involving vital policy matters. Is it not a fact ?

SHRI T. A. PAI : Yes.

MR. CHAIRMAN : Is it also not a fact that none of the Ministers resigned at that time on any technical deviation on the part on the Minister or on the part of the Government or on the part of the Prime Minister ?

SHRI T. A. PAI : Yes, I agree.

MR. CHAIRMAN : Was there any kind of threat, coercion or pressure exerted by your officers while they were trying to collect information from Maruti or Batliboi ?

SHRI T. A. PAI : No.

MR. CHAIRMAN : Is there any instance within your knowledge, because you have functioned as a Minister for a long time, where even other Ministries also collected information which was not strictly within their competence, and also perhaps not always strictly required by them to answer the question ? There are two points : (1) whether you have any knowledge that they collected this kind of information; and (2) whether it is within your knowledge that some of the Ministers made replies to supplementaries which were not strictly relevant and either the Speaker tolerated it or compulsion was created in the House when the Speaker kept silent. Have you any knowledge of that kind ?

SHRI T. A. PAI : This is not the only instance where my office used to collect information. On every occasion we have enquired and collected as such information as was possible. What was relevant or irrelevant was a matter which could be decided later on; it cannot be decided merely on the presumption that this information may not be necessary, because when supplementaries are asked, basically I always took the attitude that the House has to be respected and must be given the information. And I think it is usual for all Ministries to collect similar information. It is not confined to my Ministry alone.

PROF. P. G. MAVALANKAR : My friend, Shri Shankaranand read out the full text of the question and answer session of April 16, 1975 and he did so to refresh your memory. Arising out of that, during that question and answer session, did you get an impression that the Speaker was disallowing any of the supplementaries by either Shri Jyotirmoy Bosu or by any other member ?

SHRI T. A. PAI : I did not get any such impression.

PROF. P. G. MAVALANKAR : The Speaker did intervene couple of times, but you did not get the impression that the

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Speaker was specifically preventing you from answering questions?

SHRI T. A. PAI : No.

PROF. P. G. MAVALANKAR : The main answer was given by your colleague, Shri A. C. George. Why did he give that answer?

SHRI T. A. PAI : He was the Minister incharge. Usually written answers were given by the Minister of State. After that, if there were supplementaries, I used to intervene and give reply.

PROF. P. G. MAVALANKAR : Was he present in the evening of 15th or on the morning of 16th when the briefing took place?

SHRI T. A. PAI : Usually, the Minister of State was present.

PROF. P. G. MAVALANKAR : Was he present on that occasion?

SHRI T. A. PAI : I do not remember.

PROF. P. G. MAVALANKAR : Was it your experience that when your officials went to Maruti for collecting information, although they did not do it by way of harassment to the Maruti officials, nonetheless, they were not given full cooperation in connection with the questions put by Members of Parliament?

SHRI T. A. PAI : Correct.

PROF. P. G. MAVALANKAR : Having got that experience and all that followed subsequently during the question and answer session, how did your colleague and then how did you reconcile to this fact of the answer which was ultimately given by Shri A. C. George?

SHRI T. A. PAI : At that point if we had some information, even though it was a sensitive question, I do not think I would have hesitated even to tell the House that information. As I was making it clear, the answer would be made specific even if the imported machinery was there. If the House wanted to know whether it would be an offence to do it, in my opinion, it was not an offence. So,

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there would not have been any problem even in giving the reply. It is also a fact that it is not usual for us to collect such information as had been asked, in some such specific details, by Mr. Jyotirmoy Bosu. The answer therefore, referred to that type of information which we do not usually collect.

PROF. P. G. MAVALANKAR : After preparing this kind of an answer to (a) to (e) and after you knew that it was to be replied by your colleague, Mr. A. C. George, did you definitely anticipate supplementaries from Mr. Jyotirmoy Bosu and others on this Question?

SHRI T. A. PAI : No, because the supplementaries that he had asked were more of a nature of giving information rather than getting information.

PROF. P. G. MAVALANKAR : On this particular occasion, you had not expected more supplementaries.

SHRI T. A. PAI : Not more than what information I had. Supposing he had asked me whether it was not a fact that Battiboi or whoever it was, was not supplied the machinery which was imported, if I had been asked whether it was an offence or it was against the rules, I would have given an explanation. Whether the House was satisfied with it or not, it was a different matter.

PROF. P. G. MAVALANKAR : You said a little while ago in reply to one of the questions by Mr. Shankaranand that you never thought that this would be a matter of privilege.

SHRI T. A. PAI : That is right.

PROF. P. G. MAVALANKAR : Until it was raised in the House, you never considered this matter as a breach of privilege.

SHRI T. A. PAI : No.

PROF. P. G. MAVALANKAR : You never thought that the fact that any of your officers, under your control, having been prevented from collecting the information for answering the Question in Parliament was a violation of the privilege?

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SHRI T. A. PAI : No.

SHRI NARENDRA P. NATHWANI : Before I ask one or two questions, I would like to know from my hon. friend, Mr. Shankaranand . . .

SHRI B. SHANKARANAND : He cannot put a question to me; he can only put a question to the witness.

SHRI NARENDRA P. NATHWANI : There was a doubt cast or a suggestion made that the witness did not write the first letter to the ex-Prime Minister in reply to which she sent a letter of 7th May, a photostat copy of which is produced . . .

MR. CHAIRMAN : Without making any reference to a question put by one of our members, you may directly put a question to the witness.

SHRI NARENDRA P. NATHWANI : About your letter to the ex-Prime Minister to which you received a reply on 7th May, there was a specific question put which did throw a doubt about the letter having been written or not. That is why I want to make it clear as far as possible on that aspect. A doubt is cast with a view to find out whether, in fact, you received the letter dated 7th May or not. You have produced the original before the Shah Commission and a photostat copy here. It may appear to be trivial. But sometimes these trivialities in some other place assume so much importance. That is why I am asking you whether you took care to get a photostat copy before submitting the original.

SHRI T. A. PAI : I had submitted the original letter before the Shah Commission. Then I asked for a copy of it and they have sent me a copy of that letter.

SHRI NARENDRA P. NATHWANI : That photostat copy is supplied to you by the Commission. Apart from the contents of the letter dated May 7, 1975,—I am reading it out—it states, the ex-Prime Minister stated that "I am amazed to

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read your letter of the 5th May and the aspersions cast against the CBI. Your presumption that the CBI searched the houses of some officers of your Ministry because of their enquiries in connection with answers to Parliament Question to which you have referred in your letter; is totally baseless." So, there is internal evidence in this letter itself, of 7th May letter and in your letter which you have written you have mentioned this fact that in report of officers of your Ministry, their houses were searched because they made enquiries in connection with answers to Parliament Question and the letter deals with this aspect. There is internal evidence that you have stated. This is a matter of arguments/observations. But, I am asking you, in addition to this, apart from this internal evidence in this letter of 7th May, have you got, if you remember, any other fact which would go to show that you did write a letter in reply to this? Through whom did you send this letter?

SHRI T. A. PAI : I got it delivered.

SHRI NARENDRA P. NATHWANI : Did you send it through your peon with any delivery book, etc.?

SHRI T. A. PAI : I do not remember it. Most of the records are not with me.

SHRI NARENDRA P. NATHWANI : We are trying to elicit information for ourselves whether the enquiries that your officers were making had any relevance to the question that was to be answered. There was some controversy. We want to elicit requisite information whether they were relevant, according to enquiry of this nature, whether they were relevant for the purpose of answering this question or not, because for our purpose, it is material to find out how far it was relevant. They wanted to know about the imported machinery they had, how did they obtain it, etc. That was the nature of enquiry that was being made by your officers. How far was it relevant, that question had been raised even last time, on the last occasion by Mr. Krishan Kant? In answering that question, you



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referred to the supplementary not which was just now read out by Mr. Shankaranand to you. On page 19, you have pointed out this.

Mr. Pai, you have said this :

"If it was an imported machine, we would have had that information on record because the licence has to be applied for and all that. Naturally, when the question was asked whether there was any imported machinery, the only possible thing was to be informed whether they had bought any machine under stock and sale arrangement."

Then you have said :

"I came to know, while going through the note for supplementaries, that there was an arrangement to import this machine under PEC . . ." etc.

I am suggesting to you another possibility also because it is very clear from the supplementaries put by Mr. Jyotirmoy Bosu that what he tried to drive at was this : Maruti, in its own name, would not have applied for import licence, but would have put up dummy firms, benamdars. That was another possibility. There could be an inquiry in that direction also. What I am trying to suggest is this. A party has obtained a licence, and under the terms of licence, he cannot import any machinery—for manufacturing cars in this case. He may not apply, but he may manage to get the necessary machinery by setting up somebody. That is also possible.

SHRI T. A. PAI : If we had the information from the party what type of machinery had been imported by him, then it would have been possible for us to find out. . .

SHRI NARENDRA P. NATHWANI : Therefore, it was necessary to know the nature of the machinery installed in the

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factory in order to trace from whom it had been purchased even locally.

SHRI T. A. PAI : Yes.

MR. CHAIRMAN : This question was answered on 16th April, 1975. The house of Mr. Rajan was searched on 18th April, 1975. There is no information here whatsoever as to when the house of Mr. Krishnaswamy was searched. Have you any idea as to when the house of Mr. Krishnaswamy was searched ?

SHRI T. A. PAI : No, Sir. I do not remember.

MR. CHAIRMAN : I will find it out.

Can you give us any information on this ? Was the house of any other officer belonging to your Ministry searched on complaints from the CBI any time during the year 1975 ?

SHRI T. A. PAI : No, Sir; so far as I know.

MR. CHAIRMAN : The Council of Ministers acts as a team and naturally certain information is communicated to one another. Have you got any information whether any officers of other Ministries were subjected to CBI enquiry or their houses were searched etc.

SHRI T. A. PAI : About the same time, I heard that two officers of the Commerce Ministry were also involved.

MR. CHAIRMAN : Four persons were dealing with the question of Maruti. You said that you have no information if the houses of anybody else were searched etc.

SHRI T. A. PAI : I have not disclosed one thing to anybody, but now that it has been raised, I would like to tell that also. My Secretary of the Heavy Industry Ministry, Mr. Sondhi, was the 5th victim. Mr. Sen came to me, because he had to fulfil the formality of keeping the Minister informed because he happened to be the Secretary. He told me that there were allegations against him that he had given

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a licence to the Premier Automobiles for expansion. I told him that this licence was considered by the Cabinet Committee on Economic matters presided over by the Prime Minister herself, and I was responsible if at all for giving this licence. As a Minister, I got it cleared from the Cabinet. But later on, I got some charges against him and it included this as one of the charges. When they were collecting information, I got really worried. He had been an upright and outstanding officer and the public sector units under the Ministry had made great progress because of his involvement. And if at all I saved anyone officer among these by not resigning, it was Mr. Sondhi. I called his sister, Mrs. Raksha Saran, a close friend of Mrs. Gandhi and told her that her brother was in difficulty because of some prejudice and that she should go and plead with Mrs. Gandhi. She did not get an interview for ten days and ultimately she met Mrs. Gandhi. She came and said that Mrs. Gandhi was very cold. I then met Sarin, the then Adviser to the Gujarat Government, who had just come. Sarin was, Secretary, Steel before. I asked him if he knew Sondhi. He said that he knew him very well. In fact, he got him. He was the General Manager, Tank Factory, Avadhi and he got him to Bokaro. I asked him, what he thought of his integrity and whether he was above board. He said: Yes, 'he is above board'. He said, 'Absolutely'. I told him, 'This is what happened,' to which he replied, 'I will go and tell? These are the charges? It is stupid. It cannot be true. This is not fair.' For one month he was refused any interview. Later on I called Mr. K. C. Pant and told him, 'You were the Minister in charge of Steel. Mr. Sondhi was working under you.' He said, 'Yes'. I asked him, 'What do you think of him?' The reply was 'A very good officer. No complaints at all.' Then I told him, 'This is what happened. Will you please go and tell.' He, in turn, saw Mrs. Gandhi and told me later, 'Mrs. Gandhi was very angry for my speaking on his behalf.' Then I asked Mr. Sondhi to get in touch with

Sardar Swaran Singh because Mr. Sondhi's father was a great freedom fighter from Punjab and his reputation was very high. So, I asked him to go and see Mr. Swaran Singh. He was a Minister coming from Punjab. I thought I should ask him to try everything. Sardar Swaran Singh agreed to speak but nothing happened. Ultimately I approached Mr. Borooah and Mr. Rajni Patel who was in her good books at that time. He saw and he was told, 'Ask him to behave properly here-after and we will keep this case pending.' It is only after the emergency was over that the CBI sent him a clearance of all the charges that they have found nothing. Well, if I had also resigned, Mr. Sondhi would have been completely crucified. So I tried to do my best because in my opinion these persons were not guilty but were subjected to some of kind of prejudice which was unjustified.

**MR. CHAIRMAN:** Will you kindly elaborate as to what were the reasons for holding Mr. Sondhi as a subject of prejudice?

**SHRI T. A. PAI:** As a matter of fact, some kind of responsibility was cast on him as Secretary in charge of the department in connection with the questions and all that.

**MR. CHAIRMAN:** Maruti questions?

**SHRI T. A. PAI:** All the questions that were coming up. He was the Head of the Department.

**MR. CHAIRMAN:** It appears to be just an inference. Can you in any way link it up because, as you say, Mrs. Gandhi has developed some kind of an adverse attitude to Mr. Sondhi, and as you say it may be due to his handling of Maruti questions.

**SHRI T. A. PAI:** I am not prepared to say that I would link it up directly with any one of those. All the while I was feeling that it was unnecessary.

**MR. CHAIRMAN:** How? It appears Mrs. Gandhi was found prejudiced against Mr. Sondhi and you said also that she was angry with his sister.

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**SHRI T. A. PAI :** She went to plead on his behalf.

**MR. CHAIRMAN :** That was the case also when Mr. Pant saw her. Right or wrong or imaginary or rumoured to her, somehow as it happens in such cases, she seemed to have been prejudiced against him. What can be the specific reasons/reason, according to you, when according to all the information Mr. Sondhi was a man of integrity?

Why did she develop that attitude?

**SHRI T. A. PAI :** I do not know. Most probably, she had a thinking that he was unhelpful. In fact, he was not at all unhelpful. He was very objective.

**MR. CHAIRMAN :** You had said except those four officers in 1975 nobody was subjected to CBI enquiry and no search was conducted. Can you give information whether the high officials of any other Ministry were subjected to any severe action and were the searches made in their case?

**SHRI T. A. PAI :** I am not aware.

Before the Shah Commission Mr. Sen has deposed in regard to the officers in the Ministry of Commerce.

**MR. CHAIRMAN :** Before the CBI made any searches, in the case of Shri Krishnaswamy, have you any idea if his officer was informed or not?

**SHRI T. A. PAI :** In fact he was informed after the search was started. The procedure was to inform before the search starts. My Secretary informed me that the search was going on.

**MR. CHAIRMAN :** Who was the Additional Secretary who was informed?

**SHRI T. A. PAI :** Shri N. J. Kamath.

**MR. CHAIRMAN :** In the case of Rajan, I want to know who is the senior officer who was informed?

**SHRI T. A. PAI :** The senior officer is Brig. Sahni of Directorate General of

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Technical Services. I am not sure whether information had been given to him.

**MR. CHAIRMAN :** In the case of Mr. Rajan, two witnesses were there.

**SHRI T. A. PAI :** I do not know.

**MR. CHAIRMAN :** In the case of Mr. Rajan, the warrant was obtained from the Metropolitan Magistrate but nothing was mentioned from whom the warrant was issued in the case of Shri Krishnaswamy. Have you any knowledge?

**SHRI T. A. PAI :** No.

**MR. CHAIRMAN :** In the letter of Mrs. Gandhi there is a sentence— During the course of preliminary enquiries it had come to the notice of the CBI that some persons were regularly visiting your officers. Have you any idea whatsoever, before receipt of a letter from Mrs. Gandhi, that any persons visited your officers for purposes other than strictly business transactions.

**SHRI T. A. PAI :** I may point out to you that I had given instruction that the officer should meet anybody who wants to meet him. Whatever problem they may have should be understood by him. I have said this. If they came to me in respect of a matter which can very well be decided by a Joint Secretary, it is just waste of time. Formerly these people were not accessible to anybody. I wanted to break that kind of a system. Simply because they meet one should not come to the conclusion that they are corrupt and so on.

**MR. CHAIRMAN :** I want to know this. Was any time before this CBI enquiry was ordered against your officers this kind of a complaint was brought to your notice or communicated to you either by Mrs. Gandhi or by any CBI agency?

**SHRI T. A. PAI :** No. I have received some complaints that some of my officers are refusing to meet them, that is, those who have tried to meet the officers.

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MR. CHAIRMAN : Have you any knowledge whether those charges against two of your officers were framed before 16th April, 1975 ?

SHRI T. A. PAI : I have no idea.

MR. CHAIRMAN : Have you any idea whether CBI officers of their own tried before 16th April, 1975 to have any kind of information from any of your officers.

SHRI T. A. PAI : Not to my knowledge.

MR. CHAIRMAN : What was the result of the CBI enquiry ? Were they suspended ?

SHRI T. A. PAI : No. They were not suspended. The difference was this. Mr. Chattopadhyaya immediately took action against them. But she had not even asked me to take action against them. I did not suspend them.

MR. CHAIRMAN : What was the outcome of the CBI enquiry against these two officers ?

SHRI T. A. PAI : They have been discharged. One case was foisted on him. This case was about having some whisky or something like that.

MR. CHAIRMAN : That was under the Punjab Excise Act.

SHRI T. A. PAI : The Court said, they don't have evidence. He was let off.

MR. CHAIRMAN : These two officers were exonerated of charges against them. After they passed through these days of suffering and of harassment what is your reaction, particularly in respect of this sentence from Mrs. Gandhi's letter, where it is said :

'Your presumption that the CBI searched the houses of some officers of your Ministry because of their enquiries in connection with answering the Parliament Question to which you referred in your letter is totally baseless.'

What is your reaction to the word 'totally baseless' ?

SHRI T. A. PAI : I did not believe that.

MR. CHAIRMAN : This is a most vital question—it is most vital, I should say—but she refuted it completely. On an earlier date there was some kind of examination. Can you kindly elaborate the matter as to why it was called totally baseless ? The inquiry of the CBI were done afterwards. Your presumption has been proved correct. At that time Mrs. Gandhi said that your presumption was baseless.

SHRI T. A. PAI : I had said in my letter that they were only collecting the information to the question; they were doing their job. Therefore, they should not be punished. At that moment I did not know they were going to file charges. It was in reply to my letter that she said that this is all the charges that the CBI have furnished.

MR. CHAIRMAN : Can't you say that the former Prime Minister, Mrs. Gandhi was prejudiced and misinformed by some agencies which prompted her to write this letter to you ?

SHRI T. A. PAI : Well, Sir, you may draw your own inference.

MR. CHAIRMAN : Do you have any experience—I do not know whether the Minister is sharing the experience of any other Minister—that on a mere information from the CBI against some officers, there had been any officer affected by the attitude of the Prime Minister as it has been independently communicated to this Committee ? But yourself and Shri Chattopadhyaya, both of you, shared the same experience. Did it ever happen in the case of any of their officers who were not dealing with the Maruti question but some other question ? Have you any experience or knowledge ?

SHRI T. A. PAI : My point is this. If anybody had complained to the Prime Minister about the character or integrity

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of my officers, it would have been proper for her to draw my attention to that.

**MR. CHAIRMAN :** My question is this. You know what I was trying to say. Is it only a particular instance in the case of the four officers only where she betrayed her temper in a way as suggested by yourself and by Mr. Chattopadhyaya? Had there been any other officer who is easily in a position to say whether she betrayed her sentiments or temper? And was false charge brought against any other officer?

**SHRI T. A. PAI :** I do not know. I do not have any knowledge about it.

**SHRI B. SHANKARANAND :** Mr. Pai, besides these four officers, whether any of the other officers also were collecting information or were they in the process of collecting it? Or are these only four officers who were collecting the information?

**SHRI T. A. PAI :** Only Four. The Additional Secretary was also involved.

**SHRI B. SHANKARANAND :** My next question is this. See Page 38. Shri D. P. Chattopadhyaya, after the Shah Commission, has said that 'he was there in the house when he was sent for. I went there to the room and then I came back'. Perhaps he was waiting to be called inside. At that time, you had come. You did not see him.

**SHRI T. A. PAI :** I did not see him. In fact the suspension of these officers had been done by him. But, the information came to me afterwards. In the Shah Commission, I did not even talk about it.

**SHRI B. SHANKARANAND :** These officers were under your direct control. Did you have their confidential records examined?

**SHRI T. A. PAI :** Yes.

**SHRI B. SHANKARANAND :** Was there any adverse remarks?

**SHRI T. A. PAI :** Well, there was nothing very much adverse.

*Shri T. A. Pai, M.P.*

**SHRI B. SHANKARANAND :** When you spoke to Mr. Sen about Mr. Sondhi did you also speak about these officers?

**SHRI T. A. PAI :** I did not. Mr. Sen came to convey something about Mr. Sondhi.

**SHRI B. SHANKARANAND :** But you spoke to Mr. Sen.

**SHRI T. A. PAI :** That was about one of the charges against Mr. Sondhi. When he told me that one of the charges was about the Premier Automobiles, I said that that was not true. He had other charges also. I did not mention anything about it. So far as the first charge was concerned, it was not true. I had to say that it was not true. So, there was no question of asking Mr. Sen about him.

**PROF. P. G. MAVALANKAR :** You spoke to Mr. Sen about Mr. Sondhi because Mr. Sen referred the case of Mr. Sondhi to you whereas in the case of other officers, Mr. Sen did not mention to you anything about them and therefore you did not talk about the matter with Mr. Sen. Is it correct?

**SHRI T. A. PAI :** Yes. Mr. Sen had come to my house in connection with Mr. Sondhi.

**SHRI B. SHANKARANAND :** When you wrote letters to Mrs. Gandhi, I think you have written two letters.

**SHRI T. A. PAI :** One letter . . . . Another letter was sent in my own hand.

**SHRI B. SHANKARANAND :** Anyway you have written two letters. They are in connection with Parliament Question about the Maruti affairs pending before you at that time.

**SHRI T. A. PAI :** When was my reply given? It was on 16th April. When was the letter sent? It was on 5th May. It was after Mr. Rajan's house was raided.

**MR. CHAIRMAN :** Thank you, Mr. Pai.

*(The committee then adjourned)*

Thursday, the 30th March, 1978

PRESENT

Professor Samar Guha—*Chairman*

MEMBERS

2. Shri Krishan Kant.
3. Professor P. G. Mavalankar.
4. Shri Narsingh.
5. Shri Narendra P. Nathwani.
6. Shri B. Shankaranand.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

WITNESS

Shri L. R. Cavale (*Chief Marketing Manager, Projects and Equipment Corporation of India Ltd.*)

(*The Committee met at 9.30 hours*)

Evidence of Shri L. R. Cavale.

MR. CHAIRMAN : Mr. Cavale, you have been asked to appear before this Committee to give your evidence in connection with the questions of privilege against Shrimati Indira Gandhi and others for the alleged obstruction, intimidation and harassment of against certain officials and framing false cases against those officials who were collecting information for answering certain questions in the Lok Sabha on Maruti Limited. I hope you will state the factual position and your version of the events freely and truthfully.

I may inform you that the evidence that you may give before the Committee is to be treated by you as confidential till the report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. The evidence which you will give before the Committee may be reported to the House. Now you may please take your oath or affirmation.

(*Shri L. R. Cavale took the oath*)

Shri L. R. Cavale

MR. CHAIRMAN : You have sent us a copy of the statement which you made before the Shah Commission. You can either make a fresh statement of your own, or read out that statement here, as you like.

SHRI L. R. CAVALE : I will read out the statement.

"I, L. R. Cavale, aged about 43 years, son of Dr. N. R. Cavale, residing at B-23, Queens Apartments, Pali Hills, Bandra, Bombay-50, solemnly affirm and state as under :

I joined State Trading Corporation of India Limited, New Delhi, as a Marketing Manager, in the month of April, 1969, and continued with Projects and Equipment Corporation of India Limited, a subsidiary of the State Trading Corporation of India, New Delhi, as a Chief Marketing Manager till 15th June, 1975, when I had to resign. I was in charge of entire exports and imports of engineering goods and equipment other than textile machinery.

During the second week of April, 1975, I received a letter by hand delivery from Ministry of Industrial Development requesting me to furnish the addresses of our business associates dealing in the import of Machine tools from East European countries. The letter further stated that this was required in connection with a Parliament Question and the letter was signed by an Under Secretary Mr. S. C. Gupta. I handed over a cyclostyled copy giving the addresses of our business associates specially for machinery.

On 14th April, 1975, I received a telephone call from one Mr. Krishnaswamy, Director, Ministry of Industrial Development. He requested me to let him know what machine tools have been imported and supplied to M/s Maruti Limited. He also informed me that this information was required in connection with a Parliament Question. I informed Mr. Krishnaswamy that he should write to us officially since we have a definite procedure in dealing with Parliament Questions. Imme-

diately thereafter I called Mr. P. S. Bhatnagar, one of my D.M.S., and informed him that there appears to be a Parliament Question and it may become necessary for us to furnish the details at a short notice in regard to import and supply of machine tools to M/s. Maruti. Therefore, he should check up with our Finance and keep the details ready and also contact our business associates like M/s. Batliboi for the required information. On 16th April, 1975, when I came to the office, I was informed that Mr. Bhatnagar was suspended. At about 10.30 in the morning, I received a transfer order transferring me to Madras with immediate effect. This transfer order was dated 16th April, 1975. However, it was withdrawn and a fresh one was issued dated 15th April, 1975, without any change in the contents. I met Mr. L. K. Dhawan, our Executive Director, and informed him about my transfer. Mr. L. K. Dhawan expressed his great surprise and advised me to contact Mr. B. D. Kumar, Chairman, P.E.C. (the then Controller of Imports and Exports). My efforts to meet Mr. B. D. Kumar did not succeed at Udyog Bhavan. I, therefore, met Mr. Vinod Parekh, the then Chairman S.T.C., and protested to him strongly first of all about my transfer and then the suspension of Mr. P. S. Bhatnagar. Mr. Parekh told me that in order to avoid further complications and possible harassment to me I should accept the transfer and go to Madras and relax there. I did not accept this contention.

On 16th April, 1975, evening I met Shri P. J. Fernandes, the then Director General of Bureau of Public Enterprises (Addl. Secretary, Ministry of Finance) presently Secretary, Ministry of Finance, narrated to him the whole thing. Mr. Fernandes informed me that he will contact Mr. Parekh and find out the exact situation. Accordingly, on 17th April, evening Mr. Fernandes called on Mr. Parekh at S.T.C. office and I understand Mr. Vinod Parekh clearly indicated that S.T.C. had nothing against me but I have been trans-

ferred to Madras due to certain other pressures from the Ministry and others.

Mr. Fernandes was not satisfied with the explanation given by Mr. Vinod Parekh. After a couple of days I met Mr. Vinod Parekh at his residence and informed him that my family and I were under duress and I was mentally upset and also that I was not in a position to accept the transfer order of S.T.C. transferring me to Madras without giving me proper and prior notice and without assigning any reason. Mr. Vinod Parekh again reiterated and informed me that I will be in great trouble if I did not accept transfer order. I went on a long leave in order to recognise myself in regard to my transfer. "On 3rd May, 1975, one Mr. Chander Bhan, D.S.P., C.B.I. visited me with a search warrant along with some seven other people. The allegations against me were that I have assets disproportionate to my known sources of income. I, therefore, submitted myself to the search and afterwards Mr. Chander Bhan brought me to the office and conducted the search of my cabin. He seized two files, one pertaining to import of my car and the other to my stay in Rotterdam, Holland. He also seized my fixed deposit certificates worth about Rs. 12,000, bank pass books and some L.I.C. papers.

I again contacted Mr. Vinod Parekh at his house and protested against the harassment caused to me. Mr. Vinod Parekh suggested that since I was very highly qualified man with good experience, I should resign S.T.C. and seek my fortune elsewhere. He also informed me that if I continue in S.T.C., I would get into more trouble and harassment would increase. I, therefore, waited for completion of my Earned Leave and then on 1st June, 1975, I submitted my resignation letter indicating that due to the events which have happened during the months of April and May, 1975, I am resigning with a protest and on principles. Mr. Vinod Parekh did not accept this letter and instead he suggested that I should give a very simple

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Shri L. R. Cavale

letter of resignation which would be accepted across the table. On 15th of June, 1975, under pressure, I submitted a simple letter to Mr. B. C. Malhotra, Chief Personnel Manager, who accepted it immediately and gave the letter of acceptance. I packed my bag and baggage and left for Bombay. I was unemployed during this period. Against regular advertisements I applied to MICO Bosch, Bangalore, for a Senior Manager post. I was selected by their Managing Director and Chairman and later on their Chairman informed me that since I was a victim of Sanjay Gandhi he cannot absorb me in his company.

From 15th June, 1975, till as on date I have been mostly unemployed.

"I have submitted a memorandum to the Chairman, PEC Mr. M. M. Luther requesting him to re-instate me in PEC. I have also applied against open advertisements for the post of General Manager in PEC. Mr. Luther categorically has informed me that any action taken by him at this stage will be *sub judice* since my case is being dealt by Shah Commission. Therefore, no action has been taken. I contacted Mr. Prem Kumar, Joint Secretary, Ministry of Commerce incharge of PEC who informed that Government cannot take any action in my case. My efforts to contact Dr. P. C. Alexander, Secretary, Ministry of Commerce, did not succeed since he felt that it was not necessary for him to meet me.

My wife is a B.A. (Hons.) and Post Graduate degree holder in Political Science and Economics from the University of Manchester. She has been working even since, 1963. She was working in Delhi with M/s. Sobhagya Advertising Agency. Since CBI enquired about her at Sobhagya, she lost her job immediately. Her efforts to join back Finlays Textiles in Bombay where she was previously employed also did not succeed since CBI had enquired there also. At present, she is depressed and unemployed as well.

I had Life Insurance Policy worth Rs. 75,000. When I resigned STC I had converted the policy from Salary Saving

Scheme to regular payment. In doing this there was a delay and I had to take a fresh medical examination for re-instating the policy, LIC Bombay after conducting the examination rejected my case without assigning any reason. I was shown a letter from CBI by LIC, Ferozeshah Mehta Road Office indicating that they are investigating my case and no action should be taken.

I am Bachelor of Engineering and Bachelor of Science Graduate from University of Mysore. I have a total experience of 19 years and I am 43 years old. I joined STC in April, 1969 as a senior Marketing Manager. I was deputed by STC to re-organise West European Operations and I was Branch Manager in Frankfurt from end 1969 to January, 1973. I have handled the entire exports and imports of engineering goods and I have seen a growth of exports ten folds. Presently, I am totally unemployed and my wife is also unemployed. I have no protection from any insurance policy whatsoever.

(L. R. Cavale)

New Delhi.

10th September, 1977.

Certified this day, i.e. the 10th September, 1977 that the contents of my Affidavit narrated in pages 1 to 5 are true to my personal knowledge. Nothing material has been concealed and no part of it is false.

(L. R. Cavale)

MR. CHAIRMAN : Have you anything to add now ?

SHRI L. R. CAVALE : As the hon. Member suggested, probably, this has to be updated. I have given a definite date. I have said that on 14th April, 1975, I received a telephone call from Mr. Krishna Swamy, I would only add, "around 14th April, 1975" because I am not very sure whether it was 14th. I do not remember. May be, it was a little earlier. That is my feeling.

MR. CHAIRMAN : What is your position and that of your wife ? Are you still unemployed ?



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**SHRI L. R. CAVALE :** I have been reinstated in the PEC as on 3rd November, 1977 on the same post that I had before, that is, the Chief Marketing Manager.

**MR. CHAIRMAN :** While reemploying you, was it communicated to you that the charges that were brought against you by the CBI could not be verified?

**SHRI L. R. CAVALE :** No, Sir.

**MR. CHAIRMAN :** No punishment was given when you were reemployed.

**SHRI L. R. CAVALE :** No, Sir.

**PROF. P. G. MAVALANKAR :** I am reading from page 3 of your memorandum which you had just now read out. It says :

"I submitted my resignation letter indicating that due to the events which have happened during the months of April and May, 1975, I am resigning with a protest and on principles."

Can you elaborate it?

**SHRI L. R. CAVALE :** Before I submitted my resignation, I had two or three very detailed discussions with my Chairman. I told him that I was fully convinced, because of the affairs of Maruti and since we were trying to collect some information some people was harassed, and that since I tried to collect information I had been harassed. I could not accept this position. I said : I could not reconcile to the fact that somebody could be harassed on such a simple matter as collecting information. One has got to know a little bit of the background of the whole thing. In those days, when the licences were released on stock and sale basis, it was done only on the basis of 50 per cent of the value of the licence. If the trade plan says that machinery worth Rs. 5 crores has to be imported from Czechoslovakia half of it to be released on stock and sale basis and half of it to be released on the basis of actual users' condition. But the actual users' conditions is applicable for

*Shri L. R. Cavale*

the stock and sale licence also. There are certain conditions laid down for the actual users. They have to be adhered to in the case of stock and sale licence also. The only thing is that the machines are readily available from the stocks : Ease of availability is there. While doing so, we had an agreement to the effect that at any time if we called for the information from the associates, they would give us. In this case, I was very sure that Batliboi was not willing to give this information. This took place during 1972-73 when I was not here in India. When I had asked for this information through Mr. Bhatnagar, I told that I was entitled to get this information according to our agreement, because we had asked for this information to answer a Parliament question. I did not see any justification for troubling me or Mr. Bhatnagar unnecessarily. So, I protested to Mr. Vinod Parekh saying that he could not have suspended him without my knowledge ; he had suspended him at that particular night at 10.30 and then he transferred me. My objection was that he had transferred me without giving any reason, without giving any time ; and secondly, he had suspended him even without informing me that courtesy demanded that at least he should have told me. I was the incharge of the entire department : I had 6-7 Deputy Marketing Managers and 4-5 branches. I was incharge of the whole department. When it came to accountability I was responsible, when it came to punitive punishment, he did not consult me. I told him that I do not think it was right ; he could have consulted me. I wrote a letter in protest. I told him that I was not mentioning all these details because the decision was his. I simply said that since these events had taken place and I objected to it on principle, I did not wish to continue and, therefore, as a protest, I was submitting my resignation.

**PROF. P. G. MAVALANKAR :** To whom did you write that letter?

**SHRI L. R. CAVALE :** It was addressed to Mr. Parekh and copy to Shri Mishra and to the Chief Personnel Manager.

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PROF. P. G. MAVALANKAR : Have you submitted that letter to the Shah Commission ?

SHRI L. R. CAVALE : I have seen a copy of that in the file of Shah Commission.

PROF. P. G. MAVALANKAR : Mr. Chairman, could we have a copy of that letter which he wrote ? That would be helpful.

MR. CHAIRMAN : There were two letters which were submitted . . .

SHRI L. R. CAVALE : My first resignation letter was hand-written and I had made out two copies : I submitted one to the Chairman, one copy to Shri Mishra, Personnel Director, and one copy to the Chief Personnel Manager.

MR. CHAIRMAN : You may please write to the Shah Commission. They will furnish you a copy of that ; then you may attest that and submit it to us.

SHRI L. R. CAVALE : Yes, Sir.

MR. CHAIRMAN : Please do this as early as possible.

SHRI L. R. CAVALE : Yes, Sir.

PROF. P. G. MAVALANKAR : You said that on 3rd May 1975, an officer of CBI came to your residence with a search warrant and searched for papers and other documents at your residence also.

SHRI L. R. CAVALE : Yes, Sir.

PROF. P. G. MAVALANKAR : How long were they there ?

SHRI L. R. CAVALE : They came around 2.30 in the afternoon ; they were there till 10 p.m. In between they had taken me to the office around 5.30 p.m. and we returned home at about 6.30 p.m.

PROF. P. G. MAVALANKAR : Did they collect any document from your residence also or only from your office ?

SHRI L. R. CAVALE : They collected some papers only from the office ; nothing from home.

PROF. P. G. MAVALANKAR : What was your reaction to the charge of the CBI about your disproportionate income, etc. ?

SHRI L. R. CAVALE : I thought that this was not true. I was fully convinced that they could not do anything at all because I knew exactly where I stood. I was myself surprised when they told me about the disproportionate income because I knew that I was not that very well off.

PROF. P. G. MAVALANKAR : Have you any children ?

SHRI L. R. CAVALE : I have two children : a girl aged about nine years and a boy aged about seven years.

PROF. P. G. MAVALANKAR : You have said that your wife is B.A. (Hons.) and Post-graduate degree holder in Political Science and Economics from the University of Manchester and that she has been working since 1963.

SHRI L. R. CAVALE : Yes.

PROF. P. G. MAVALANKAR : In what kind of job was she working all along ? The last one was with an advertising agency. Where was she working prior to that ?

SHRI L. R. CAVALE : First she was in Tata-Finlays as an Assistant to the Managing Director, and then she joined Finlays Fabrics as Sales Manager, Bombay, for the retail outlet : they have two outlets, one wholesale and the other retail ; she had to manage all the retail shops in Bombay.

PROF. P. G. MAVALANKAR : Her background is political science . . .

SHRI L. R. CAVALE : This is what she told me. She wanted to pursue the administrative cadre. Therefore, probably she took up political science and economics.

SHRI KRISHAN KANT : On page 2 of your affidavit before Shah Commission, you have stated :

"Just before lunch time, Mr. Bhatnagar came to my cabin and informed me that he received a

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telephone call from one Mr. R. K. Dhawan...."

Later on, you are referring to Shri L. K. Dhawan. When it was mentioned to you, did you understand R. K. Dhawan or L. K. Dhawan?

SHRI L. R. CAVALE : Mr. Bhatnagar told me that Mr. R. K. Dhawan from Prime Minister's Secretariat had given him a ring. Probably, I have not mentioned that before the Shah Commission.

SHRI KRISHAN KANT : Did you mention that it was R. K. Dhawan before the Shah Commission?

SHRI L. R. CAVALE : No, but I meant that.

SHRI KRISHAN KANT : You understood that it was R. K. Dhawan of the Prime Minister's Secretariat.

SHRI L. R. CAVALE : I asked him and he said that the call had come through the Prime Minister's Secretariat.

SHRI KRISHAN KANT : Is it a fact that Shri L. K. Dhawan, Executive Director asked that all the papers regarding the question had to be given to him.

SHRI L. R. CAVALE : This happened after I left for home that afternoon and next day morning, I did not have time to check up with him. This has been told to me now by Shri Bhatnagar that all the papers were handed over to him.

SHRI KRISHAN KANT : Is L. K. Dhawan related to R. K. Dhawan?

SHRI L. R. CAVALE : I do not know.

SHRI KRISHAN KANT : Is Shri Vinod Parekh still there?

SHRI L. R. CAVALE : He resigned after the submission of the Annual Report in 1977.

SHRI KRISHAN KANT : And L. K. Dhawan.

SHRI L. R. CAVALE : He is there.

Shri L. R. Cavale

SHRI KRISHAN KANT : Have the CBI returned you the papers they took when they conducted a search?

SHRI L. R. CAVALE : I got back most of the files; they have kept one file pertaining to my stay in Rotterdam.

SHRI KRISHAN KANT : Why? Have you enquired?

SHRI L. R. CAVALE : I have not enquired.

SHRI KRISHAN KANT : Have they started any case against you?

SHRI L. R. CAVALE : Nothing.

SHRI KRISHAN KANT : Are you going to write to them to get back your file?

SHRI L. R. CAVALE : I think so.

SHRI KRISHAN KANT : When all this happened, Shri Vinod Parekh and others advised you that they understood that the whole matter was because of Maruti.

SHRI L. R. CAVALE : In one of the discussions that I had with Shri Vinod Parekh at his house, he mentioned it directly that it is connected with Maruti and to the Prime Minister's Secretariat.

SHRI KRISHAN KANT : He said, better go and avoid complications.

SHRI L. R. CAVALE : Yes.

SHRI KRISHAN KANT : That is all I want.

SHRI NARENDRA P. NATHWANI : You called Mr. Bhatnagar, DMM. What does it mean?

SHRI L. R. CAVALE : Dy. Marketing Manager.

SHRI NARENDRA P. NATHWANI : You said this :

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'I informed him that there appears to be a Parliament question and it may become necessary for us to furnish the details at a short notice in regard to import and supply of machine-tools to M/s. Maruti. Thereafter he should check up without Finance and keep the details ready.'

You gave instruction to Bhatnagar. Were you able to get the information from Batliboi ?

SHRI L. R. CAVALE : I am involved earlier than 15th April, 1975, which is the crucial date. Sales returns are kept with our Finance people. As soon as machines are sold we note it down as to whom they are sold. We note at what price it is sold. This is with Finance. We get some commission. In PEC the finance people have all the sales returns. Apparently this transaction seems to have taken place somewhere in 1972 or 1973. They were trying to check it up in 1975. I asked Bhatnagar to sit with Finance and go through the file. There are many other things also which are released or supplied to actual users. All these are available with PEC. We are answerable to CCIE. We have given letter of authority to various agencies and suppliers. So when you go through the whole exercise at a given point of time you get all the information if the sales returns are properly compiled. I told him : "you will get the information from Finance ; you better check up with Finance." On that day I had no information.

SHRI NARENDRA P. NATHWANI : You resigned after the order of transfer was received. In the meanwhile you attended office or not ?

SHRI L. R. CAVALE : No. 16th was the last date I attended.

SHRI NARENDRA P. NATHWANI : Till the date of your resignation, did you get any information from Batliboi.

SHRI L. R. CAVALE : No. I wanted to say that I did not attend office till I was reinstated.

SHRI KRISHAN KANT : You asked Bhatnagar to get the information. Did he get it from file or from Batliboi ?

SHRI L. R. CAVALE : No information was collected. It was not available in our office. I did not have the occasion to meet Batliboi or other people.

SHRI KRISHAN KANT : Did you ring them up ?

SHRI L. R. CAVALE : No.

SHRI KRISHAN KANT : You asked Bhatnagar to collect the information.

SHRI L. R. CAVALE : I thought my Chairman would ask me and it is necessary on our part to keep this information. We have machine-tools, we have printing machinery, we have ball-bearings and measuring instruments etc. When we release a licence, we have to give utilisation certificate of the licence to the Ministry of Commerce and also the CCIE so that the next year's plan can be formulated based on the utilisation and a realistic figure could be arrived at. So, this information is absolutely necessary and it should be the job of PEC. In fact we keep this information as back as ten years.

SHRI KRISHAN KANT : You do not know whether anybody went to Batliboi or not ?

SHRI L. R. CAVALE : No, I do not know.

SHRI KRISHAN KANT : Mr. Bhatnagar may know.

PROF. P. G. MAVALANKAR : You said that the information you are obtaining from the various firms is necessary and it is also obligatory and it is absolutely obligatory for them to furnish the information.

SHRI L. R. CAVALE : The thing is that I was a little surprised. I thought that I could not get this information within a matter of a day or two. So, when I did not get this information of the sales return (because they have to pay us 2½ per cent on CIF cost as a service charge and

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they pay only on the sales transaction and not on the value of the licence), the surprise was still more. As and when they utilise the licence they go on paying us and we have a check on the financial side and on the marketing division side we have a check whether the licence has been properly utilised and whether it has been sold to actual users. The licence is in our name and the CCIE may ask us as to how the licence has been utilised. We just cannot sell it to a dealer, we have to sell it to an actual user with the condition that he cannot resell it. We have regular agreement with the various parties. 30—40 parties are involved. Batliboi is one party. This process of checking and re-checking is always done by us.

**SHRI KRISHAN KANT :** After the whole thing is over, did you get back your job or not ?

**SHRI L. R. CAVALE :** No, Sir. I could not.

**SHRI NARSINGH :** Why did he suggest to you to resign from the post—Mr. Vinod Parekh ? Could you imagine ?

**SHRI L. R. CAVALE :** It was some what difficult. One particular point is : I said I cannot reconcile to my transfer to Madras. I cannot accept it—I said. (2) I told him, 'You have to withdraw the suspension order issued to Mr. Bhatnagar. You should do this. I will not accept anything less than this.' I made it very clear, 'I cannot accept it. It does not matter what happens to me. First withdraw the suspension order on Mr. Bhatnagar. About my transfer to Madras I will see what can be done about it.' He said, 'No. You take a stand where I cannot help. You will be in trouble.' He told me very clearly.

**SHRI NARSINGH :** Did you imagine what it could be ?

**SHRI L. R. CAVALE :** I do not know what greater trouble could be there.

Shri L. R. Cavale

**SHRI NARSINGH :** What troubles could it be ? You could not imagine ?

**SHRI L. R. CAVALE :** Later on it happened. I had an inkling because I thought that I was probably unnecessarily taking a stand or making it very hard on myself. But I realised that once I have said it, there is no point in going back on it. Then I said, come what may, I am going to stick to change my stand. Probably they might foist a case on me and I will have to pay for it by way of losing my job and going behind the bars even. I never eliminated that possibility at all.

**MR. CHAIRMAN :** Timings of certain events are quite significant. You were asked to furnish certain information for a parliamentary question. You had a telephone call on the 15th. Was it in the morning ?

**SHRI L. R. CAVALE :** No, Sir, Mr. N. K. Singh.

**MR. CHAIRMAN :** Do you remember when did you receive the call from Mr. Dhawan ?

**SHRI L. R. CAVALE :** This was just before lunch—at 1 O'Clock.

**MR. CHAIRMAN :** When did Mr. Bhatnagar receive a call from Mr. Dhawan ? Was it known to him that Mr. Dhawan was the Private Secretary to the former Prime Minister ?

**SHRI L. R. CAVALE :** He was a little bit, I do not want to use the word, agitated. He was rather quiet. He quietly told me that there was a call from Mr. R. K. Dhawan. I was not very familiar with this name, to be honest. Then I said—Mr. R. K. Dhawan, wherefrom ? He said from the Prime Minister's Secretariat. Then I thought that that was a serious matter. Then I asked him—what transpired ? He said Mr. Dhawan rang up. He wanted to know if Mr. Bhatnagar was collecting information. He told that Mr. Cavale may be contacted as under his instructions he was collecting the information. Mr. Bhatnagar told me that Mr. Dhawan told him why did he collect that

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Shri L. R. Cavale

information. It was not necessary. He was advised not to collect that.

I further said, "I do not know whether you have to collect it or not, whether it is ultimately required for the Parliament Question."

I said, "They have told me that this is required in Parliament. I think it is very easy to collect it from our files. Is it not available in Finance? Do not make a fuss. You collect it, or give it to me."

I was going out. I had taken a holiday as I had to find a flat.

MR. CHAIRMAN : The same evening at 19.30 you received a telephone call from Mr. N. K. Singh. He wanted to know what exactly transpired about your talks with Mr. Krishnaswamy. What did you say ?

SHRI L. R. CAVALE : When Krishnaswamy asked me the information about the machine tools supplied to Maruti, I was not aware of this information. I did not know what type of machine tools, in what quantity and what was the value. I told Mr. Krishnaswamy that the information was not readily available. I required time.

I told him that I could collect it by the next day.

MR. CHAIRMAN : Did it appear to you at that time that something conflicting was happening ?

SHRI L. R. CAVALE : No, Sir.

MR. CHAIRMAN : Mr. Bhatnagar, as per your version, was told by Mr. Dhawan not to collect information as it was not necessary. In the same evening you had a call from Mr. N. K. Singh just on the contrary—to collect information. These two conflicting approaches must have created some confusion. You might have thought it better to withhold the information for the time being or to go through further process of collecting information.

SHRI L. R. CAVALE : I reviewed the whole thing, as you rightly said. One should consider the events in the chronological order. First I received a letter saying—please give the names of your business associates who are importing machine tools from the East European countries.

This is required in connection with a Parliamentary question. We have these names cyclostyled because this is part of our marketing strategy. I gave it to them immediately. I thought there was something in that. Then I got a call from Shri Krishnaswamy asking for specific information about what machine tools have been supplied to Messrs. Maruti by the Project Equipment Corporation. Then I knew why they had sent me the letter asking for the names of the business associates for Maruti who are dealing with the machine tools. The telephone conversation was very clear.

So I went into action immediately on the telephone call rather than on the letter. I just thought that if they wanted information we could give it to them at any time. When they gave a telephone call, immediately I called Mr. Bhatnagar and I told him that 'you are in charge of these machine tools imports. I would like to have the information of all the machine tools that have been supplied to Maruti. This is being required in connection with a Parliament question'. I do not know what was the Parliament question. I thought that we could call for it from the Ministry of Industrial Development. On this Mr. Bhatnagar must have taken the action. It was the week-end-Saturday and Sunday. On Monday again or Tuesday. Whether it was on Tuesday or so I am not sure. I have to check up.

At that time, Mr. Bhatnagar came and told me that Shri R. K. Dhawan has asked us not to collect information. In effect, it may not be in same words but more or less the same thing, conveying same meaning that we should not collect any information. Then I told Mr. Bhatnagar 'Look, it is not a question of collecting

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the information. Whatever information is there they are available in the Office. The PEC does not collect information. It gets the information when releasing the licence. It must be available in the office. At any time you can take it from the file. Mr. Bhatnagar said that 'I had been talking to the Finance but I had not been able to get the information. I cannot get hold of the files as they are in the stores'. I had been talking to Mr. Bhatnagar also : that when he gets this information, he should keep it with him or give it to me or give it to the Chairman. He should not give it to anybody. We have a procedure for Parliament questions. We have to put it up for the Chairman when we have to answer Question.

MR. CHAIRMAN : On 16th you came to know that Mr. Bhatnagar was suspended.

SHRI L. R. CAVALE : Yes.

MR. CHAIRMAN : On the 16th morning at 10.30 you got the transfer order. In both the cases the date was the same. Was Mr. Bhatnagar suspended on the 15th ?

SHRI L. R. CAVALE : On the 15th night.

MR. CHAIRMAN : But you were transferred on order issued on the 15th.

SHRI L. R. CAVALE : First was the transfer order.

MR. CHAIRMAN : I would say your order was issued on the 15th. This transfer letter was dated 16th April. However ; it was withdrawn. One was issued on the 15th April 1975. The first order was given to you on the 16th. It has been corrected as 15th.

SHRI L. R. CAVALE : They withdrew. The whole thing was re-drafted. The letter was dated 15th.

MR. CHAIRMAN : Have you got a copy of it ?

SHRI L. R. CAVALE : I have to search. I do not keep it.

Shri L. R. Cavale

MR. CHAIRMAN : Don't you know there was a question on the 16th in Parliament ?

SHRI L. R. CAVALE : I did not know exactly as to when it was to be answered.

MR. CHAIRMAN : Did you come to know later ?

SHRI L. R. CAVALE : Yes.

MR. CHAIRMAN : Would it be right or wrong to say that because you had the information ? You also asked Mr. Bhatnagar to collect the information which was required. 16th was the date of replying to the question regarding Maruti and therefore either of you could get hold of the files to communicate the information to the Ministers. That was the reason why Mr. Bhatnagar was suspended in addition to your transfer order.

SHRI L. R. CAVALE : I should think so.

MR. CHAIRMAN : Whether in your case or in the case of Mr. Bhatnagar or in the case of your wife any explanation was asked for or any reasons whatsoever shown or communicated either verbally or in writing ?

SHRI L. R. CAVALE : No explanation was asked from any of us.

MR. CHAIRMAN : Does it happen that someone is transferred or suspended or just dropped out of employment without an explanation ? Has it happened in your Department ?

SHRI L. R. CAVALE : No, Sir. I did not allow it to happen.

MR. CHAIRMAN : Your wife was working in a private company. Did that company give any hint to her ?

SHRI L. R. CAVALE : The Chairman of the company, Mr. Singhvi came to our house and said that CBI have asked him lot of questions and they have said it is dangerous to keep my wife in the office.

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I am told Mr. Chanderbhan, DSP, CBI want to the Chairman, Sobhagya, where Mrs. Cavale was working and he said, "You are having the services of Mrs. Cavale and it is not good for you".

SHRI KRISHAN KANT : Where is this office ?

SHRI L. R. CAVALE : At Ring Road, near Defence Colony.

SHRI KRISHAN KANT : Did the Chairman of the company mention about Maruti ?

SHRI L. R. CAVALE : No. He did not mention about Maruti. He only said about CBI.

MR. CHAIRMAN : When CBI conducted search in your house was any warrant issued by the Magistrate ?

SHRI L. R. CAVALE : Yes, Sir. I saw the warrant.

MR. CHAIRMAN : Were you informed about the findings of the CBI enquiry at any time ?

SHRI L. R. CAVALE : No, Sir. After six or seven months I came to Delhi. I met Mr. Mukherjee, DIG and Mr. Chaudhuri, Joint Director and Mr. D. Sen in the North Block. I asked him if there is nothing against me could you kindly return my papers because I need them. There were fixed deposit receipts and I needed money as I was completely out of money. I thought I could get those twelve thousand rupees. These receipts were in the name of my wife as we did not have separate accounts. He thought for five minutes and said : your case is not as bad as you think; please contact Mr. Chaudhuri again. I came here to Vallabhpatil House and talked to Mr. Chaudhuri and he also said : your case is not all that serious; there were certain investigations, that is all; you please apply to the Magistrate Mr. O. P. Singhle. I made the application to the magistrate; he talked to me in his chamber and told me that my case was not closed for they were still investigating.

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Then he told me that at least some papers would have to be with him. I told him that he could keep the Rotterdam file and give me the rest; he gave me the other papers and I could get some money released from the fixed deposits.

MR. CHAIRMAN : What was the final fate of the case ?

SHRI L. R. CAVALE : I still do not know.

MR. CHAIRMAN : When you were asked by Mr. Parekh to retrace your earlier letter by a single one, did he give any reason ?

SHRI L. R. CAVALE : No. He said that the other course was only complicating matters because I had given the reasoning in the earlier letter, if I remember right.

MR. CHAIRMAN : We would be waiting for that letter from you. You have said that the Mico Chairman made the observation that 'you were the victim of Sanjay Gandhi'. What did he mean by that observation ?

SHRI L. R. CAVALE : I met him at Taj Mahal Hotel; I did not ask him. I asked them whether they did not want me in their company. He said: We very much like to have you here; but since you are the victim of Sanjay Gandhi, I cannot take you and jeopardise my position; he was Vice-chairman, Mr. Vacha.

SHRI KRISHAN KANT : How did you come to Mico ?

SHRI L. R. CAVALE : I was called for the interview once in Bombay and once in Bangalore. I did not pursue the matter because I somehow felt that this matter should not be pursued with Mico. Separately also I had a definite reason; I do not know whether it is relevant to say it here. I have two younger brothers; both of them were working for Mico. One is a development engineer and another tool room engineer. I know most of the people in Mico quite well and they know our family background. Also I was handling the exports of Mico spark plugs to USSR, about a crore of rupees or so, worth.



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This export has been developed by me and the spark plugs have been developed by my brother. The combination was working smoothly and that is why we have an export market.

MR. CHAIRMAN : You have mentioned that you were subjected to medical examination for re-instating your LIC Policy.

SHRI L. R. CAVALE : That is right.

MR. CHAIRMAN : How can you be subjected to re-examination and also re-institution of your policy? This is absolutely irregular on his part. Who is the gentleman?

SHRI L. R. CAVALE : I do not remember his name.

MR. CHAIRMAN : What type of Officer was he? Who is the Officer who pointed out that you have to subject yourself to re-examination or reinstatement of your policy?

SHRI L. R. CAVALE : They wrote a letter also.

MR. CHAIRMAN : Have you got that letter with you?

SHRI L. R. CAVALE : If I check up, probably I will get it.

MR. CHAIRMAN : Did you submit that letter to Shah Commission?

SHRI L. R. CAVALE : No, I did not.

MR. CHAIRMAN : Please submit that letter.

SHRI L. R. CAVALE : I will definitely do it.

MR. CHAIRMAN : You can at least furnish us the name of the Officer. Did you argue that it has nothing to do with the CBI Enquiry. There cannot be a legal nexus between the two viz. the CBI Enquiry and your policy. Did you argue with him?

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SHRI L. R. CAVALE : I argued with him. I said, it is not correct. My LIC premium was being paid by the office after deducting the amount from my salary. We get some rebate. When I resigned... there was a little time lapse.

MR. CHAIRMAN : You have only to pay a lump sum. It is absolutely irregular on their part to have subjected you to re-examination.

SHRI L. R. CAVALE : When I went to Jaslok Hospital, I had complete total medical examination conducted by the Director.

MR. CHAIRMAN : Once your policy is accepted and once you are examined, there is no question of subsequent re-examination. I am not interested about that.

SHRI L. R. CAVALE : To take sufficient precaution, I went to Jaslok Hospital, I got myself examined and got the certificate. I took the medical certificate of the LIC Doctor. I thought probably they will disqualify me on some ground. I said : If you cannot accept Jaslok Hospital Certificate, what else you can accept. But they did not say this. They simply wrote a letter saying that they cannot take action on this, without stating any reason for it.

MR. CHAIRMAN : Even if there is some rule which says that they can subject to you to an official examination, that is not what we are interested. Here you have been categorically told that because of your CBI Enquiry, you are being subjected to re-examination.

You got it very clear?

SHRI L. R. CAVALE : Absolutely, they read it out to me.

MR. CHAIRMAN : That letter also you should try to find it out.

On 3rd November 1977 you were re-employed in your former post. Did the office concerned which re-employed you inform you anything about the CBI inquiry or the cause of your suspension or why

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the suspension order has been withdrawn and you have been re-employed? Is it a fresh employment or merely the suspension order was withdrawn or what is it?

SHRI L. R. CAVALE : They said : "You have been reinstated."

MR. CHAIRMAN : You got back your arrears?

SHRI L. R. CAVALE : No. There has been a lot of resistance. My present Chairman, Mr. M. M. Luther, was not interested in taking me. He stalled the whole thing. He is, incidentally, the brother of Mr. J. C. Luther who is the Deputy Governor of Reserve Bank and Mr. M. M. Luther has resisted me totally and even today he has not given me any portfolio and he has not considered my seniority. I am senior even to the Director of PEC, Mr. Suresh Chandra, but I continued to be in Grade II instead of being in the higher grade, i.e., Grade I. I belong to the Ministry of Commerce.

MR. CHAIRMAN : Will you kindly give all that in writing? Let us see if be of any help. We shall forward that to the Ministry. You have not got back your arrears?

SHRI L. R. CAVALE : No.

MR. CHAIRMAN : Not even the post that you held?

SHRI L. R. CAVALE : Not even one increment which was due to me.

MR. CHAIRMAN : Has your office given any reason as to why you have been taken back?

SHRI L. R. CAVALE : No.

MR. CHAIRMAN : You have not been informed about what the findings of the CBI inquiry were?

SHRI L. R. CAVALE : No.

MR. CHAIRMAN : You have not been informed that the case against you has been closed or not?

SHRI L. R. CAVALE : No.

Shri L. R. Cavale

MR. CHAIRMAN : Did your wife try to have any employment?

SHRI L. R. CAVALE : In Bombay she tried. She joined Mettur Beardsel, exporters of readymade garments and they have some interest in chemicals.

MR. CHAIRMAN : If you have been trying to get employment for your wife, did she come across with any kind of odd questions and odd problems like the inquiry conducted by the CBI or something like the questions on Maruti or any kind of interference from any officials? If it is so, then you state the facts. Otherwise, I am not interested.

SHRI L. R. CAVALE : She joined Mettur Beardsel and within a month, as you rightly said, very awkward questions were asked saying that 'your husband was found to be very corrupt and he was proved to be living beyond his means. What is happening? I believe the CBI was inquiring about it'. And the next month she lost the job. She was there for about a month and a week. Then she tried to join Godrej and she was very clearly told by the Manager there that "since your husband is involved in so many things connected with STC and CBI, we cannot take you".

MR. CHAIRMAN : Is that all?

SHRI L. R. CAVALE : Yes.

MR. CHAIRMAN : Can you name the officer who mentioned all this to her? Can you give me the names of the officers who said this, i.e. in Messrs Godrej and other firms? Please give it in writing.

SHRI L. R. CAVALE : I have to get it from Mrs. Cavale.

SHRI NARENDRA P. NATHWANI : In the last para of your reply, you have stated that you have not been given any increment or promotion. But you have stated at the bottom of page 3 of your statement :

"Mr. Luther categorically has informed me that any action taken by him at this stage will be *sub judice*, since

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my case is being dealt with by the Shah Commission." Therefore, it seems to be the reason.

**SHRI L. R. CAVALE:** No, Sir. I checked up with Mr. Justice Shah himself and also with Mr. Rajagopalan. In the open meeting, he said that the Shah Commission was not a court-of-law and that there could not be any point in saying that it was *sub judice*.

**SHRI NARENDRA P. NATHWANI:** But the substance of his saying that it is *sub judice* before the Shah Commission, may be this: he might have taken his stand thus, lest it may be said that you are being promoted and re-instated because you are giving false evidence.

**SHRI L. R. CAVALE:** I cannot comment on it.

**SHRI NARENDRA P. NATHWANI:** He said, '*sub judice*' because you have given some evidence before the Shah Commission. Till the matter is over and till your testimony is accepted, they may like to see. . .

**SHRI L. R. CAVALE:** I cannot comment on this.

**MR. CHAIRMAN:** It is not the fault of the witness—because he has now been re-employed—if there is any lapse on the part of the other senior officers.

**SHRI NARENDRA P. NATHWANI:** He has not been reinstated unconditionally, because he says that his action will *sub judice*. This is what is meant.

**SHRI KRISHAN KANT:** It was after this statement that he was re-employed.

**MR. CHAIRMAN:** He tried to get re-employed earlier; and these were the explanations given. But subsequently he was re-employed, without any condition whatsoever, although as a result of re-employment the witness naturally got some benefit. Nothing has been shown against the witness and the court has not said a word.

Shri L. R. Cavale

**SHRI NARENDRA P. NATHWANI:** Mr. Cavale, in November when you were re-instated, did the letter not mention anything?

**SHRI L. R. CAVALE:** No, Sir. It simply said: "You have been reinstated with immediate effect."

**MR. CHAIRMAN:** Do you have a copy of that letter with you?

**SHRI L. R. CAVALE:** Yes, Sir.

**MR. CHAIRMAN:** Please give it, duly attested. You can send it afterwards.

**SHRI KRISHAN KANT:** In regard to LIC, you have said this:

"I was shown a letter from CBI, by LIC, Ferozeshah Mehta Road Office, indicating that they were investigating my case and no action can be taken."

**SHRI L. R. CAVALE:** They folded the letter and showed me the letter head. I could not see who signed it. They said that certain actions were being taken against Mr. Cavale. It is not necessary for LIC to take any action.

**SHRI KRISHAN KANT:** What happened thereafter?

**SHRI L. R. CAVALE:** I waited for some time. Since I was very much under pressure and I did not have any income, I asked for termination and got back some money. I must have lost about Rs. 5,000/- or Rs. 6,000/-. I got back Rs. 22,000/-. It helped me a lot to carry on.

**SHRI KRISHAN KANT:** You have written that your wife lost her job immediately. You said that Mr. Singhvi came to your place the day she resigned.

**Shri L. R. CAVALE:** They exchanged a letter like they did in my case. I told her that there was no point in pursuing the matter.

**SHRI KRISHAN KANT:** Did it happen the same day, i.e. immediately?

**SHRI L. R. CAVALE:** Yes.

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Shri L. R. Cavale

SHRI L. R. CAVALE : I have one small submission, or whatever it is. Shri P. J. Fernandes submitted before the Shah Commission something in my case. Would it be relevant, or would it be proper, if I read out that submission ? It is purely about me.

MR. CHAIRMAN : You can do it after furnishing it to us. You may submit to the

Committee all the documents, your resignation letter and other relevant documents to substantiate what you have stated as soon as possible. It may very well happen that we may call your wife also to give evidence. If we feel it necessary, we may do so. There is nothing to worry. Thank you.

*(The witness then withdrew.)*

Friday, the 31st March, 1978

**PRESENT**

Professor Samar Guha—*Chairman.*

**MEMBERS**

2. Shri O. V. Alagesan
3. Shri Hitendra Desai
4. Shri Krishan Kunt
5. Professor P. G. Mavalankar
6. Shri Narsingh
7. Shri Narendra P. Nathwani
8. Shri B. Shankaranand
9. Shri Madhav Prasad Tripathi

**SECRETARIAT**

Shri J. R. Kapur—*Chief Legislative Committee Officer*

**WITNESS**

Shri P. S. Bhatnagar, (*Deputy Administration Manager, State Trading Corporation of India, former Deputy Marketing Manager, Projects and Equipment Corporation of India Ltd.*)

(*The Committee met at 9.30 hours*)

**Evidence of Shri P. S. Bhatnagar**

MR. CHAIRMAN : Mr. Bhatnagar, you have been asked to give evidence before the Committee in connection with the question of privilege against Mrs. Indira Gandhi and others for alleged obstruction, intimidation, harassment to certain officials who were collecting information for answers to certain questions in the Lok Sabha on Maruti Ltd. I hope you will state the factual position.

I may inform you that the evidence that you may give before the Committee is to be treated by you as confidential till the report of the Committee and its proceedings are presented before Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute breach of privilege. The evidence which

*Shri P. S. Bhatnagar*

you will give before the Committee may be reported to the House. Now you may take oath or make an affirmation, as you like.

(*Shri Bhatnagar took the oath.*)

MR. CHAIRMAN : You have submitted to this Committee the affidavit you produced before the Shah Commission. We want you to read it out slowly.

SHRI P. S. BHATNAGAR : I, P. S. Bhatnagar, aged about 46 years, son of Late Shri P. L. Bhatnagar, employed as Deputy Administration Manager Grade-II in the State Trading Corporation of India Limited solemnly affirm and state as under :—

"1. That I joined the State Trading Corporation of India Limited in the year 1957 and on the date of my suspension i.e., 15-4-75, I was posted and working in the Projects and Equipment Corporation of India Limited, a subsidiary of the State Trading Corporation of India as Deputy Marketing Manager Grade-II and was looking after the import of machine tools etc.

2. That in the 2nd week of April, 1975, I was called by my Chief Marketing Manager, Shri L. R. Cavale and was given a letter from the Ministry of Heavy Industry asking me to give him a list of the business associates of the machine tools which was required by the Ministry of Heavy Industry in connection with some Parliament Question. I gave this list of business associates of machine tools to my Chief Marketing Manager. Thereafter, again I was called by him and was advised to give him the details of the machines supplied to M/s. Maruti. I contacted among other business associates, M/s. Batliboi (Mr. Mathur) on telephone to ascertain if they have supplied any machines to M/s. Maruti. He informed me on telephone that they have supplied some machines to M/s. Maruti. I requested him to furnish the details of the same. Mr. Mathur of Batliboi told me that he will check up the details and let me know the same.

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After this conversation, I got a telephone call on 15th April, 1975 before lunch from Shri R. K. Dhawan from the former Prime Minister's Sectt., who enquired whether I was collecting any information in regard to supply of machine tools to M/s. Maruti. I said "Yes". I brought this fact to the notice of my Chief Marketing Manager, under whose instructions I was collecting the information. He told me to collect the information and give it to him. Again the same day after lunch I got a telephone call from Shri R. K. Dhawan, advising me not to collect this information and stop its collection. I replied that I would certainly do so and requested him to kindly inform my Chief Marketing Manager, Shri Cavale, under whose instructions I was collecting this.

3. That on 15th April, 1975 between 3.30 p.m. and 4.00 p.m. Mr. Mathur of Balliboi alongwith Mr. Adarsha called on me. I enquired from Mr. Mathur whether he has brought the required information or not. He said "Yes" and gave letter to me which I could not even go through as just at that moment, I was called by my Director, Shri L. K. Dhawan, who asked me if I am collecting any information regarding supply of machine tools. I told him "YES, Sir" but under instructions of my Chief Marketing Manager. He instructed me to hand over to him all the papers whatever I had in this connection. I went to my table and collected all the papers I had in this connection and handed over the same to him.

4. That I left the office as usual on 15th April, 1975, and an order placing me under suspension was served on me at my residence on 15th April, 1975, by Shri B. C. Malhotra, the then Chief Personnel Manager at about 10.30 p.m. in the night. He was accompanied by Shri R. K. Tarneja who is now Chief Personnel Manager in the Projects and Equipment Corporation of India.

5. That after two or three days of my suspension, a raid was conducted by the

Shri P. S. Bhatnagar

CBI in my house on a charge of possession of disproportionate assets to my known sources of income, which after thorough enquiry was not established. On 29th April, 1975, I was served a charge sheet saying that I have committed gross misconduct and misbehaviour inasmuch as I kept the representatives of the firm, M/s. Batliboi & Co. waiting for unduly long time on 15th April, 1975 and coerced them to part with certain information, which was a shock to me as earlier to this, nothing adverse was communicated to me. I refuted the charge in my reply which was sent to the Management within the stipulated period but I was not intimated any action till I was reinstated on 1st September, 1976. On my reinstatement, I was served with another charge sheet dated 3rd September, 1976, charging me for not informing the purchase of certain items to the Management as required by STC Conduct Rules and that I misrepresented the fact in a note prepared by me in regard to some price increase. Even on these two minor points, our Chief Vigilance Officer, Mr. N. R. Sircar censured me and on the earlier charge sheet which was served on 29th April, 1975, I was issued simple warning.

## 6. PRAYER

Because of my suspension, a few of my juniors were promoted and thus I was superseded. My supersession would not have happened if I would not have been suspended which was unwarranted. I was put to great mental agony for no fault of mine while discharging my official duties. It is prayed that I may be promoted to my senior scale and my original seniority may be restored from the date when my juniors were promoted on the basis of my confidential record at that time.

7. For the mental torture and mental agony and the hardships faced by me during my suspension for no fault of mine, Commission may decide as what should be the compensation for that.

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That this declaration is true and no portion is false and I have concealed nothing material or relevant facts relating to this matter.

Sd/-  
(P. S. BHATNAGAR)  
DEPONENT

VERIFICATION

I, P. S. Bhatnagar, the above named deponent do verify that the contents of paras 1 to 5 of the above affidavit are true to my knowledge and the contents of para 6 are prayer and that the contents of para 7 are believed by me to be true.

Signed, dated and verified at New Delhi this 12th day of September, 1977.

Sd/-  
(P. S. BHATNAGAR)  
DEPONENT

MR. CHAIRMAN : Have you got anything to add to the statement that you have made before the Shah Commission ? If anything has happened thereafter, you can mention it.

SHRI P. S. BHATNAGAR : They have promoted me to my senior scale; but they have not given me the original seniority from the retrospective date. This is one change; and the rest of the things remain the same.

SHRI HITENDRA DESAI : Did you get a telephone call from Mr. Dhawan twice on 15th April ?

SHRI P. S. BHATNAGAR : Yes, Sir.

SHRI HITENDRA DESAI : What was the exact conversation, during the second call ?

SHRI P. S. BHATNAGAR : Actually, when I got his first call, I got nervous about it; he enquired whether I was collecting information regarding the supply of machine tools to Maruti. Then I told him, "Yes; I am collecting". Then again, during lunch time, he gave a ring to somebody there. I was not there. I was on lunch.

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The gentleman who listened to the call during the lunch hour, told me. I had a talk with Mr. Dhawan only twice. He—the person who received the call during lunch hour—told me that in my absence, i.e. when I was on lunch, somebody from the Prime Minister's Secretariat, Mr. R. K. Dhawan gave a ring.

SHRI HITENDRA DESAI : Was it at 3.30 ?

SHRI P. S. BHATNAGAR : No, Sir; it was during lunch hour. Then again, after lunch, I got the ring. It was about 3.30 p.m.

SHRI HITENDRA DESAI : When did you leave office on that day ?

SHRI P. S. BHATNAGAR : At 5.15 or 5.30 p.m.

SHRI HITENDRA DESAI : Did you get the suspension order before you left ?

SHRI P. S. BHATNAGAR : My order of suspension was served on me on the same day.

SHRI HITENDRA DESAI : At what time ?

SHRI P. S. BHATNAGAR : Between 10 and 10.30 in the night.

SHRI HITENDRA DESAI : Is the suspension order with you here ?

SHRI P. S. BHATNAGAR : Yes, Sir.

SHRI HITENDRA DESAI : Mr. Chairman if you have no objection, we should get a copy of that. Mr. Bhatnagar, will you read it ?

MR. CHAIRMAN : Please give a copy of that, and attest it.

SHRI B. SHANKARANAND : He can read and then attest it.

SHRI KRISHAN KANT : And we can make photostat copies of it.

MR. CHAIRMAN : Did you produce your suspension order to the Shah Commission ?

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**SHRI P. S. BHATNAGAR** : I have not presented it. But they have probably got it from the office.

**MR. CHAIRMAN** : Have you got the original with you ?

**SHRI P. S. BHATNAGAR** : Yes, Sir.

**MR. CHAIRMAN** : Would you attest it and give it to us ?

**SHRI KRISHAN KANT** : You can do it now.

**MR. CHAIRMAN** : You read it and then produce a photostat copy to us.

**SHRI P. S. BHATNAGAR** : I will sign it. But I request that as the Shah Commission have done it, this may be collected from my office.

**MR. CHAIRMAN** : After you read it out, please leave it with my office ; and you can get it back from them tomorrow. My office will make a photostat copy of it, and your paper will be returned to you tomorrow.

**SHRI P. S. BHATNAGAR** : It is letter dated 15th April 1975, No. STC. 6/74/57-ST-ESTT., which reads :

"By hand.

With immediate effect, Shri P. S. Bhatnagar, presently Deputy Manager, Grade 2, in PEC is hereby suspended under Part IV, Part 8 of the State Trading Corporation of India Limited Employees (Classification, Control and Appeal) Rules, 1967, for his misconduct under para 3(3) of the State Trading Corporation of India Limited Employees Conduct Rules, 1967, read in conjunction with para 20 of the S.T.C.'s Service Regulations.

This issues under instructions of the appointing authority.

Sd/-

**B. C. MALHOTRA**

**CHIEF PERSONNEL MANAGER"**

*Shri P. S. Bhatnagar*

**SHRI HITENDRA DESAI** : When was it set aside ?

**SHRI P. S. BHATNAGAR** : On the 1st September, 1976.

**SHRI HITENDRA DESAI** : Were any proceedings initiated against you ?

**SHRI P. S. BHATNAGAR** : No, Sir. I was served with one charge-sheet. This was done 15 days after my suspension.

**MR. CHAIRMAN** : You may read it and supply to us one attested copy.

**SHRI P. S. BHATNAGAR** : It is dated 29th April, 1975.

"State Trading Corporation of India Limited (Personnel Division)

**Confidential** Dated 29th April, 1975  
No. STC/A-6(74)Estt.

#### Memorandum

The undersigned propose to hold an enquiry against Shri P. S. Bhatnagar under Rule 12 of the STC of India Ltd. Employees' (Classification, Control and Appeal) Rules, 1967. The substances of the imputations of misconduct and misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charges (Annexure I). A statement of the imputations of misconduct and misbehaviour in support of article of charge is enclosed (Annexure II).

2. Shri P. S. Bhatnagar is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri P. S. Bhatnagar is informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not



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appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 12 of the STC of India Ltd. Employees' (CC&A) Rules 1967 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him *ex parte*.

5. Attention of Shri P. S. Bhatnagar is invited to rule 20 of the STC of India Ltd. Employees' (Conduct) Rules, 1967 under which no employee shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Corporation. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri P. S. BHATNAGAR is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the STC of India Ltd. Employees' (Conduct) Rules, 1967.

6. The receipt of the Memorandum should be acknowledged.

7. This issues with the approval of Disciplinary Authority.

#### ANNEXURE I

STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI P. S. BHATNAGAR, DMM, PEC.

#### ARTICLE :

Shri P. S. Bhatnagar, while functioning as Deputy Marketing Manager, in Projects and Equipment Corporation (a Subsidiary of STC) committed gross mis-conduct and misbehaviour inasmuch as he kept the representatives of the firm—Messrs. Batliboi and Company—waiting for an unduly long time on 15th April, 1975 and coerced them to part with certain information. The manner in which the information was sought to be obtained by him was unbecoming of an employee of the Corporation as per Rule 3(iii) of the STC of India Limited Employees (Conduct) Rules, 1967.

#### ANNEXURE II

STATEMENT OF IMPUTATIONS IN SUPPORT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI P. S. BHATNAGAR, DMM PEC.

For some time persistent complaints have been received about the mis-behaviour and mis-conduct of Shri P. S. Bhatnagar, Deputy Marketing Manager, Projects and Equipment Corporation (a Subsidiary of STC) towards the business clients and associates. On 15th April 1975 he kept the representatives of the firm—Messrs. Batliboi and Company—waiting for an unduly long time and coerced them to part with certain information. The manner in which the information was sought to be obtained by him was unbecoming of an employee of the Corporation as per Rule 3(iii) of the STC of India Limited Employees (Conduct) Rules, 1967 and also constitutes mis-conduct and mis-behaviour by him.

MR. CHAIRMAN : Any more documents with you in this connection ?

SHRI O. V. ALAGESAN : What was your reply ?

SHRI P. S. BHATNAGAR : Because I was under suspension then, I have not got a copy. I have only a hand-written copy. Perhaps they are all with the Shah Commission.

SHRI B. SHANKARANAND : You read your defence.

SHRI P. S. BHATNAGAR : I am reading it :

"I am in receipt of your Memorandum No. .... dated, .... along with Annexures I and II containing the articles of charge framed against me. I submit the following facts for your favourable consideration :

Allegation No. 1 : The Complaint No. 1 of the firm is not correct as they were not made to wait even for a minute, what to say for an unduly long time.

Normally representatives of the firms are seen with prior appointment but here

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M/s. Batliboi had no appointment with me on 15th April 1975, for their visit. However, they called on the undersigned of their own for furnishing certain information which was asked verbally from them along with the other firms. Despite the fact that I was busy with other persons who were already sitting with me, I promptly attended M/s. Batliboi's representatives as they told me that they had brought the required information which was only pending from them as the others had already furnished. Hence the question of waiting for an unduly long time does not arise. The moment I collected the information which was asked by my superior, I was immediately asked by the Director to hand over all the relevant papers pertaining to the information which I did without any delay.

**Allegation No. 2 :** The urgent information that was collected by me as directed by my boss was to be furnished to him on the priority basis positively by 15th April, 1975. As per instructions from my boss, the requisite information was collected from several business associates in the usual official manner. I had no personal interest whatsoever in collecting this information except carrying out my official duties.

A few business associates who were also asked to furnish the similar information regretted verbally for not furnishing this information, were not further persuaded. Similarly B. B. had also the choice to regret but instead of this they preferred to furnish the information so the question of coercing them for furnishing the information does not arise."

"I delivered to him on priority basis position by 15th April, 1975. I had no personal interest whatsoever in collecting this information except carrying out my official duties as per instructions given by my superiors. As per the instructions from my boss the requisite information was collected from several business associates in usual official

manner. Out of the business associates who were requested to furnish this information, one or two verbally regretted for not furnishing the information and thereafter, they were not insisted. In the similar way, M/s. Batliboi & Co. were rather free to furnish the information or also refuse the same. So, the question of putting special pressure on them for furnishing the information does not arise. The information collected was handed over along with all relevant papers to Director (D) on 15th April, 1975.

I am working in STC since 1957 and feel proud to say that no complaint about my misconduct or misbehaviour against anyone in any position was ever brought to my notice by my superiors, colleagues or others with whom I have official dealings.

In view of the facts stated above, the allegations made against me are not justified and the complaint lodged by M/s. Batliboi & Co. can only be out of some misunderstanding.

In spite of the facts stated above, if the management still feels that I have not discharged my duties to their expectations then I sincerely feel sorry for the same and will be more careful in future."

**SHRI HITENDRA DESAI :** This is of what date ?

**SHRI P. S. BHATNAGAR :** 1st May, 1975.

**SHRI HITENDRA DESAI :** Were there other proceedings after your reply ?

**SHRI P. S. BHATNAGAR :** As far as office is concerned, no but CBI ;cs. On this reply, I was given a simple warning after my re-instatement.

**MR. CHAIRMAN :** On 3rd September you were served with another charge-sheet. Please furnish a copy of that to us. Read out that.

**SHRI HITENDRA DESAI :** After your reply, you were only given a warning.

**SHRI P. S. BHATNAGAR :** I was not informed anything from the management side till I was re-instated.

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**SHRI HITENDRA DESAI** : When was the second charge-sheet given ?

**SHRI P. S. BHATNAGAR** : 3rd September, 1976.

**SHRI HITENDRA DESAI** : Please read out that.

**SHRI P. S. BHATNAGAR** : I am afraid my office people may be after me. Because I have already suffered, you can get it from the office.

**MR. CHAIRMAN** : I assure you that nobody will harm you. Even the Chief Justice of the Supreme Court cannot do anything.

**SHRI HITENDRA DESAI** : You read out the second charge-sheet and your reply to that.

**SHRI P. S. BHATNAGAR** : I will furnish a copy. But the letter from my Administration, from the Chief Vigilance Officer, is with me. They have quoted there also. That is dated September 3rd, 1976. . .

**SHRI B. SHANKARANAND** : We do not want that. Mr. Bhatnagar, please don't get confused. You have got all your personal records. Please take sometime and find out the second charge-sheet and also your reply to that. If it is there, you read it out. If it is not there, if you have not brought it here, you say so. You take time and produce it.

**SHRI HITENDRA DESAI** : The charge-sheet in original must be with you. The office copy may be with the Administration.

**SHRI P. S. BHATNAGAR** : I do not find it here. But the action that the management has taken on my reply, that letter is here . . .

**SHRI HITENDRA DESAI** : But the charge-sheet must be with you. Will you produce it ?

**SHRI P. S. BHATNAGAR** : I will produce it, if I have got it. Otherwise, you can have it from the management.

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**SHRI B. SHANKARANAND** : You must be having it.

**SHRI P. S. BHATNAGAR** : I do not find it here. But I must be having it.

**SHRI B. SHANKARANAND** : Then, you produce it and also your reply to that. That also you must be having.

**MR. CHAIRMAN** : Mr. Bhatnagar, the second charge-sheet is also important. That must be with you. You should immediately within a day or two or three produce it before the Committee. Secondly, you read out the reply that you have given.

**SHRI P. S. BHATNAGAR** : That is the management's action on my reply.

**MR. CHAIRMAN** : Did you send them any reply on the second charge-sheet ? That is what you were reading.

**SHRI P. S. BHATNAGAR** : No, Sir. I am not reading that. They have censured me on my reply. That is here.

**MR. CHAIRMAN** : There is a little bit of confusion in regard to the first charge-sheet against you. You have read out the order and also the reply that has been given by you. Are you reading in connection with the first charge-sheet ?

**SHRI P. S. BHATNAGAR** : No, Sir.

**MR. CHAIRMAN** : Then what is it ?

**SHRI P. S. BHATNAGAR** : I am reading the letter of the management which I received on the basis of the second charge-sheet.

**MR. CHAIRMAN** : The comments made by you.

**SHRI P. S. BHATNAGAR** : The action the management has taken on that order, and the reply.

**SHRI HITENDRA DESAI** : What about the first charge-sheet ? Have you got those remarks ? What are they ?

**SHRI P. S. BHATNAGAR** : Yes. On that, they have issued me a simple warning. This is the management's reply on my first charge-sheet. It says :

"Whereas Mr. Bhatnagar, Deputy Administrative Manager was served

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charge-sheet memo of even dated 29th April, 1976, containing the following charges. That Shri Bhatnagar was functioning as the Deputy Administrative Manager in Project and Equipment Corporation, a subsidiary of STC committed a gross misconduct and misbehaviour in as much as he kept the representatives of the firm Batliboi and Company waiting for an unduly long time on 15-4-1975 and coerced them to part with certain information. The manner in which the information was sought to be obtained by him was unbecoming of an employee of the corporation as per rule 3 of the STC of India Ltd., conduct rules 1967. And whereas the undersigned, after due consideration of his representation dated 1st May, 1975 and all the relevant facts of the case is of the opinion that his behaviour with the business association concern was lacking in some respect in as much as he sought to extract some information from the said representatives in an unbecoming manner."

"However, taking a lenient view, Mr. Bhatnagar is hereby warned for his behaviour and is advised to show due courtesy to the business associates of the Corporation. Any recurrence of such incident will make him liable for strict disciplinary action.

Sd. B. C. Malhotra."

SHRI HITENDRA DESAI : Any other evidence was recorded with regard to this first charge-sheet ?

SHRI P. S. BHATNAGAR : No, Sir.

SHRI HITENDRA DESAI : The charge-sheet, your reply and this—these are the three documents.

SHRI P. S. BHATNAGAR : Yes, Sir; that is all.

SHRI HITENDRA DESAI : Was Mr. Malhotra the Inquiring Officer ?

SHRI P. S. BHATNAGAR : Yes, Sir.

SHRI HITENDRA DESAI : How did he come to this conclusion ?

SHRI P. S. BHATNAGAR : Perhaps, on the basis of my reply. It would be better if Mr. Malhotra is asked about this.

SHRI HITENDRA DESAI : How long have you been in service ?

SHRI P. S. BHATNAGAR : For the last 20 years, I joined in 1957.

SHRI HITENDRA DESAI : Prior to the first charge-sheet, were there any adverse remarks against you ?

SHRI P. S. BHATNAGAR : Never. Nothing was communicated to me. This was the first time, and that also after 15th April, 1975.

SHRI O. V. ALAGESAN : You said that Mr. Dhawan called you twice. Once he asked you whether you were collecting any information and then you said 'yes'. What did he ask you when he called you for the second time and what was your reply ?

SHRI P. S. BHATNAGAR : He told me, 'Stop its collection'. I replied, 'I will certainly do so, but you kindly inform my superior, Mr. Cavale, under whose instructions I am doing this'.

SHRI O. V. ALAGESAN : In other words, unless your superior tells you to stop collecting this information, you will proceed collecting it.

SHRI P. S. BHATNAGAR : You can take it like that. Naturally, Sir, unless I get instructions otherwise, how can I stop it ?

SHRI NARENDRA P. NATHWANI : The first charge related to your having forced Batliboi to give information. I am asking you now about your right or power

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to elicit information from business associates. Had you any right or power under the rules of business? Could you compel them to give this information?

SHRI P. S. BHATNAGAR : As per the agreement concluded with the business associates, we have the right to call back the licence at any time because we are the licencees; they are not the licencees; they are only operating on our licence, having agreement with us on business associateship. That agreement is given on a stamped paper under which we have the right to call for any information at any time.

SHRI B. SHANKARANAND : Mr. Chairman, we can call for that agreement. Let us see the agreement. Let us see what are the clauses.

MR. CHAIRMAN : Will you please specify what are the rules according to which these agreements are entered into and what are the clauses of the agreement?

SHRI KRISHAN KANT : He is only a small officer. For a copy of the agreement etc. we will have to ask Chairman or somebody else in their organization.

SHRI P. S. BHATNAGAR : Yes, Sir. I cannot give a copy of the agreement.

SHRI NARENDRA P. NATHWANI : Your answer has been recorded that the licence was in the name of the company and they gave a letter of authority under which the business associates operated.

SHRI P. S. BHATNAGAR : Yes, Sir. These goods are on stock and sale basis.

SHRI NARENDRA P. NATHWANI : You have, therefore, a right to call for information. You mentioned that on 15th you were busy attending to some representatives of Batliboi, namely, M/s. Mathur and Adeshra. Can you remember, who else were sitting by your side at that time?

SHRI P. S. BHATNAGAR : I do not remember.

SHRI NARENDRA P. NATHWANI : You were reinstated in 1976. You had

given your reply and no further enquiry was held, no evidence recorded. Did you take any steps or approach anybody for representation that you were unnecessarily harassed?

SHRI P. S. BHATNAGAR : I met all the officials of the Corporation and I was advised to be quiet. 'Otherwise, you will be sent somewhere. Be quiet.'—this was the advice I got.

SHRI B. SHANKARANAND : Who said that?

SHRI P. S. BHATNAGAR : I need not mention the name.

SHRI B. SHANKARANAND : No, you have to mention that. You cannot withhold any information from this committee. You cannot say that you cannot disclose. You have to disclose.

MR. CHAIRMAN . You mention anything within your direct knowledge if any member of the Committee wants you to furnish that information and asks you what is the information and what is your source. Then you are bound to communicate that information to this Committee. And for that, if any action is taken against you, the person who is taking any action against you will be committing a contempt of the Parliament and this Committee and he will be brought before this Committee. Therefore, you need not worry about any consequences if you furnish all the facts that you have in your possession.

SHRI P. S. BHATNAGAR : No, Sir.

MR. CHAIRMAN : Then it will be very difficult for you. I tell you.

PROF. P. G. MAVALANKAR : He approached all the officers and each one of them told him to keep quiet.

SHRI P. S. BHATNAGAR : Whoever I approached said that. I actually approached Mr. B. C. Malhotra. I asked him why I have been suspended.

SHRI B. SHANKARANAND : The question is : who asked you to keep quiet.

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**SHRI P. S. BHATNAGAR :** Mr. B. C. Malhotra.

**SHRI NARENDRA P. NATHWANI :** On the first day you spoke to Mr. Cavale, your superior and you were asked to supply the information about the persons. Please read para 2 of your affidavit :

"I was called by my Chief Marketing Manager, Shri L. R. Cavale and was given a letter from the Ministry of Heavy Industry asking me to give him a list of the business associates of the machine tools which was required by the Ministry of Heavy Industry in connection with some Parliament question. I gave this list of business associates of machine tools to my Chief Marketing Manager. Thereafter, again I was called by him and was advised to give him the details of the machines supplied to M/s. Maruti."

I am asking you this : when Mr. Cavale asked you to get this information from Maruti, did he ask you to check it up from your files also ?

**SHRI P. S. BHATNAGAR :** There is nothing in the files.

**SHRI NARENDRA P. NATHWANI :** Let us proceed step by step. Did he ask you to look into the files ? Then you might have tried not tried, found or not found.

**SHRI P. S. BHATNAGAR :** He told me, 'You check up in our office also. If it is not there, then you check with the business associates'.

**SHRI NARENDRA P. NATHWANI :** So files are maintained in the office normally and ordinarily.

**SHRI P. S. BHATNAGAR :** Yes.

**SHRI NARENDRA P. NATHWANI :** Did you try to check up from the files ?

**SHRI P. S. BHATNAGAR :** Since it was an old case, I rushed to Finance, but I could not get anything there. It was a Parliamentary question and Mr. Cavale was

after me to get the information. I tried here and there but I could not get it.

**SHRI NARENDRA P. NATHWANI :** This may go on record : he had asked you to check up the records of your department also. 'If there is any delay, you contact the business associates.'

**PROF. P. G. MAVALANKAR :** Prior to 15th April, 1975 did you have any occasions to collect information from Maruti through Batliboi ?

**SHRI P. S. BHATNAGAR :** No such Parliament question came to me. For me it was the first occasion.

**PROF. P. G. MAVALANKAR :** You said that S/Shri Mathur and Adeshra told you that they would give you information.

**SHRI P. S. BHATNAGAR :** They told me that they would collect information and let me know.

**PROF. P. G. MAVALANKAR :** Did you know them before ?

**SHRI P. S. BHATNAGAR :** They were business associates. I knew them before.

I enquired from them whether they had supplied any machine to Maruti. They said—yes. I asked them for the details which they supplied later on.

**PROF. P. G. MAVALANKAR :** Shri Dhawan telephoned you in the morning and in the afternoon and in between also he called you when you were not available. For the third call you got a message. Did you recognise Mr. Dhawan on the telephone ?

**SHRI P. S. BHATNAGAR :** He told me that he was R. K. Dhawan from the Prime Minister's Secretariat. I told him that I was Bhatnagar. He asked me whether I was collecting information.

**PROF. P. G. MAVALANKAR :** Then what happened ?

**SHRI P. S. BHATNAGAR :** I told him that I was collecting information. I was confused because in my life time I never

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got any such call from the Prime Minister's Secretariat. I put down the receiver.

PROF. P. G. MAVALANKAR : You said that you were confused. You said earlier that you were nervous. Why ?

SHRI P. S. BHATNAGAR : I was getting telephone calls from the Prime Minister's Secretariat. That was something new for me. That was the cause of nervousness or confusion.

PROF. P. G. MAVALANKAR : You have said in your statement—page 2—

“Again on the same day after lunch I got a telephone call from Mr. Dhawan advising me not to collect this.”

What did he tell you in the morning ?

SHRI P. S. BHATNAGAR : In the morning he asked me whether I was collecting information. I told him that I was collecting the information.

In the afternoon he told me to stop collecting information. I told him to tell Mr. Cavale in this regard.

PROF. P. G. MAVALANKAR : When he telephoned in the afternoon, what did he say ? Do you recall ?

SHRI P. S. BHATNAGAR : He said, you should not collect information.

PROF. P. G. MAVALANKAR : What was your reply ?

SHRI P. S. BHATNAGAR : I said : I will do it, but kindly inform my Chief Marketing Manager.

PROF. P. G. MAVALANKAR : Why did you say you will do it ? Because, it came from Prime Minister's Secretary ?

SHRI P. S. BHATNAGAR : It was telephone call from PM's Secretariat. Please tell me what else I could do. I could not say, no. I could not say, yes. I said, certainly I will do, but you inform my officer. If Mr. Cavale will tell me, then I will do. My reply amounts to that.

PROF. P. G. MAVALANKAR : Your reply, 'I will do' means you will not collect information. Not the other way round. But he must inform Mr. Cavale.

SHRI P. S. BHATNAGAR : Yes.

PROF. P. G. MAVALANKAR : Did you inform your boss Mr. Cavale about the telephone call ?

SHRI P. S. BHATNAGAR : I told him : 'You have asked me to collect the information. I am collecting it. But now I have received telephone call from Mr. R. K. Dhawan.' Actually I do not know who were working in the PM's Secretariat. I don't know who are the Private Secretaries or the Additional Secretaries and so on. I told him : 'One Mr. R. K. Dhawan gave me a ring like this. You please tell me what I should do, should I stop it or should I continue it?' He said : 'No. You continue collecting it and give it to me or to the Chairman and not to anybody else.' In the afternoon Cavale was not there.

PROF. P. G. MAVALANKAR : You had no occasion to talk to him.

SHRI P. S. BHATNAGAR : No.

PROF. P. G. MAVALANKAR : Who is L. K. Dhawan ?

SHRI P. S. BHATNAGAR : Our Director.

PROF. P. G. MAVALANKAR : He asked you whether you are collecting information. You said, yes. In the meantime, Mathur and Adeshra had given to you all the papers.

SHRI P. S. BHATNAGAR : It was 3.30 or 4 or sometime in between that, may be a few minutes here and there. Mr. Mathur and Mr. Adeshra came to me. I asked : Have you got the information. They said : Yes, we have got. Unluckily it so happened. The envelope was there on my table. I was immediately called by my Director Dhawan. I left the paper there. They were sitting there. I was thinking why everybody is asking me about it again and

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again. We get so many Parliament Questions, but what is it that is specific about this question. That was what I was thinking. When he asked me, I said, yes, I am collecting it. He said, you give all the papers back. That was a time full of tension in my mind. I thought it may be that some meeting or something else might be going on and so these informations are required. When I was placed under suspension at 10.30 it was a shock. When I asked them, they said, we don't know. You are suspended.

PROF. P. G. MAVALANKAR : When they were there you were called by L. K. Dhawan. Telephone came to you to see him. Immediately you left the room, you left the paper there, without seeing it.

You were in a hurry. You immediately left. At that time, were Mathur and others there in the room ?

SHRI P. S. BHATNAGAR : They were in my room.

PROF. P. G. MAVALANKAR : You left the papers with Mr. Dhawan because he told you to give all the papers.

SHRI P. S. BHATNAGAR : He asked whatever papers I have, I should give to him.

PROF. P. G. MAVALANKAR : Did you try to contact your immediate boss Mr. Cavale ?

SHRI P. S. BHATNAGAR : There was no much of trouble. From my side I was facing a lot of embarrassment at that time. What can Cavale do ? Perhaps Shri Dhawan was aware that Mr. Cavale was not there. Otherwise, he would have called him.

PROF. P. G. MAVALANKAR : You did not talk to Mr. Cavale for giving the papers.

SHRI P. S. BHATNAGAR : He was not there in the office at that time.

PROF. P. G. MAVALANKAR : Did you give the papers to Mr. Dhawan without even looking at them ?

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SHRI P. S. BHATNAGAR : Because I thought that this was coming on my head. Let me get rid of it.

PROF. P. G. MAVALANKAR : Who is Mr. B. C. Malhotra ?

SHRI P. S. BHATNAGAR : He is now a Group Executive. He was Chief Personnel Manager in my office.

PROF. P. G. MAVALANKAR : Had you any occasion to meet him before ?

SHRI P. S. BHATNAGAR : I know everybody in office. He also came to know on 15th.

MR. CHAIRMAN : Shri L. K. Dhawan was senior to Mr. Malhotra.

SHRI P. S. BHATNAGAR : No, Sir. Shri L. K. Dhawan was on the trade side, I was on the trade side and Shri Cavale was on the trade side. But, Shri Malhotra was on the personnel side.

MR. CHAIRMAN : Mr. L. K. Dhawan asked you to give all the informations that you had collected to him. Under what authority did he ask you to do that ?

SHRI P. S. BHATNAGAR : He was our Director.

MR. CHAIRMAN : That is the point I wanted to know.

PROF. P. G. MAVALANKAR : When you got the charge-sheet of the CBI about this disproportionate wealth etc. what was your reaction to that charge ?

SHRI P. S. BHATNAGAR : Sir, all this was a false charge. Perhaps they were not knowing that my wife is drawing as much salary as I am. I have one son. I am paying Rs. 120 as house rent. I have no house or land anywhere. My son is getting a scholarship of Rs. 500.

PROF. P. G. MAVALANKAR : Was your wife having some job ?

SHRI P. S. BHATNAGAR : She is a school teacher even now. She has been a school teacher for the last 19 years and at that time posted in Government Girls School at Lajpat Nagar.



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Shri P. S. Bhatnagar

PROF. P. G. MAVALANKAR : What is your son doing ?

SHRI P. S. BHATNAGAR : He is doing (M.Ph.) Ph.D.

PROF. P. G. MAVALANKAR : My last question is this. You said that you were reinstated on 1st September, 1976. Then an additional charge was put. That was on 3rd September, 1976. Was that on the basis of the CBI Report? Is it right?

SHRI P. S. BHATNAGAR : Yes, Sir.

PROF. P. G. MAVALANKAR : There are conduct rules. Practically this has nothing to do with that. The charge was made on the basis of the CBI.

SHRI P. S. BHATNAGAR : That is my feeling.

SHRI KRISHAN KANT : When you were served with the suspension order at 10.30 in the night, did you have any talk with him?

SHRI P. S. BHATNAGAR : At that point of time, he came to my house; Shri Malhotra and Shri Taneja were also there waiting in the staff car. I went there but I was told 'Mr. Bhatnagar, I am sorry, you had been suspended'. I asked : for what?

They said 'You are suspended'. I said 'all right. It must be about that thing'.

SHRI KRISHAN KANT : You must have got it because you had collected information about Maruti.

SHRI P. S. BHATNAGAR : That was about the Parliament question.

SHRI KRISHAN KANT : Later on, then you might have got the charge-sheet.

SHRI P. S. BHATNAGAR : Yes, Sir.

SHRI KRISHAN KANT : At that time the information was known that it was due to a Parliamentary question.

SHRI P. S. BHATNAGAR : From top to bottom everywhere it was known that

I was suspended only on account of that Parliamentary question.

SHRI KRISHAN KANT : So, everybody is aware of it.

When the CBI conducted the raid at your house did they take any papers?

SHRI P. S. BHATNAGAR : I think they took my pass-book.

SHRI KRISHAN KANT : Were you called for any interrogation by CBI?

SHRI P. S. BHATNAGAR : Many times.

SHRI KRISHAN KANT : What things did they ask from you?

SHRI P. S. BHATNAGAR : Have you got property? What is your income? They got a statement from my office. They got a statement from my wife's school. They went to the college of my son. CBI went to my native place. They called my neighbours. I have got one son and one daughter. I was humiliated.

SHRI KRISHAN KANT : Do not worry. You are not humiliated now. So, the whole interrogation was only in respect of your property and assets.

SHRI P. S. BHATNAGAR : Yes.

SHRI KRISHAN KANT : Do you know what L. K. Dhawan did with the information got from you?

SHRI P. S. BHATNAGAR : I do not know.

SHRI NARSINGH : Apart from Batliboi did you contact any other concern?

SHRI P. S. BHATNAGAR : Blue Star.

SHRI NARSINGH : Had you been told by Mr. L. K. Dhawan earlier in collecting information in regard to other Parliament questions?

SHRI P. S. BHATNAGAR : No, Sir.

SHRI NARSINGH : You have mentioned that a letter was given to me by

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Mr. Mathur which I could not go through. What type of letter was given by Mr. Mathur to you ?

SHRI P. S. BHATNAGAR : It contained details of the machines which they supplied to Maruti.

SHRI NARSINGH : Is there any relationship between L. K. Dhawan and R. K. Dhawan ?

SHRI P. S. BHATNAGAR : I do not know.

MR. CHAIRMAN : First you said that you promptly attended to Batliboi men—Mathur and Adarshah. Then you said that you were called by Mr. L. K. Dhawan. What was the time period for which you were absent from your room ?

SHRI P. S. BHATNAGAR : About ten minutes.

MR. CHAIRMAN : Is it a fact that you unduly kept them waiting in your office ?

SHRI P. S. BHATNAGAR : It is said in the charge-sheet.

MR. CHAIRMAN : Was there any foreigner present ?

SHRI P. S. BHATNAGAR : No, Sir.

MR. CHAIRMAN : Neither in your office nor outside.

SHRI P. S. BHATNAGAR : I did not see anybody.

MR. CHAIRMAN : Because there was a charge against you that you insulted them in the present of foreigners. . . .

SHRI P. S. BHATNAGAR : That is not against me, I believe. I know whom you are referring to. Because in Shah Commission, the same question was asked and he told 'No'.

MR. CHAIRMAN : Where is Mr. Mathur ? Where can we get the address of Mr. Mathur and Mr. Adarshah ?

SHRI P. S. BHATNAGAR : You can get the address from the telephone guide.

MR. CHAIRMAN : Are they coming to you ?

SHRI P. S. BHATNAGAR : No. They are not coming to me.

MR. CHAIRMAN : Whether they are still in Batliboi ?

SHRI P. S. BHATNAGAR : They should be in Batliboi.

SHRI B. SHANKARANAND : Before the witness goes, I want to see the documents. I want to see the suspension letter and the other letter in original.

MR. CHAIRMAN : He will be leaving the relevant papers with our official.

SHRI B. SHANKARANAND : Unless I see them now, I fear that there might be some tampering with the records.

MR. CHAIRMAN : We can get it from Shah Commission. I am trying to get it from the Ministry.

SHRI B. SHANKARANAND : Because he has referred it now, I want to see them now itself. There is this memorandum dated 29th April, 1975.

SHRI P. S. BHATNAGAR : That is the chargesheet.

SHRI B. SHANKARANAND : This is dated 15-4-1975 ; this is the order of suspension. On this have you noted the date of receipt and time ?

SHRI P. S. BHATNAGAR : I request that this may be checked from my office because my signatures were taken on that ; not here.

SHRI B. SHANKARANAND : Have you noted the time and date ?

SHRI P. S. BHATNAGAR : I have given the time and date of receipt on that copy.

SHRI B. SHANKARANAND : You are not to argue with me. You are a witness and I am asking you a straight question. Have you noted the date and time of the receipt of this order ?

SHRI P. S. BHATNAGAR : Not on this letter ; but on the office copy of the letter I have noted the time and put my signature. This is my personal copy ; how

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can I mention it? In the office copy I have mentioned it.

**SHRI B. SHANKARANAND :** I have my own way of asking questions and I know why I am putting this question.

Your hand-written defence reply to the charges, the original draft—was it made by you?

**SHRI P. S. BHATNAGAR :** Yes, Sir.

**SHRI B. SHANKARANAND :** Who corrected this?

**SHRI P. S. BHATNAGAR :** My wife. These letters are with CBI and if you want you may call for them.

**MR. CHAIRMAN :** You give all the documents that are being required by the Office. You can take a receipt from them

saying that these papers have been given to them. They will take photostat copies of them and the documents will be returned to you within a reasonable time. When you get back the documents, you will also have to give a receipt.

**SHRI P. S. BHATNAGAR :** As for my reply, I again request that these may be taken from the office file.

**MR. CHAIRMAN :** Leave that to us. You may now withdraw, as we have to discuss something. If required, you will be called again. Thank you.

**SHRI P. S. BHATNAGAR :** Thank you.

*(The witness then withdrew)*

Tuesday, the 4th April, 1978

**PRESENT**

Professor Samar Guha — *Chairman*

**MEMBERS**

2. Shri O. V. Alagesan
3. Shri Hitendra Desai
4. Shri Krishan Kant
5. Professor P. G. Mavalankar
6. Shri Narsingh
7. Shri Narendra P. Nathwani
8. Shri B. Shankaranand

**SECRETARIAT**

Shri J. R. Kapur — *Chief Legislative Committee Officer*

**WITNESSES**

- (1) Shri J. S. Mathur, (Liaison Officer, Batliboi and Co. Ltd., New Delhi).
- (2) Shri L. M. Adeshra, (Resident Dy. General Manager, Batliboi and Co. Ltd., New Delhi).
- (3) Shri B. M. Lal, (Dy. General Manager, Batliboi and Co. Ltd., New Delhi).

(The Committee met at 15.00 hours)

**(i) Evidence of Shri J. S. Mathur**

MR. CHAIRMAN : Mr. Mathur, you have been asked to appear before the Committee to give your evidence in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain Questions in Lok Sabha on Maruti Limited. I hope, you will state the factual position and your version of the events freely and truthfully.

I may inform you that the evidence that you may give before this Committee is to be treated by you as confidential till the report of the Committee and its proceedings

*Shri J. S. Mathur*

are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. This evidence which you will give before the Committee may be reported to the House.

Now, you may take oath or affirmation as you like.

(*Shri J. S. Mathur then took the oath.*)

MR. CHAIRMAN : You have submitted an affidavit before the Shah Commission. You can read it out.

SHRI J. S. MATHUR : "I, J. S. Mathur, son of Shri Amar Singh Mathur, aged about 42 years, resident of B-69/2, D.D.A. flats, East of Kailash, New Delhi-110024, do hereby solemnly affirm and state as under :—

1. That on 24th August, 1977, I was called by Shri R. C. Sharma, Superintendent of Police in the Office of the Shah Commission of Enquiry, and was required to send a statement affirming the facts relating to the queries raised during the discussion. Accordingly, I submitted a statement affirming the facts which were already communicated orally during the said meeting. A true copy of the statement together with the covering letter dated 27th August 1977, is annexed hereto and marked Annexure-'A' (collectively). As desired by Shri R. C. Sharma, Superintendent of Police, the contents of the said statement are being affirmed by way of the present affidavit as under :—

2. That I am working as a Liaison Officer for Messrs Batliboi & Co. Private Limited. As a Liaison Officer of the Company I have to follow up cases with various Departments of the Government including the Projects Equipments Corporation Limited (PEC). I have known Shri P. S. Bhatnagar, Deputy Marketing Manager in PEC during the course of my work.

I remember to have received a telephonic call from Shri P. S. Bhatnagar, Deputy Marketing Manager PEC, some-

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Shri J. S. Mathur

time at the end of second week of April 1975 requesting me to furnish information about machine tools imported through PEC and supplied to M/s. Maruti Ltd. I had told Mr. Bhatnagar that the information asked for was already contained in the Quarterly Sales Returns submitted to their office. However, since he desired that the information should be again supplied to him as the same was required by his Superior Officer, the same was collected and furnished by letter dated 15-4-1975. The said letter was handed-over on the same day to Shri Bhatnagar in his office. Shri L. M. Adeshra, Resident Deputy General Manager of the Company was also with me on that occasion.

I affirm that I did not convey to any representative of Maruti Limited that the fact of collection and supply of the information contained in the said letter dated 15th April, 1975. I also affirm that I did not make any complaint against Shri P. S. Bhatnagar regarding his behaviour to any one and there was no cause to make any complaint."

Annexure-'A'

"Dated : 27th August 1977.

Shri R. C. Sharma

Superintendent of Police

Office of the Shah Commission of Enquiry

Patiala House

New Delhi.

Dear Sir,

This has reference to the discussion with you in your office on 24th instant when you had called the undersigned along with Shri L. M. Adeshra, Resident Deputy General Manager of my Company. At this meeting you desired that I should send you a statement affirming the facts relating to the request received from Shri P. S. Bhatnagar, Deputy Marketing Manager, Projects Equipments Corporation Limited (PEC) in April, 1975, requesting for information about machine tools imported through PEC

and supplied to Maruti Limited and the submission of letter dated 15-4-1975 pursuant thereto. You also desired I should state if any information regarding the same was conveyed by me to any representative of Maruti Limited. You further desired clarification whether any complaints were made regarding the behaviour of Mr. P. S. Bhatnagar.

As desired by you, I am enclosing herewith a signed statement affirming the facts already communicated to you orally in your office on 24th August 1977. Please acknowledge receipt of this letter and the enclosed statement.

Yours faithfully,

for BATLIBOI &amp; COMPANY (P) LTD.

Sd/-

J. S. MATHUR

LIAISON OFFICER."

## STATEMENT

"I am working as a Liaison Officer for Messrs. Batliboi & Company Private Limited.

As a Liaison Officer of the Company I have to follow-up cases with various Departments of the Government including the Projects Equipments Corporation Limited (PEC). I have known Shri P. S. Bhatnagar, Deputy Marketing Manager in PEC during the course of my work.

I remember to have received a telephonic call from Shri P. S. Bhatnagar. . . ."

MR. CHAIRMAN : Is this the same thing that you gave in the Affidavit ?

SHRI J. S. MATHUR : Yes.

MR. CHAIRMAN : Then, that is all right. You need not read. There is no necessity of reading it out.

SHRI HITENDRA DESAI : During this time, did you ever meet Mr. P. S. ?

SHRI J. S. MATHUR : I have not met him.

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Shri J. S. Mathur

**SHRI NARENDRA P. NATHWANI :** As a liaison officer, what are your duties? What work do you have to perform, actually?

**SHRI J. S. MATHUR :** We have to follow up applications received from our head office, with the government department, and inform them about the position.

**SHRI NARENDRA P. NATHWANI :** Is this company a limited company?

**SHRI J. S. MATHUR :** Yes, Sir; it has now become so, i.e. in November 1977.

**SHRI NARENDRA P. NATHWANI :** Before that, was it a partnership, or a private company?

**SHRI J. S. MATHUR :** A private Ltd. company.

**SHRI NARENDRA P. NATHWANI :** It has now become a public limited company.

**SHRI J. S. MATHUR :** Yes.

**SHRI NARENDRA P. NATHWANI :** Are you not concerned with obtaining orders from any private parties?

**SHRI J. S. MATHUR :** No, Sir.

**SHRI NARENDRA P. NATHWANI :** I am reading out what you have stated:

"I remember to have received a telephone call from Mr. Bhatnagar, Dy. Marketing Manager, at the end of second week of April 1975 requesting me to furnish information about machine tools imported through PEC and supplied to Messrs. Maruti Ltd.

Why? You are merely concerned with following things up. You have said it. How were you concerned with supplying this information?

**SHRI J. S. MATHUR :** Since I go to the PEC for follow-up work, and Mr. Bhatnagar wanted this information, he

telephoned the liaison office for the information, i.e. about the details of the machines. And this information was not available with me. As I have already stated, this was being collected. We were submitting quarterly sales returns to the PEC. I said that it was already available with him. He said: "We want you to submit it again." I collected it from the marketing division and supplied it.

**SHRI O. V. ALAGESAN :** You had dealings with Mr. Bhatnagar?

**SHRI J. S. MATHUR :** Yes.

**SHRI O. V. ALAGESAN :** You should have met him several times. Was he courteous or rude?

**SHRI J. S. MATHUR :** He was never rude. He was very co-operative. There was no problem.

**SHRI O. V. ALAGESAN :** Why were you asked to supply information regarding the PEC?

**SHRI J. S. MATHUR :** Because the machines were imported through PEC.

**SHRI O. V. ALAGESAN :** On the day you supplied the information, were you made to wait by Mr. Bhatnagar?

**SHRI J. S. MATHUR :** No, not at all.

**SHRI O. V. ALAGESAN :** Whenever you went there, there were others also?

**SHRI J. S. MATHUR :** He was sitting in the hall. Many people must be there.

**SHRI O. V. ALAGESAN :** I am referring to your meeting Mr. Bhatnagar.

**SHRI J. S. MATHUR :** I do not recollect exactly. May be, somebody was there.

**SHRI O. V. ALAGESAN :** Can it be said that he gave you preference, he made others wait and he was attending to you?

**SHRI J. S. MATHUR :** Actually, there was no question of waiting. There is no such thing unless he is busy. Then we have to wait outside.

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Shri J. S. Mathur

SHRI B. SHANKARANAND : At the time you supplied the information to Mr. Bhatnagar, was your Company Private Limited or Public Limited ?

SHRI J. S. MATHUR : Private Limited.

SHRI B. SHANKARANAND : Have you any legal adviser for your Company ?

SHRI J. S. MATHUR : No. There is a Company Secretary in Bombay, not in Delhi.

SHRI B. SHANKARANAND : Who looks after the legal affairs of the Company ? Have you a legal officer ?

SHRI J. S. MATHUR : I have nothing to do with the court cases ?

SHRI B. SHANKARANAND : Who looks after them ?

SHRI J. S. MATHUR : There is the Commercial Manager, Mr. Behl, who deals with commercial matters.

SHRI B. SHANKARANAND : I was asking about legal matters. If you do not know, say so.

SHRI J. S. MATHUR : I do not know.

SHRI B. SHANKARANAND : As the Liaison Officer, is it or is it not your job to look after the legal affairs of the Company ?

SHRI J. S. MATHUR : It is not my job.

SHRI B. SHANKARANAND : Who drafted this affidavit for you ?

SHRI J. S. MATHUR : I drafted this affidavit.

SHRI B. SHANKARANAND : In consultation with somebody ?

SHRI J. S. MATHUR : Only in office.

SHRI B. SHANKARANAND : Did you consult anybody ? Please reply to my question.

SHRI J. S. MATHUR : Yes, I consulted my office colleagues.

SHRI B. SHANKARANAND : We want to know the names.

SHRI J. S. MATHUR : I consulted my Deputy General Manager, Mr. Adeshra, who is my boss, no one else.

SHRI B. SHANKARANAND : Both of you finalised the affidavit ?

SHRI J. S. MATHUR : Yes.

SHRI B. SHANKARANAND : You have written a letter to the S.P. You have said that you had a discussion with the S.P. on the 24th of August.

SHRI J. S. MATHUR : Correct.

SHRI B. SHANKARANAND : Did you *suo motu*, on your own accord, go to the S.P. or he sent for you ?

SHRI J. S. MATHUR : He made a phone call to me. There was a phone call from Mr. Sharma.

SHRI B. SHANKARANAND : What did he say ?

SHRI J. S. MATHUR : He said : on this particular date you come here, we want to have a discussion on this matter, on this subject of supply of machines to Maruti.

SHRI B. SHANKARANAND : When did he phone to you ?

SHRI J. S. MATHUR : On 24th August, 1977.

SHRI B. SHANKARANAND : You met him on the 24th August.

SHRI J. S. MATHUR : No. I do not recollect the date.

SHRI B. SHANKARANAND : Don't get confused, because you have said you had a discussion on the 24th August.

SHRI J. S. MATHUR : Might be the phone call came one or two days earlier, but on the 24th I met him.

SHRI B. SHANKARANAND : The phone call might have come to you...

SHRI J. S. MATHUR : ...one or two days earlier. The date I cannot remember now.

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SHRI B. SHANKARANAND : I have not asked you the date.

He called you for a discussion about the supply of machinery to Maruti. Is that correct?

SHRI J. S. MATHUR : Yes.

SHRI B. SHANKARANAND : Did you go with full information or you just went?

SHRI J. S. MATHUR : I went there with whatever I know. There was nothing with me, no papers.

SHRI B. SHANKARANAND : What I mean to say is : did you go to him fully prepared for the discussion?

SHRI J. S. MATHUR : I did not know what he was going to ask me. I went there and whatever I knew, I told him.

SHRI B. SHANKARANAND : Did you carry any papers with you?

SHRI J. S. MATHUR : No.

SHRI B. SHANKARANAND : Did you consult Mr. Adeshra, that you had been called by the S.P.?

SHRI J. S. MATHUR : Yes, he also got a call. We both went together.

SHRI B. SHANKARANAND : And the three of you just had a discussion about the supply of machinery. Who else was there?

SHRI J. S. MATHUR : Mr. Lal went there afterwards.

SHRI B. SHANKARANAND : Only you two and the S.P. were there?

SHRI J. S. MATHUR : Yes.

SHRI B. SHANKARANAND : Look at the list of machine tools that you have given.

SHRI J. S. MATHUR : I do not have a copy with me.

SHRI B. SHANKARANAND : I will read out for you. Have you submitted it before the Shah Commission?

SHRI J. S. MATHUR : Mr. Adeshra had submitted.

SHRI B. SHANKARANAND : Not you?

SHRI J. S. MATHUR : Not me.

SHRI B. SHANKARANAND : Are you well versed in machine tools?

SHRI J. S. MATHUR : No, I am not a technical man.

SHRI B. SHANKARANAND : So, you cannot say anything about any machine?

SHRI J. S. MATHUR : No.

SHRI B. SHANKARANAND : Tell me, what exactly was the discussion with the S.P.?

SHRI J. S. MATHUR : He asked me what I knew about this matter. I would not remember word for word. He just asked me : "What information do you have about this harassment of these Government officials? Can you assist us?" So, I told him that Mr. Bhatnagar phoned me—what I said here—and he wanted this information which we supplied. He asked whether Mr. Bhatnagar was rude to us, I said : No, he was never rude to us. Then he asked : "Have you informed this fact to the Maruti?" I said : No.

SHRI B. SHANKARANAND : About this, you have written in your letter : "Do you also desire, I should state any information given by me to any representative of Maruti Limited?" Why did you ask this?

SHRI J. S. MATHUR : That I do not know. He asked me this question and I said I have not informed.

SHRI B. SHANKARANAND : Was there any discussion with the S.P. about the affairs of Maruti Company before you?

SHRI J. S. MATHUR : No. Only about the supply of machines and nothing else.

SHRI B. SHANKARANAND : Then why did he ask this question?



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Shri J. S. Mathur

SHRI J. S. MATHUR : I do not know. He has to reply.

SHRI B. SHANKARANAND : You are importing machines through PEC. Are you importing machines directly also ?

SHRI J. S. MATHUR : Direct against actual users' licence. We are the agent of Czechoslovakia machines.

SHRI B. SHANKARANAND : For how many companies you are the agent ?

SHRI J. S. MATHUR : I know the name is Stroj import for whom we are the agent. Batliboi is the agent of many companies.

We are agent of Kirloskar and many other companies in India.

SHRI B. SHANKARANAND : What is the percentage of business through PEC of the company ?

SHRI J. S. MATHUR : I can tell you the value of the licence and that is Rs. 2.5 crores.

SHRI B. SHANKARANAND : Since you are a private firm and bulk of your business is done through PEC, you know Mr. Bhatnagar. Have you ever displeased Mr. Bhatnagar on any account ?

SHRI J. S. MATHUR : The question of displeasure does not arise.

SHRI B. SHANKARANAND : Have you ever displeased him ?

SHRI J. S. MATHUR : No.

SHRI B. SHANKARANAND : Since when do you know Mr. Bhatnagar ?

SHRI J. S. MATHUR : I know during the course of my work. He was there perhaps since 1973.

SHRI B. SHANKARANAND : Do you know him for the last 6-7 years ?

SHRI J. S. MATHUR : Yes.

SHRI B. SHANKARANAND : When did you meet him last ?

SHRI J. S. MATHUR : He met me about 2 months back in the office only.

SHRI B. SHANKARANAND : What was the occasion ?

SHRI J. S. MATHUR : There was no occasion—just while going to the building. Now PEC has shifted their office to Hansalaya building.

SHRI B. SHANKARANAND : Besides business meeting, you also have casual meetings with him. Is that correct ?

SHRI J. S. MATHUR : I do not know what you are asking. When I go to the office and if he is coming from somewhere, and if he says, hallo I talk to him. That is all.

SHRI B. SHANKARANAND : If you do not understand the question, you ask me again. Besides business meetings, if you casually meet him—you say yes or no—do you talk to him ?

SHRI J. S. MATHUR : I do not know what you are asking. I am not able to answer it.

MR. CHAIRMAN : The hon. Member is asking that besides your business contacts with Mr. Bhatnagar, did you have any occasion other than,—as you say, while going and coming you meet each other—to meet each other ?

SHRI J. S. MATHUR : There was no other occasion.

MR. CHAIRMAN : Whether you meet him often.

SHRI J. S. MATHUR : No, Sir.

SHRI B. SHANKARANAND : I never asked you about your meeting in the office. I am not asking whether you meet him in the office or outside. My question is this. Mr. Bhatnagar had said that you both met because you knew each other through business dealings. Is that correct ?

SHRI J. S. MATHUR : Yes, on business dealings.

SHRI B. SHANKARANAND : Did you meet each other—I should say like that—only on business dealings or otherwise also ? I put it very briefly.

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SHRI J. S. MATHUR : Yes.

SHRI B. SHANKARANAND : You meet him otherwise also.

SHRI J. S. MATHUR : Yes.

SHRI B. SHANKARANAND : Why were you so reluctant to answer this question ?

MR. CHAIRMAN : Where do you meet him ?

SHRI J. S. MATHUR : There is no particular place.

MR. CHAIRMAN : Whether you meet him in office or outside or at your residence or in the cinema hall or in the road crossing or in the football ground or at the entertainment place.

SHRI J. S. MATHUR : When I go to the office, occasionally, if he comes from somewhere, I meet him. Let it be made clear to you.

SHRI B. SHANKARANAND : You said in your memorandum and also before this Committee that Mr. Bhatnagar had asked you to send information on phone. You had told him that the information asked for was already contained in the Quarterly Sales Return submitted to their office. Is that correct ?

SHRI J. S. MATHUR : That is correct.

SHRI B. SHANKARANAND : Every quarter you are submitting returns to the PEC...

SHRI J. S. MATHUR : Yes, Sir.

SHRI B. SHANKARANAND : Is there any agreement between the PEC and your company ?

SHRI J. S. MATHUR : Yes.

SHRI B. SHANKARANAND : Are there any rules under which the agreement is made ?

SHRI J. S. MATHUR : I do not know.

SHRI B. SHANKARANAND : But there is an agreement.

Shri J. S. Mathur

SHRI J. S. MATHUR : Yes.

SHRI B. SHANKARANAND : Have you got a copy of the Agreement with you ?

SHRI J. S. MATHUR : Not here.

SHRI B. SHANKARANAND : Who is the Managing Director of your company ?

SHRI J. S. MATHUR : There is no Managing Director...

SHRI B. SHANKARANAND : Who is the executive head ?

SHRI J. S. MATHUR : Shri J. N. Mehrotra.

SHRI B. SHANKARANAND : You are the junior-most officer of the company ?

SHRI J. S. MATHUR : That is correct.

SHRI B. SHANKARANAND : May I know why Mr. Adeshra accompanied you to the office of Mr. Bhatnagar ?

SHRI J. S. MATHUR : He came there. He went there for some other work. He came after I had reached. When I was with Mr. Bhatnagar, after a few minutes, Mr. Adeshra came.

SHRI B. SHANKARANAND : Was Mr. Adeshra sent for by Mr. Bhatnagar ?

SHRI J. S. MATHUR : I do not know.

SHRI B. SHANKARANAND : Were you sent for by Mr. Bhatnagar ?

SHRI J. S. MATHUR : Mr. Bhatnagar had asked for the information. He had asked me to come.

SHRI B. SHANKARANAND : You did not go of your own accord ?

SHRI J. S. MATHUR : No; he had asked me to come.

SHRI B. SHANKARANAND : How long were you with Mr. Bhatnagar ?

SHRI J. S. MATHUR : For about five to ten minutes.

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**SHRI B. SHANKARANAND :** Was there any discussion ?

**SHRI J. S. MATHUR :** No discussion. He just wanted that letter. . .

**SHRI B. SHANKARANAND :** You did not talk to him ?

**SHRI J. S. MATHUR :** He asked me whether I had brought the letter. I said, 'Yes' and gave him. He took that letter. There was no discussion.

**SHRI B. SHANKARANAND :** When you were giving the information, was Mr. Adeshra with you ?

**SHRI J. S. MATHUR :** Yes.

**SHRI B. SHANKARANAND :** What talks had he with Mr. Bhatnagar ?

**SHRI J. S. MATHUR :** I do not recollect. Some general discussion.

**SHRI B. SHANKARANAND :** What general discussion ?

**SHRI J. S. MATHUR :** I do not remember. Mr. Adeshra is here. You can ask him.

**SHRI B. SHANKARANAND :** I know whom to ask and whom not to ask. I am asking you because both of you were there. You can give the details of the discussion. There is nothing wrong.

**SHRI J. S. MATHUR :** I do not recollect anything. He asked whether I brought the information. I said 'Yes' and it was given to him. I don't think there was anything special. I don't recollect.

**SHRI B. SHANKARANAND :** But if you were there for five to ten minutes. . .

**MR. CHAIRMAN :** I have to protect the witness also. He says he does not recollect.

**SHRI B. SHANKARANAND :** But he says he was there for five to ten minutes and if, to utter one sentence, he has to be there for five to ten minutes, I don't know what to say.

*Shri J. S. Mathur*

**SHRI J. S. MATHUR :** It may be five minutes or less than five minutes. I don't remember exactly.

**SHRI B. SHANKARANAND :** You are free to tell us anything. You can even tell us you came away immediately : I have nothing to say.

**MR. CHAIRMAN :** Do you recollect whether Shri Adeshra had any talks with Mr. Bhatnagar ? You say you cannot recollect, but can you refresh your memory as to whether Mr. Adeshra had any talks with Mr. Bhatnagar ?

**SHRI J. S. MATHUR :** It was the same thing—whether a reply had come. He said 'yes' and it was given to him. That is all. I don't recollect anything special.

**SHRI B. SHANKARANAND :** You don't know why Mr. Adeshra came along with you at that time ?

**SHRI J. S. MATHUR :** No sir.

**SHRI B. SHANKARANAND :** Did he go along with you while returning from Mr. Bhatnagar ?

**SHRI J. S. MATHUR :** While returning he came back with me but he went to PEC on his own : he was not with me.

**SHRI B. SHANKARANAND :** Who is the officer who has the records regarding the Agreement you have with the PEC ?

**SHRI J. S. MATHUR :** Mr. Adeshra.

**SHRI B. SHANKARANAND :** So he alone can produce it ?

**SHRI J. S. MATHUR :** No, I can also give it to you.

**SHRI B. SHANKARANAND :** Now, you deposed in your Affidavit :

"I affirm that I did not convey to any representative of Maruti Limited that the fact of collection and supply of the information contained in the said letter dated 15th April, 1975."

Why did you mention this fact in your Affidavit ?

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Shri J. S. Mathur

SHRI J. S. MATHUR : Mr. Sharma asked me to do so.

SHRI B. SHANKARANAND : Mr. Sharma asked you to do so ?

SHRI J. S. MATHUR : Yes. He said "you write that".

SHRI B. SHANKARANAND : By Mr. Sharma you mean the Superintendent of Police ?

SHRI J. S. MATHUR : Yes, sir.

SHRI B. SHANKARANAND : Now, did it not strike you that the information asked for by Shri Bhatnagar about Maruti was already there with the PEC since you were regularly submitting quarterly returns to them ?

SHRI J. S. MATHUR : Yes, this information was already with them.

SHRI B. SHANKARANAND : Now, would you say that there was no occasion for Mr. Bhatnagar or any other officer of the PEC to get angry with you any of your officers ?

SHRI J. S. MATHUR : There was no occasion for them to get angry with me.

SHRI B. SHANKARANAND : You could not afford to incur their displeasure; after all you are a private company.

SHRI J. S. MATHUR : There is nothing like that.

SHRI B. SHANKARANAND : You met the SP on the 24th and you submitted your affidavit on the 27th. You took three days for filing the affidavit. Why three days for a simple affidavit like this ?

SHRI J. S. MATHUR : He said : You may give after two-three days; and we submitted it accordingly.

SHRI B. SHANKARANAND : Did you consult anybody ?

SHRI J. S. MATHUR : I consulted Mr. Adeshra.

SHRI B. SHANKARANAND : You took two-three days. Did you try to consult any legal lawyer before filing your affidavit before the Shah Commission ? There was nothing wrong in that also.

SHRI J. S. MATHUR : I know some lawyer personally. I talked to him also, but I drafted it myself.

SHRI B. SHANKARANAND : Who was the lawyer you consulted ?

SHRI J. S. MATHUR : Shri Ravinder Narain of Dadachanji; I know him personally.

SHRI B. SHANKARANAND : Who else ?

SHRI J. S. MATHUR : That is all.

SHRI B. SHANKARANAND : Adeshra also consulted this lawyer.

SHRI J. S. MATHUR : Yes; but I consulted him in my personal capacity.

SHRI B. SHANKARANAND : There is nothing wrong. Before filing did you consult Mr. Bhatnagar ?

SHRI J. S. MATHUR : No.

SHRI B. SHANKARANAND : Why did you not feel like consulting him ?

SHRI J. S. MATHUR : There was no need to consult him. Whatever I knew I have given it.

SHRI B. SHANKARANAND : I would like to put one or two more questions.

SHRI J. S. MATHUR : Technical questions I will not be able to answer.

SHRI B. SHANKARANAND : At the moment these are my questions.

MR. CHAIRMAN : Was there any foreigner present when you talked to Mr. Bhatnagar ?

SHRI J. S. MATHUR : No.

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Shri J. S. Mathur

MR. CHAIRMAN : You say, 'I was asked to write', and 'I affirm that I did not convey to any representative of Maruti Ltd. about collecting this information.'

SHRI J. S. MATHUR : Correct.

MR. CHAIRMAN : You said that Mr. Sharma asked you to write.

SHRI J. S. MATHUR : Mr. Sharma asked me whether I have informed about this fact to anybody and I said, 'No'.

MR. CHAIRMAN : On the basis of your talk Mr. Sharma himself did not suggest this on his own ?

SHRI J. S. MATHUR : No.

SHRI HITENDRA DESAI : Did you ever mention about the behaviour of Mr. Bhatnagar to Mr. R. K. Dhawan ?

SHRI J. S. MATHUR : No.

*(The witness then withdrew)*

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(ii) Evidence of Shri L. M. Adeshra.

MR. CHAIRMAN : Mr. Adeshra, you have been asked to come to this Committee to give your evidence in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited. I hope you will state the factual position and give version of all events truthfully.

I may inform you that the evidence that you may give before the Committee is to be treated as confidential till the Report is presented to the Lok Sabha. Any disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. The evidence which you will give before this Committee may be reported to the House.

Now you may take an oath or affirmation, as you like.

SHRI L. M. ADESHRA : Took an oath.

MR. CHAIRMAN : You appeared before the Shah Commission. Would you read out the whole of it ?

SHRI L. M. ADESHRA : I read out the affidavit.

I, L. M. Adeshra S/o. late Shri M. K. Adeshra, aged about 58 years, resident of C-216, Defence Colony, New Delhi, do hereby solemnly affirm and state as under :—

1. That on 24th August 1977, I was called by Shri R. C. Sharma, Superintendent of Police in the Office of the Shah Commission of Enquiry, and was required to send a statement affirming the facts relating to the queries raised during the discussion. Accordingly, I submitted a

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statement affirming the facts which were already communicated orally during the said meeting. A true copy of the statement together with the covering letter dated 29th August, 1977 is annexed hereto and marked Annexure—A. (Collectively). As desired by Shri R. C. Sharma, Superintendent of Police, the contents of the said statement are being affirmed by way of the present affidavit as under :—

2. I say that I am the Resident Deputy General Manager of Batliboi & Company Private Limited, New Delhi. During the course of the business of the Company, I have to deal with various Departments of the Government, including the Projects and Equipments Corporation Limited (PEC). I have known Shri P. S. Bhatnagar, Deputy Marketing Manager in PEC during the course of my work.

Shri J. S. Mathur, Liaison Officer in my Office informed me sometime at the end of 2nd week of April, 1975 that he had received a telephone call from Shri P. S. Bhatnagar requesting him to furnish information about Machine Tools imported through PEC and supplied to M/s. Maruti Limited. Since the information asked for was already contained in the quarterly sales returns submitted to PEC, Shri Mathur was asked to inform Shri Bhatnagar accordingly. However, since Shri Bhatnagar desired that the information should be again supplied to him as the same was required by his superior officer, the same was collected and furnished by letter dated 15th April, 1975. A photocopy of the said letter is annexed herewith and initialled as true copy. The said letter was handed over the same day to Shri Bhatnagar in his office. I was also present in Shri Bhatnagar's office along with Shri Mathur on that day. I had also inquired from Shri Bhatnagar, at that

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time, if his superior officer, Shri Cavale, who required the information, was in office and was told that Shri Cavale was not in his office.

I affirm that I did not convey to any one in Maruti that the above information was being collected. I also affirm that I did not make any complaint against Shri P. S. Bhatnagar regarding his behaviour to anyone.

Sd/- L. M. Adeshra,  
Deponent.

Then I sent to Mr. R. C. Sharma the earlier statement which I had submitted to the Investigation Officer. This is the letter which I wrote on August 29, 1977.

"To Shri R. C. Sharma,  
Superintendent of Police,  
Office of the Shah Commission  
of Enquiry,  
New Delhi.

August 29, 1977

Dear Sir,

This has reference to the discussions with you in your office on 24th instant when you had called the undersigned along with Shri J. S. Mathur, Liaison Officer of my Company.

As desired by you, a statement has already been submitted by Shri J. S. Mathur to you on 27th instant. Since you desired that a statement regarding the same matter should also be submitted by the undersigned, the same is being sent herewith.

Yours faithfully,  
Sd/- L. M. Adeshra,  
Resident Deputy General  
Manager."

I attached along with this my statement as Resident Deputy General Manager, Batliboi and Co. Private Ltd., New Delhi. I said :

'I am the Resident Deputy General Manager of Batliboi and Company. . .'

Shri L. M. Adeshra

MR. CHAIRMAN : Is it the same forwarding letter ?

SHRI L. M. ADESHRA : Yes.

SHRI B. SHANKARANAND : This is not legible. Date is not legible.

Mr. CHAIRMAN : 29th is quite legible. Mr. Adeshra, you are a technical hand.

SHRI L. M. ADESHRA : No, I am not. I am an administrative personnel.

SHRI B. SHANKARANAND : Who is the technical hand ?

SHRI L. M. ADESHRA : My office is a liaison office. We have no technical people.

SHRI B. SHANKARANAND : In the liaison office, you do not have a technical hand on your office staff. Is that correct ?

SHRI L. M. ADESHRA : I am not a technical man if you are putting the question.

SHRI B. SHANKARANAND : What I am further asking you is different. I want to know this because you said you are not a technical hand. Yours is a liaison office. Your company has mainly dealt with liaison work.

SHRI L. M. ADESHRA : Yes, Sir.

SHRI B. SHANKARANAND : You do not have any technical hand in your company.

SHRI L. M. ADESHRA : Not in my office.

SHRI B. SHANKARANAND : I am asking about your company.

SHRI L. M. ADESHRA : My company has a marketing division which has technical people who do the selling, servicing and all these activities. But, there are technical people in the company.

SHRI B. SHANKARANAND : There is a technical division also which do the marketing business. Is that correct ?

SHRI L. M. ADESHRA : Yes, Sir.

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**SHRI B. SHANKARANAND :** Now, about the import of machinery and about the technicality of the machinery, are you in a position to depose before this Committee ?

**SHRI L. M. ADESHRA :** No, Sir, I am not in a position to depose before the Committee in regard to the technicalities of the machinery.

**SHRI B. SHANKARANAND :** On what aspect of the affairs of your company you went before the Shah Commission because you said that you had gone before the Shah Commission ?

**SHRI L. M. ADESHRA :** Sir, we were called before the Shah Commission in the context of the information which was called by the PEC from us with regard to supply of machines to Maruti Limited because licence is issued by the Government of India to the PEC and the licence is given to us by the PEC with a Letter of Authority which we operate to import and, in terms of the agreement, if we have the machine, we are free to sell that machine to the actual users in the country. In this context, we were required to go before the Shah Commission. We got the invitation. This is what had happened and the question which came up during the hearing was relating to this aspect.

**SHRI B. SHANKARANAND :** Before you were called to appear before the Shah Commission, did you have a discussion with Shri Sharma, S.P. ?

**SHRI L. M. ADESHRA :** I could not understand your question.

**SHRI B. SHANKARANAND :** I will put one question. Yourself and your liaison officer, Mr. Mathur had discussed with the S.P.

**SHRI L. M. ADESHRA :** No. We were called by Shri Sharma on the 24th of August.

**SHRI B. SHANKARANAND :** My question is : yourself and Shri Mathur—did you have discussion with Mr. Sharma, S.P. on 24th ?

**SHRI L. M. ADESHRA :** On 24th we were called. I received a call.

**MR. CHAIRMAN :** He is saying that he was called by Mr. Sharma. You mean, after his being called whether he had any discussion—this is your question. You are not allowing the witness to answer the first part of the question. In reply to your question, he was going to say that he was called by Mr. Sharma and, thereafter, discussion took place.

**SHRI B. SHANKARANAND :** Why should I ask that question ? I want to ask a simple question : Whether he had discussion with S.P. on 24th August ?

**MR. CHAIRMAN :** The question is not clear whether he was having discussion of his own or he was being asked on behalf of Shah Commission to see him.

**SHRI B. SHANKARANAND :** If I am not to ask the question to the witness and you are to ask, then I am not going to ask any question. Am I not entitled to ask the question ? I am not at anybody's mercy.

**MR. CHAIRMAN :** Nobody is at the mercy of anybody else. My function as the Chairman is to see that in no way the legitimate interest—I do not want to use the word 'interest'—or legitimate position of witness is hampered.

**SHRI B. SHANKARANAND :** If there are interruptions to my questions then what can I ask ?

**SHRI O. V. ALAGESAN :** I would request the Chairman to allow Mr. Shankaranand to proceed in his own way.

**SHRI B. SHANKARANAND :** You have submitted a list of machines supplied to Maruti. Are you in a position to answer technical questions on the machinery ?

**SHRI L. M. ADESHRA :** No.

**SHRI B. SHANKARANAND :** Who will be answering on the technical aspects from your company ?



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SHRI L. M. ADESHRA : You have also called Mr. Lal.

SHRI B. SHANKARANAND : What is he ?

SHRI L. M. ADESHRA : He is Deputy General Manager of Marketing. He can reply to the technical aspects of the machines contained in the list.

SHRI B. SHANKARANAND : You went to Mr. Sharma, S.P. along with your Liaison Officer, Mr. Mathur. Is that correct ?

SHRI L. M. ADESHRA : Yes. That is correct.

SHRI B. SHANKARANAND : Were you both sent for or both of you went there on your own ?

SHRI L. M. ADESHRA : We received a telephone call from Mr. Sharma saying that he wanted to talk to us about this matter and so we went there.

SHRI B. SHANKARANAND : When did you receive the telephone call ?

SHRI L. M. ADESHRA : On the same day.

SHRI B. SHANKARANAND : In the morning you received the call and you went there immediately thereafter. Is that correct ?

SHRI L. M. ADESHRA : Yes.

SHRI B. SHANKARANAND : How long both of you were with S.P. in his office ? Did you meet him in his office or somewhere else ?

SHRI L. M. ADESHRA : Of course in his office.

SHRI B. SHANKARANAND : How long were you there ?

SHRI L. M. ADESHRA : May be half-an-hour or forty-five minutes.

SHRI B. SHANKARANAND : What discussions did you have ?

SHRI L. M. ADESHRA : There was no discussion. He only asked questions.

SHRI B. SHANKARANAND : Then you replied . . . ?

SHRI L. M. ADESHRA : And then he told us to formalise these things and given it to him in writing. That is, what was just then said before him might be submitted to him in writing.

SHRI B. SHANKARANAND : He called you both and questioned. Is that correct ?

SHRI L. M. ADESHRA : He asked questions.

SHRI B. SHANKARANAND : How long did he put questions to both of you ?

SHRI L. M. ADESHRA : He asked questions from both of us.

SHRI B. SHANKARANAND : How long the questions were asked ?

SHRI L. M. ADESHRA : I said half-an-hour or so. I do not remember exactly how long I was there. I do not have a record of it.

SHRI B. SHANKARANAND : He asked you questions. What type of questions did he ask you ?

SHRI L. M. ADESHRA : He asked questions about the behaviour of Mr. Bhatnagar, what happened and what information was submitted by us. I said that information was called for. This is what we told him. That information is available with the PEC in the Sales Return which we submitted to them. There was no need to ask for information and he told Mr. Mathur that information was required and it should be submitted to him. It was submitted to them on 15th April 1975, of which we submitted a copy to the Shah Commission and also to this Hon'ble Committee. I have also submitted it with copy of my affidavit.

SHRI B. SHANKARANAND : There was question and then there was answer and this went on for half-an-hour ?

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**SHRI L. M. ADESHRA** : The question was there, the answer was there.

**SHRI B. SHANKARANAND** : I meant to say that this went on for half-an-hour. Now how many times did you meet the S.P. ?

**SHRI L. M. ADESHRA** : I met him twice ; on 24th and later to submit this letter on 30th.

**SHRI B. SHANKARANAND** : Did you consult anybody for preparing your affidavit ?

**SHRI L. M. ADESHRA** : Facts were prepared by us and we consulted our lawyer in formalising it.

**SHRI B. SHANKARANAND** : Who is your lawyer ?

**SHRI L. M. ADESHRA** : Ravinder Narain is an advocate in J. B. Dadachanji Company ; he is my friend.

**SHRI B. SHANKARANAND** : You consulted him in private capacity ?

**SHRI L. M. ADESHRA** : Yes.

**SHRI B. SHANKARANAND** : What about Mr. Mathur ? Did he consult him or not ?

**SHRI L. M. ADESHRA** : He was with me.

**SHRI B. SHANKARANAND** : Will you clarify this ? Did you give a statement to the police besides the affidavit ?

**SHRI L. M. ADESHRA** : No.

**SHRI B. SHANKARANAND** : Did you appear before the Shah Commission ?

**SHRI L. M. ADESHRA** : I was summoned as a witness on 12th January, I was called to the witness box and I was asked questions which I answered.

**SHRI B. SHANKARANAND** : When you went to Bhatnagar, did you and Mr. Mathur go together ?

**SHRI L. M. ADESHRA** : No, we went separately because I had gone out for some other work and Mr. Mathur had gone

*Shri L. M. Adeshra*

there and I also reached the same place at about the same time.

**SHRI B. SHANKARANAND** : When you saw Mr. Bhatnagar, you were together ?

**SHRI L. M. ADESHRA** : We were together.

**SHRI B. SHANKARANAND** : You together met. Is that right ?

**SHRI L. M. ADESHRA** : Yes.

**SHRI B. SHANKARANAND** : What was the date ?

**SHRI L. M. ADESHRA** : 15th April 1975, it is the date on which the letter was prepared and submitted the same day.

**SHRI B. SHANKARANAND** : When did Mr. Bhatnagar asked you information ?

**SHRI L. M. ADESHRA** : He did not ask me.

**SHRI B. SHANKARANAND** : When did he ask your office ?

**SHRI L. M. ADESHRA** : Mr. Mathur asked me and he told me that he had received a telephone call from Mr. Bhatnagar.

**SHRI B. SHANKARANAND** : You went there on the 15th. How many days earlier was it ?

**SHRI L. M. ADESHRA** : About three or four days earlier.

**SHRI B. SHANKARANAND** : 3 or 4 days earlier Mr. Mathur had received a telephone from Mr. Bhatnagar and you went to give the information in view of the telephone call, both of you. Is that correct ?

**SHRI L. M. ADESHRA** : In view of the telephone call a letter was required to be prepared and submitted and when the letter was being submitted Mr. Mathur went there and I also was present. Because the letter was being submitted and I was in that area, I also went to PEC.

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SHRI B. SHANKARANAND : Why did you go ?

SHRI L. M. ADESHRA : Just to clarify. If they need any clarification. . .

SHRI B. SHANKARANAND : Was there any clarification sought for ?

SHRI L. M. ADESHRA : No.

SHRI B. SHANKARANAND : Did you speak anything to Mr. Bhatnagar ?

SHRI L. M. ADESHRA : No. Mr. Bhatnagar said that this was the information required by his superior officer.

SHRI B. SHANKARANAND : Alright, you have repeated it. Did you speak with Mr. Bhatnagar on that date ?

SHRI L. M. ADESHRA : I spoke with Mr. Bhatnagar to the effect that if Mr. Cavale, his superior officer was present, I would like to meet him.

He said that he was not present and so we came back.

SHRI B. SHANKARANAND : You had no other discussion ?

SHRI L. M. ADESHRA : No.

SHRI B. SHANKARANAND : How many people were present with Mr. Bhatnagar at that time when you met him ?

SHRI L. M. ADESHRA : Nothing abnormal.

MR. CHAIRMAN : No, he is asking as to how many people were present at that time.

SHRI L. M. ADESHRA : Mr. Mathur and myself. One Sales Engineer was with Mr. Mathur and Mr. Bhatnagar was there.

SHRI B. SHANKARANAND : Only four of you.

SHRI L. M. ADESHRA : Yes.

SHRI B. SHANKARANAND : You were there for half-an-hour with him ?

SHRI L. M. ADESHRA : No. Hardly ten minutes.

SHRI B. SHANKARANAND : In your affidavit, you have said in the last paragraph :

"I affirm that I did not convey to any one in Maruti that the above information was being collected. I also affirm that I did not make any complaint against Shri P. S. Bhatnagar regarding his behaviour to anyone."

Why did you mention this fact in your affidavit ?

SHRI L. M. ADESHRA : Because a question was asked whether it was true.

SHRI B. SHANKARANAND : Who asked you the question ?

SHRI L. M. ADESHRA : Mr. Sharma.

SHRI B. SHANKARANAND : What question ?

SHRI L. M. ADESHRA : Whether Mr. Bhatnagar was rude to us and secondly whether we had given to anyone information that information is being collected about machines supplied to Maruti. I had said, it was an internal matter and we had the question from the PEC and we had furnished the information. There is no question of informing anybody outside. It was an internal matter for my company.

SHRI B. SHANKARANAND : It was in pursuance of the question asked by the SP that you put this fact in your affidavit ?

SHRI L. M. ADESHRA : It was a question asked and replied. He asked as to what was the fact ? The fact was given in the reply.

SHRI B. SHANKARANAND : I am asking the same question and you are replying the same thing.

SHRI L. M. ADESHRA : I am also giving the answer. A question was asked on this point and I gave an answer on that point as to what the fact was.

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Shri L. M. Adeshra

**SHRI B. SHANKARANAND :** Can you remember how many questions were put by the SP for your answer to be incorporated in the affidavit ?

**SHRI L. M. ADESHRA :** I do not remember.

**SHRI B. SHANKARANAND :** But you had replied to all questions. Is that correct ?

**SHRI L. M. ADESHRA :** Yes.

**SHRI B. SHANKARANAND :** And all your answers are contained in the affidavit ?

**SHRI L. M. ADESHRA :** Yes.

**SHRI B. SHANKARANAND :** Nothing is left out ?

**SHRI L. M. ADESHRA :** No.

**SHRI B. SHANKARANAND :** Were you questioned before the Shah Commission ?

**SHRI L. M. ADESHRA :** Yes, I was.

**SHRI B. SHANKARANAND :** Did you tell anything else other than the affidavit before the Shah Commission ?

**SHRI L. M. ADESHRA :** Yes.

**SHRI B. SHANKARANAND :** What else did you tell ? Will you enlighten us on that ?

**SHRI L. M. ADESHRA :** The question was asked to me by the Shah Commission in the context of evidence given by Shri T. A. Pai in which he mentioned that he had called the Manager of Batliboi & Company. Mr. Pai was asked by the Counsel for the Shah Commission, "Who this person was ?" and he said : 'I do not remember his name'. Then Mr. Krandalawala, the Counsel, questioned whether it was Shri Adeshra. He said : 'I do not know'. And when Mr. Pai called the Manager and asked him whether there was harassment, the reply was that there was no harassment. On this question I was called by the Commission to say what had happened during the meeting with Mr. Pai. I

told the Commission that Mr. Pai asked me this question and I gave the same reply confirming what Mr. Pai had deposed before the Commission.

**SHRI B. SHANKARANAND :** What else ?

**SHRI L. M. ADESHRA :** Nothing else. But then I said I was not harassed by the officers of the Ministry of Mr. Pai. The Counsel asked whether anybody else was harassed. I said, 'Not to the best of my knowledge'. These are the two questions put to me. Another question was asked of me whether there were some foreigners present when the information was being collected, to which I replied : "I do not recollect". And it is a fact that I do not recollect who were present in my office at that time because I was sitting in my office earlier in the day. Later in the afternoon I had gone out. So, I replied to the second part of the question whether Mr. Pai asked me that or not. What I replied was "I do not recollect". This was all asked of me by way of questions and this was all I gave by way of replies.

**SHRI B. SHANKARANAND :** When you appeared before the Shah Commission, did you consult your lawyers ?

**SHRI L. M. ADESHRA :** No.

**SHRI B. SHANKARANAND :** You consulted your lawyers in preferring your affidavit. Is that correct ?

**SHRI L. M. ADESHRA :** Yes.

**SHRI B. SHANKARANAND :** Why did you consult your lawyers ? Was there any complication in filing the affidavit ?

**SHRI L. M. ADESHRA :** It is the normal way to consult the lawyers. There is nothing wrong in it.

**SHRI B. SHANKARANAND :** For this sort of a simple affidavit, there was no legal question involved in this. Then, what was the occasion for consulting the lawyers when stating the facts ?

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Shri L. M. Adeshra

**SHRI L. M. ADESHRA** : Even when we deal with any simple legal matters, in company matters we consult a lawyer and it has become a habit, and if we know some lawyer, we do avail of this facility.

**SHRI B. SHANKARANAND** : As a habit you consulted the lawyer ?

**SHRI L. M. ADESHRA** : After all we are going into something connected with law. Facts are known to me, but law is not known to me.

**SHRI B. SHANKARANAND** : It is on the advice of the lawyer both your affidavit and Mr. Mathur's affidavit were sent.

**SHRI L. M. ADESHRA** : Affidavit is mine.

**SHRI B. SHANKARANAND** : But on the advice of your lawyer. Is it on the advice of your lawyer or not ?

**SHRI L. M. ADESHRA** : Well, deposition was mine and I would like to stand by that.

**SHRI B. SHANKARANAND** : Quite right. But I am asking whether it is on the advice of your lawyer that you filed this affidavit. Is that correct ?

**SHRI L. M. ADESHRA** : I filed that affidavit because I was called upon by the Commission to file the affidavit confirming the facts of the case as were put in the form of questions and answers given by me.

**SHRI B. SHANKARANAND** : Was the affidavit prepared by your lawyer ?

**SHRI L. M. ADESHRA** : The affidavit was prepared by me on the advice of my lawyer.

**SHRI B. SHANKARANAND** : That is what I was asking. Why did you take so much time ?

You went to Mr. Bhatnagar on that day not with a purpose of accompanying Mr. Mathur in giving information, but for a different purpose.

**SHRI L. M. ADESHRA** : The information was given by him.

**SHRI B. SHANKARANAND** : You went to PEC office not for the purpose of giving this information because Mr. Mathur had already gone there. You went for some other purpose.

**SHRI L. M. ADESHRA** : No. I went to be present during the information being given to the PEC because the question was not clear to me as to why, when the information was already available in PEC, it was being required again. This was not clear to me and I wanted this matter to be clarified by Mr. Cavale because Mr. Bhatnagar was asked by his superior officer to get this information. So, when I went there, I made this enquiry; and when I was told that Mr. Cavale was not in office, I went away.

**SHRI B. SHANKARANAND** : The information was already in the office. Still they were insisting on your giving the information.

**SHRI L. M. ADESHRA** : The question is that I was not clear in my mind as to why this information was being again asked for.

**SHRI B. SHANKARANAND** : Do you know Mr. Cavale ?

**SHRI L. M. ADESHRA** : Officially, I have met him a few times in his office, because I was dealing with PEC, when he was the Chief Marketing Manager.

**SHRI HITENDRA DESAI** : Was he absent when you went to the office? What was the time when you went there ?

**SHRI L. M. ADESHRA** : It was around 4.15 or so.

**SHRI B. SHANKARANAND** : When did Mr. Pai call you ? It was on the 15th April. He must have called you thereafter.

**SHRI L. M. ADESHRA** : Yes ; it was a national closed day on account of the death of the late President of India, Dr. Radhakrishnan. As far as I remember, it was 17th April.

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**SHRI HITENDRA DESAI** : What did he ask you ?

**SHRI L. M. ADESHRA** : He asked me whether I was threatened that our licence would be stopped.

**SHRI HITENDRA DESAI** : What was your reply ?

**SHRI L. M. ADESHRA** : I said ; "We were not threatened that our licence would be stopped." I did not know why I was being asked for these questions.

**SHRI HITENDRA DESAI** : Did you go alone ?

**SHRI L. M. ADESHRA** : I went alone. I was called by name, and I went alone.

**SHRI NARENDRA P. NATHWANI** : About the affidavit that you filed before the Shah Commission, some questions were put to you by Mr. Shankaranand. In the affidavit there is what is called the verification clause at the bottom. This is what you have stated there :

"I, . . . . ., deponent, do hereby verify that the contents of this affidavit are true to my personal knowledge and are correct."

Is this statement correct or not ?

**SHRI L. M. ADESHRA** : The statement is correct.

**SHRI NARENDRA P. NATHWANI** : If it is suggested to you that something which you have stated there is not true, but you have mentioned it because it was suggested to you by your advocate, it will not be true. Is it right ?

**SHRI L. M. ADESHRA** : This is not a correct assumption. What is true is the facts which are given there, and the statement which I have made is true to my knowledge. And I had mentioned that I consulted a lawyer because I wanted to understand the law on the subject. It has no influence on the statement which was made by me. I stand by it, and the facts that are stated there are true to the best of my knowledge, and I once again, before this hon. Committee, say the same thing.

*Shri L. M. Adeshra*

**PROF. P. G. MAVALANKAR** : How long have you been working in this Batliboi & Co. ?

**SHRI L. M. ADESHRA** : For a very long time.

**PROF. P. G. MAVALANKAR** : How many years ?

**SHRI L. M. ADESHRA** : Almost 35 years now.

**PROF. P. G. MAVALANKAR** : And of these 35 years, how many years in Delhi in your present capacity as Resident Deputy General Manager ?

**SHRI L. M. ADESHRA** : In Delhi, I have been from beginning, 1948, I was here till 1965. Then I was transferred. Then I came back in 1968. Since then I have been here. Earlier I was Branch Manager, and in 1968 I came back as Resident Deputy General Manager.

**PROF. P. G. MAVALANKAR** : Apart from this question about Maruti in Parliament, for which you met Mr. Bhatnagar on the 15th April, did you have occasions before or after for furnishing information on Maruti to the PEC or to Government ?

**SHRI L. M. ADESHRA** : No, Sir, not specifically, but as a part of our quarterly sales returns, we are required, by virtue of our agreement with PEC, to say every quarter as to what machines we supplied to whom and at what price. This is what we call the quarterly sales return which we submitted as a matter of obligation to PEC, and this information is on record with PEC, or is a part of their record. Whatever is supplied to all customers, including Maruti, that will be there with PEC.

**PROF. P. G. MAVALANKAR** : On this or other matters, did you have any experience of being put to kind of cornering or harassment by any of the Government officials ?

**SHRI L. M. ADESHRA** : No, Sir, not at all.

**PROF. P. G. MAVALANKAR** : Does this affidavit which you have read out before us, which you said is yours, fully

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based on your personal knowledge, contain any line or word in it which you would not have put yourself ?

SHRI L. M. ADESHRA : It does not contain anything which I would not have put on my own.

PROF. P. G. MAVALANKAR : Does it contain everything that was actually truthful and factual ?

SHRI L. M. ADESHRA : It does.

PROF. P. G. MAVALANKAR : Does it contain in terms of edge or sharpness or presentation something which you would say is not quite in tune with the facts as they stand ?

SHRI L. M. ADESHRA : It does not contain any such thing.

PROF. P. G. MAVALANKAR : This is exactly what you would have said ?

SHRI L. M. ADESHRA : Yes.

SHRI KRISHAN KANT : You have mentioned that when Mr. Pai asked Mr. Bhatnagar, you were not sure what the whole thing was about. Afterwards, when you came to know that Bhatnagar was suspended or Cavale had to go, did you realise what the whole thing was about, that it was in connection with a Parliament question and that for collecting information for that, they had to suffer ? Is it so ?

SHRI L. M. ADESHRA : I did come to know what happened, because this became public knowledge by that time. This came in the newspapers also, about the suspension of some officers.

SHRI KRISHAN KANT : And then you could connect it with Bhatnagar's suspension and Cavale's going ?

SHRI L. M. ADESHRA : I did not know precisely the reason why it was done, but I know about the fact, by word of mouth, from what you hear, living in the same society, you cannot avoid hearing it. It is a hearsay information that I have

that they were suspended and possibly it was related to this matter.

SHRI KRISHAN KANT : Do you know Mr. R. K. Dhawan ?

SHRI L. M. ADESHRA : No.

SHRI KRISHAN KANT : Have you ever gone to Maruti factory ?

SHRI L. M. ADESHRA : Only once.

SHRI KRISHAN KANT : But you have no personal friendship or acquaintance with Sanjay Gandhi ?

SHRI L. M. ADESHRA : No.

SHRI O. V. ALAGESAN : There are three parties—the PEC, your company and the Maruti factory. What is your *modus operandi*. How do you indent a particular machine ?

SHRI L. M. ADESHRA : The Government issues under the bilateral trade plan for East European countries, a licence for machine tools for stock and sale. That licence is issued to the canalising agency, which is PEC. PEC gives the licence to the business associates as we are called and that is, Batliboi. The business associates get the licence under the cover of an agency agreement. The agreement for business associateship stipulates the condition for operation of the licence. So, the machines which we import from the country concerned, namely Czechoslovakia in this case, are distributed in terms of the agreement. That agreement says that it should be supplied to actual users and, therefore, we supply to actual users. The agreement does not stipulate that we are required to get any other permission from any other authority. The only other obligation under that agreement is to give them information about the supply every quarter, what is called, quarterly sales return. That means, whether it is Maruti or whether it may be anybody else, the actual user is eligible to purchase the machine from us. This is the normal business within the terms of agreement which entitles us and keeps us free to supply machines to the actual users. In this case, it was Maruti which was the actual user.

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**SHRI O. V. ALAGESAN :** You have given us the list of machines. How do you pick and choose these items? Is it as per requirement of your client? Or you get the items and then try to market it around.

**SHRI L. M. ADESHRA :** We have some experience in this business. We are making investment in the machinery which we import under the licence. So, we go to our manufacturers and ask them to manufacture them because machine tools are not available at our option only. Deliveries are restraining factors. The import policy here is a restraining factor—what is permitted and what is available. We see that long deliveries have to reckon with. After the machinery is ordered, then we start finding customers here and then we make our sales here. The sale is made by our planning for machines for which we have a covering licence. Therefore, we buy these machines on our own account and on principle-to-principle basis and sell these machines in India to actual users after they arrive here.

**SHRI O. V. ALAGESAN :** You are incharge of the market; you indent these machines, get them and then sell them to various parties? Is it right?

**SHRI L. M. ADESHRA :** Yes.

**SHRI O. V. ALAGESAN :** What is your company Batliboi's volume of business per year in terms of value?

**SHRI L. M. ADESHRA :** At present, I think, it is about Rs. 30 crores or something like that. I do not remember the figures by heart.

**SHRI O. V. ALAGESAN :** What percentage of this you have had with Maruti?

**SHRI L. M. ADESHRA :** I do not remember it because it is the job of the Marketing Division. Every year, we import from Czechoslovakia through PEC. Its value is a crore of rupees; sometimes it is Rs. 2 crores.

**MR. CHAIRMAN :** The machinery that you had supplied to Maruti also includes that.

*Shri L. M. Adeshra*

**SHRI L. M. ADESHRA :** Yes.

**SHRI O. V. ALAGESAN :** Do you know the dates when the machines were supplied or whether it was supplied in bulk in the same year?

**SHRI L. M. ADESHRA :** In different dates.

**SHRI O. V. ALAGESAN :** In the same year or in different years.

**SHRI L. M. ADESHRA :** In different years. The precise information is contained in the sales return. They required the information from us in a hurry. They said: You must give the information again. So, whatever information we could give, we had collected it immediately from the local office and had given that information to them.

**SHRI O. V. ALAGESAN :** You are a big supplier to Maruti and Maruti is a big purchaser from you. Who are the people who dealt with Maruti? You seem to be a fairly high level officer. You happen to know the persons who are connected with Maruti.

**SHRI L. M. ADESHRA :** I am a senior officer of the company; I am not a top officer of the company. But, at the same time, my function is liaison and not marketing. So, I do not have contacts with the customers. I would say, I would have hardly any contacts with the customers. I do not meet the customers; I do not participate in negotiations, in sales or in supply of these machines.

**SHRI O. V. ALAGESAN :** Who are the persons who are connected with Maruti?

**SHRI L. M. ADESHRA :** Mr. Lal, who is a Deputy General Manager and incharge of the marketing.

**MR. CHAIRMAN :** Thank you for coming over here and giving evidence before the Committee. Now you can withdraw.

**SHRI L. M. ADESHRA :** Thank you.

*(The witness then withdrew.)*



## (iii) Evidence of Shri B. M. Lal

MR. CHAIRMAN : Mr. Lal, you have been asked to appear before this Committee to give your evidence in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain Questions in Lok Sabha on Maruti Limited. I hope, you will state the factual position and your version of the events freely and truthfully.

I may inform you that the evidence that you may give before this Committee is to be treated by you as confidential till the report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. This evidence which you will give before the Committee may be reported to the House.

Now, you may take oath or affirmation as you like.

(Shri B. M. Lal then took the oath)

MR. CHAIRMAN : You submitted an Affidavit before the Shah Commission and you have given a copy of it to us. Would you kindly read it out ?

SHRI B. M. LAL : I, B. M. Lal son of Shri Amar Chand, aged about 43 years, resident of C-38 Mayfair Garden, near Hauz Khas, New Delhi, do hereby affirm and state as under :

That on 27th August, 1977, I was called by Shri R. C. Sharma, Superintendent of Police in the Office of the Shah Commission of Enquiry, and was required to send a statement affirming the facts relating to the queries raised during the discussion. Accordingly, I submitted a statement affirming the facts which were already communicated orally during the said meeting. A

Shri B. M. Lal

true copy of the statement together with the covering letter dated 29th August 1977, is annexed hereto and marked Annexure 'A' (Collectively). As desired by Shri R. C. Sharma, Superintendent of Police, the contents of the said statement are being affirmed by way of the present affidavit as under :—

I say that I am Deputy General Manager (Northern Region), Batliboi & Co. Private Limited, New Delhi. My offices are located at Jeevan Vihar, Parliament Street, New Delhi. My functions are the Marketing Operation of my company in the above region.

My colleague Mr. L. M. Adeshra is Resident Deputy General Manager of the Company whose offices were located till February 1977, at 142-Golf Links, New Delhi. Mr. J. S. Mathur is Liaison Officer located also in the same Liaison Office and reports to Mr. L. M. Adeshra directly.

I was on a business tour to Lucknow from which I returned on the evening of 16th April 1975. The information asked for by Mr. P. S. Bhatnagar, Deputy Marketing Manager of Projects Equipments Corporation Limited (PEC) from our Liaison Office and supplied by my Company by letter dated 15th April 1975, was submitted while I was away on tour and I had no knowledge that the said information was required by Mr. Bhatnagar. After my return I came to know that Mr. P. S. Bhatnagar of PEC was suspended. As far as I know none of my Company Officers complained against Mr. Bhatnagar or had anything to do with his suspension.

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The Marketing Office at Jeevan Vihar, Parliament Street, New Delhi, had dealings with Maruti Ltd. We have supplied in the course of business a number of machines and this information was available to every officer in my Marketing Office i.e. Sales Engineers, Service Engineers and the Accounts Department.

Some months later Mr. A. S. Rajan, Development Officer, DGTD contacted me and told me that he was being harassed. Mr. A. S. Rajan knew that my Company had regular dealings with Maruti Ltd, and that I had come to know Mr. Sanjay Gandhi; he requested me to introduce him to Mr. Gandhi to enable him to personally explain his difficulties and the harassment caused to him. As Mr. Rajan was known to me since long and I sympathised with him, I tried to introduce Mr. Rajan to Mr. Sanjay Gandhi.

I had come to know Mr. Sanjay Gandhi in the course of our business. Only after three to four weeks I could get an appointment with Mr. Gandhi and requested Mr. Rajan to accompany me. The meeting took place at the Factory premises of M/s. Maruti Ltd. During this meeting I introduced Mr. Rajan to Mr. Gandhi. When Mr. Rajan explained the harassment caused to him Mr. Gandhi replied after listening to him that he had no knowledge about the matter but assured him that he will try to look into the matter.

MR. CHAIRMAN : You may now read out your covering letter to Mr. R. C. Sharma.

SHRI B. M. LAL : Shri R. C. Sharma, Superintendent of Police, Office of the

Shri B. M. Lal

Shah Commission of Enquiry, Patiala House, New Delhi.

Dear Sir,

This has reference to the discussions with you in your office on 27th instant when you had called the undersigned. At this meeting, you desired that I would send you a statement affirming the facts relating to the queries raised by you during the discussion.

As desired by you, I am enclosing herewith a signed statement affirming the facts already communicated to you orally in your office on 27th August 1977. Please acknowledge receipt of this letter and the enclosed statement.

Thanking you.

MR. CHAIRMAN : The next one is an exact copy of the statement ?

SHRI B. M. LAL : Yes, it is a copy of the statement I read out earlier.

SHRI O. V. ALAGESAN : Here is a list of items that you have sold to Maruti. Have you sold any other item besides those mentioned here. Perhaps this list was furnished to Shah Commission and we have got a copy. You can see this list.

SHRI B. M. LAL : I think, this is correct ; exactly I do not know, one or two machines might have been added or subtracted. I can send you the exact list, if you want. From what I remember, it is correct.

SHRI O. V. ALAGESAN : Your business with Maruti seems to be quite large. Have you got comparable customers ?

SHRI B. M. LAL : We have larger customers like Maruti as Bharat Pump Compressors Ltd., BHEL, Hardwar, Escorts, etc. But this business with Maruti came in the course of three-four years.

SHRI O. V. ALAGESAN : Roughly, the cost of these machines would be about a crore of rupees.

SHRI B. M. LAL : I think so ; it may be less than a crore.

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Shri B. M. Lal

**SHRI O. V. ALAGESAN :** What is your total volume of business per year ?

**SHRI B. M. LAL :** In this northern area, it would be 7-8 crores ; total overall the business is Rs. 30—35 crores direct and another 15 crores indirect business.

**SHRI O. V. ALAGESAN :** You have said in your affidavit that you sympathised with Mr. Rajan and introduced him to Sanjay Gandhi. That shows that your relationship with Sanjay Gandhi is rather familiar.

**SHRI B. M. LAL :** Well, I know him very well.

**SHRI O. V. ALAGESAN :** Who are the persons with whom you are acquainted in Maruti ? Because of your business who are the persons in Maruti with whom you have been on familiar terms ?

**SHRI B. M. LAL :** One is Mullar ; another is Commander Chaudhari. Mr. Sanjay Gandhi came only when finally something was to be decided. We did most of the business through Com. Chaudhari.

**PROF. P. G. MAVALANKAR :** Who is Commander Choudhary ?

**SHRI B. M. LAL :** When we first signed the agreement, he was the Chief Executive of the company. The German engineer, Mr. Muller was not actually working with Maruti but he was in Maruti Technical Services. I do not know what exactly this company was. From time to time Mr. Gandhi was taking advice from him as to how this machine will do this job or not.

**PROF. P. G. MAVALANKAR :** How did this thing arise in your mind that some action has been taken by the government against these officers and Mr. Gandhi should be approached ?

**SHRI B. M. LAL :** It was not my idea. It was the idea of Mr. Rajan. Mr. Rajan told 'Please help me if possible'. It took me also sometime to get an appointment for Mr. Rajan. He was asked by some other people to try to approach Mr. Gandhi.

**SHRI O. V. ALAGESAN :** You did not question him and it did not look strange to you, that here is a government officer who is placed under suspension and he is asking you to introduce him to a person who is outside government ? It did not strike you as a strange thing.

**SHRI B. M. LAL :** I do not think it was strange at all because if a man wanted to help, he would help irrespective of whoever it is. I do not know government rules and regulations. If I know somebody, I will definitely take him to him, whether government or non-government. If I can be of help to somebody, I thought there was nothing wrong in that. Otherwise, it is for you to judge.

**SHRI O. V. ALAGESAN :** What was your idea about the predicament in which these officers are placed ? Or did they tell you anything about the background ?

**SHRI B. M. LAL :** They did not tell me nor did I want to go into detail. It was quite embarrassing. I did not know these things. A man is suspended. He was in a very pitiable shape. He came to me if this could be done. I said, 'All right. I will try'. That was after 3 months of this event.

**SHRI O. V. ALAGESAN :** Even without assuming, you are the supplier to Maruti or you should be keeping in close contact with Maruti and the Maruti affairs, when these officers were suspended, then you should have yourself come to know or, participating in the talk of the town, you should have come to know why these people were suspended. What was your information ?

**SHRI B. M. LAL :** He told me that his house was searched. That was enough that something has gone wrong somewhere. If a man is in trouble, that is enough for me. What else can I ask the poor man ?

**SHRI O. V. ALAGESAN :** You are aware that you contributed to his trouble. I mean your company or transactions with your company.

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**SHRI B. M. LAL :** That is not correct at all. If anybody is coming to that conclusion, he is very wrong. We have nothing to do with that.

**SHRI O. V. ALAGESAN :** Because certain questions were put to you and you supplied and they related to information sought by Parliament and as a result of that, if something happens, will you not be concerned? 'contribution' means you do not go and get these people into trouble . . .

**SHRI B. M. LAL :** If I have put this man in trouble, why should I take him again? We have nothing to do with that. We are rather friendly with them.

**SHRI O. V. ALAGESAN :** It is not as if I am saying that you got them in trouble. But, not consciously, but somehow because of your transaction with Maruti and they had to do something about that by way of collecting information, they got into trouble. Perhaps it might have excited your natural sympathy because some information was given and so he has got into trouble. So, 'let me bell'. That is your motive.

**SHRI B. M. LAL :** I do not think so.

**SHRI O. V. ALAGESAN :** You did not go into the question whether there was any justification for the punishment they were undergoing or not?

**SHRI B. M. LAL :** How can I ask that man anything? He has already told me what is happening. Then I took him there.

**SHRI O. V. ALAGESAN :** What is the result of your effort?

**SHRI B. M. LAL :** He was told by Mr. Gandhi that he would look into the matter because he did not speak more than two sentences.

**SHRI O. V. ALAGESAN :** That is all.

**PROF. P. G. MAVALANKAR :** Mr. Lal, you said you are 43. Can you give us your birth date?

Shri B. M. Lal

**SHRI B. M. LAL :** 9th July 1934.

**PROF. P. G. MAVALANKAR :** For how long have you been with Batliboi?

**SHRI B. M. LAL :** I shall be completing 20th year in August 1978.

**PROF. P. G. MAVALANKAR :** Have you specialised in machine tools?

**SHRI B. M. LAL :** Yes, I have specialised in Machine Tools. I was apprentice in the Railways for four years. Thereafter I got specialisation in West Germany, I was studying in Kanchrapara Technical School.

**PROF. P. G. MAVALANKAR :** Since when have you been in this office?

**SHRI B. M. LAL :** I have been in this office since 1961 or 1962. Prior to that I was employed in Kanpur Batliboi.

**PROF. P. G. MAVALANKAR :** You said in your affidavit that you had come to know Shri Sanjay Gandhi in the course of business. Since when have you been known to him?

**SHRI B. M. LAL :** Since 1971.

**PROF. P. G. MAVALANKAR :** Since then you have been knowing him intimately.

**SHRI B. M. LAL :** There was nothing is common except that he purchased the first machine from us. It was not through me but through other Sales Engineers and after that he wanted to purchase a bigger machine. I came in contact a little more closely because we warned some advance, etc.

**PROF. P. G. MAVALANKAR :** Since Mr. Rajan whom you know and for whom you had sympathy, he asked you to take him to Sanjay Gandhi, you must be knowing him well.

**SHRI B. M. LAL :** When you deal with a customer, you do so directly. I say not intimately for a drink or something else. But we know quite closely so far

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as business is concerned. I could telephone him saying that you have not made payment and he could talk also in a nice manner. This does not mean that I know Mr. Gandhi very intimately.

PROF. P. G. MAVALANKAR : Have you been to Maruti frequently or occasionally ?

SHRI B. M. LAL : On the average I used to go practically once in a month.

PROF. P. G. MAVALANKAR : Perhaps since 1971 ?

SHRI B. M. LAL : The factory started in 1972-73.

In 1973, I sometimes went twice a month and sometimes I did not go for three months.

We had erection there. Our boys were doing erection and sometimes Sanjay Gandhi was angry saying that erection was not fast. He used to call me. If machine was not functioning properly, sometimes we discussed about components on the drawing board if the component could be made by that machine. That is the main reason why I used to go, otherwise our other engineers used to go.

PROF. P. G. MAVALANKAR : Your boys were doing erection. You supervised and Mr. Gandhi used to get angry. Why ?

SHRI B. M. LAL : Well, if the machine does not function well, who would not get angry. I had to go to tell him that production timings are such that you cannot get more than this.

PROF. P. G. MAVALANKAR : This is the list that Adeshra has given. You said after looking at this that it is practically the same.

SHRI B. M. LAL : Yes. In addition to this, there are lot of Indian machines supplied to him which are not in the list. There are such machines like radial drills. In addition to machines purchased, from our factory at Surat and from other factories, things were supplied.

Shri B. M. Lal

PROF. P. G. MAVALANKAR : Could you give that list?

SHRI B. M. LAL : I can submit. It will take some time.

PROF. P. G. MAVALANKAR : In addition to this list, if there are other machines, Mr. Chairman, I would request him to supply that list also to us. He may supply it to us as early as possible. How long will it take for you ? I think you must be having in your record.

SHRI B. M. LAL : We have a record but we don't make a file for all things.

MR. CHAIRMAN : Will two weeks be all right ?

SHRI B. M. LAL : I will try, even within a week.

PROF. P. G. MAVALANKAR : You can give us that list.

Now, you took Rajan to Sanjay Gandhi. How long did it take between Rajan, Sanjay Gandhi and yourself ? How long did the meeting last ?

SHRI B. M. LAL : It did not last more than five minutes. It was held in his room upstairs at Maruti.

PROF. P. G. MAVALANKAR : You should have been surprised that Mr. Rajan should have come to you to talk to Sanjay Gandhi.

SHRI B. M. LAL : I was surprised. My reaction was, how I could be of any help in the whole thing. I tried to telephone, it was not possible. I again called him on the line. I said : I want to see you. I said, I want to bring somebody along with me. He said : O. K. Come along.

PROF. P. G. MAVALANKAR : Somebody, not Mr. Rajan.

SHRI B. M. LAL : No. I did not mention.

PROF. P. G. MAVALANKAR : Suppose you mentioned Rajan, what would have happened ?

SHRI B. M. LAL : I don't know.

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PROF. P. G. MAVALANKAR : You said that the meeting lasted 4 or 5 minutes. Sanjay Gandhi might have spoken to you two or three sentences. What were they ?

SHRI B. M. LAL : He said : I do not know anything about this. I will look into the matter : He told in Hindi : मुझे इस बारे में कुछ पता नहीं है, लेकिन मैं देखूंगा ।  
Rajan narrated : मेरे साथ यह हुआ, वह हुआ

PROF. P. G. MAVALANKAR : Rajan came to you again ?

SHRI B. M. LAL : No. After that, no.

PROF. P. G. MAVALANKAR : None of the officers harassed came to see you ?

SHRI B. M. LAL : Once I got a call from Mr. Bhatnagar. I was going on a holiday—it may be in June or July. I said, you can see me after Six. But he did not see me.

PROF. P. G. MAVALANKAR : You were in Lucknow. You came on 16th April. You got the information. You knew it was collected for Parliament question. How many such occasions arose for you to give information on Maruti to one or more ministries of the Government of India ?

SHRI B. M. LAL : Nobody asked. I am not posted with any information. I am in fact not at all connected. In fact, my colleague officers of the Liaison Branch are more connected with the Government. Whatever comes to them they can give information.

PROF. P. G. MAVALANKAR : You did not meet Bhatnagar.

SHRI B. M. LAL : No, I did not go. May be on social occasions, I might have met him.

PROF. P. G. MAVALANKAR : Did Mathur or Adeshra complain anything ?

SHRI B. M. LAL : They never complained to me. They did not have direct connection. I am generally on tour for ten or eleven days in a month.

I am connected with the customers. They are connected with Government.

PROF. P. G. MAVALANKAR : Thank you very much.

SHRI NARENDRA P. NATHWANI : You are in charge of marketing of the machines that you import.

SHRI B. M. LAL : And also what is made in India.

SHRI NARENDRA P. NATHWANI : You are always on the look out for a potential buyer of your own machines which you either import or you locally buy as a marketing officer.

SHRI B. M. LAL : Yes, Sir.

SHRI NARENDRA P. NATHWANI : From the very beginning, when you came to know that Maruti Limited was coming into existence, you must have been sounding them with a view to find out their requirements so that you can supply any of the machinery needed by them.

SHRI B. M. LAL : It is not exactly like that. What happened was this. We find a business. I will give you a small idea on that. Sometimes we know that somebody has been given a letter of intent to produce certain things. Then the customers are contacted by our Sales Engineers. Sometimes a client comes to us with a drawing that this is my product which I would like to produce. We check the drawing and components and most of time we can supply them upto 90% of the machine and equipment.

SHRI NARENDRA P. NATHWANI : So, from the very start, as soon as you came to know about the Maruti Ltd. Project, you have been in contact with them.

SHRI B. M. LAL : Yes, Sir.

SHRI NARENDRA P. NATHWANI : We have been furnished with a statement of several items of machinery that you were able to supply from time to time. You have been good enough to tell us that the list is not exhaustive at all.

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SHRI B. M. LAL : There are some Indian machines.

SHRI NARENDRA P. NATHWANI : You will be furnishing us with a complete list of machinery. May I request you to add further information? Before I ask you to give you all the information that one would like to have, I believe you have maintained a complete record of it uptill now.

Now, when making out an agreement to sell the machinery, do you reduce it in writing? Either you take a written order or you enter into a formal agreement to supply it.

SHRI B. M. LAL : Yes, Sir.

SHRI NARENDRA P. NATHWANI : I believe that in respect of each item of the machinery sold and supplied by you to Maruti Ltd. is there such a written agreement?

SHRI B. M. LAL : That is right as far as small items, ordinary things, are concerned there need not be an order in writing. As far as bigger machines are concerned, there is an order and order confirmation and the company can sell them commercially.

SHRI NARENDRA P. NATHWANI : I take it that when there is an order, do you enter into an agreement for the sale and supply? When you actually plan, there would be all the materials available with you. You have also got the record for it.

SHRI B. M. LAL : We have got record for it. This is what Maruti Commission wanted from us. We have submitted these papers to them.

SHRI NARENDRA P. NATHWANI : You will kindly make available that information. Kindly supply all other information also. When orders for the supply of these machines and various items of machinery were placed with you and in fact when you supply these to them, you must have the information with you.

SHRI B. M. LAL : This will take us another two weeks to supply.

SHRI NARENDRA P. NATHWANI : As and when you get the information you can send it on to us.

SHRI B. M. LAL : Details of orders and the date when they were supplied, I shall give you.

SHRI NARENDRA P. NATHWANI : I pass on to the other item. There has been a reference to the stock and sale arrangement. I take it that the right to import this machinery was given to PEC. The licence to import stands in the name of PEC and the PEC would enter into an agreement with its business associates. Will you kindly produce a specimen any such letter of authority so that we can understand it?

SHRI B. M. LAL : These papers will be with our liaison office. I can tell you what exactly is that.

SHRI NARENDRA P. NATHWANI : You take one licence for instance. That has been given to the PEC which, in turn, issues a letter of authority in your favour. Acting under that authority, you import this item.

SHRI B. M. LAL : Speaking very frankly I am not very much aware of this licensing system as to how the letter of intent or agreement is made. We have a liaison department. Head Office signs this agreement.

Those papers will not be with me. But I will tell Mr. Adeshra that we want a copy of the agreement.

SHRI NARENDRA P. NATHWANI : Have you got a specimen agreement which would give us an idea under which, from time to time, you have imported all this machinery?

SHRI B. M. LAL : In short you want a copy of the Agreement between PEC and Batliboi.

SHRI NARENDRA P. NATHWANI : Yes. But it should be a representative agreement. I would have liked to have the date of agreement : date when supplied and date when you yourself imported.

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SHRI B. M. LAL : I can give you the date of the order. I can give you the date of supply but it will not be possible to find against which import order or licence the machinery came in India.

SHRI NARENDRA P. NATHWANI : I want to tell you what is in my mind. I want to establish the relationship. I want to know when the licence was given; when letter of authority was given; when agreement was entered into and when actually supplied to Maruti. I want to get that information for my own enlightenment.

SHRI B. M. LAL : This is quite an exhaustive job. I will try to do whatever is possible.

SHRI NARENDRA P. NATHWANI : Now, I come to the other point. When Mr. Rajan asked you to take him to Mr. Sanjay Gandhi and you agreed, he told you that he was harassed and made to suffer. My question is : At that time you did not think that his story was not believable otherwise you would not have taken him to Sanjay Gandhi.

SHRI B. M. LAL : On the first thought I could not believe his story because on earlier occasions Mr. Rajan was not truthful. But when he said in a pitiable manner and because I knew him I thought I should trust him and so I took him to Mr. Gandhi in good faith.

SHRI KRISHAN KANT : Is it true that the machinery which Batliboi were supplying was for Mr. Gandhi's car project.

SHRI B. M. LAL : Yes, Sir.

SHRI KRISHAN KANT : Do you know Mr. Dhawan ?

SHRI B. M. LAL : No. I have never met him.

SHRI KRISHAN KANT : Do you know Mr. L. K. Dhawan ?

SHRI B. M. LAL : No. I have not met him also.

SHRI KRISHAN KANT : In your affidavit you have said that you came to know

about suspension of Mr. Bhatnagar and later on you came to know about Mr. Rajan. So, on the basis of other things you could connect that it is something connected with Maruti.

SHRI B. M. LAL : We gave the information on 15th April. About Mr. Bhatnagar, I came to know the next day. But about Mr. Rajan, I came to know after a couple of days.

SHRI KRISHAN KANT : Now, you used to go there quite often or once a month or twice a month.

SHRI B. M. LAL : That is right.

SHRI KRISHAN KANT : But were they getting the information from Batliboi only or from other companies ?

SHRI B. M. LAL : I knew it very well they were buying from others. I was telling them "Don't buy from them".

MR. CHAIRMAN : They were buying the machines from Poland.

SHRI B. M. LAL : They were buying Russian machines. They bought the machines through M/s. Mathur Company. The Easun Engineering Company supplied them gears for making machines from Russia.

SHRI KRISHNA KANT : There were other companies from whom they were buying machines.

SHRI B. M. LAL : One is Easun Engineering Company and this company is a Madras based company and they have an office here. They bought machines from Blue Star also.

MR. CHAIRMAN : Did they purchase machines directly ?

SHRI B. M. LAL : Through stock and sales. These are two companies which I distinctly remember. They are Blue Star and M/s. Mathur and Company.

SHRI KRISHAN KANT : You import machinery only through these companies from the rupee payment countries or from



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the Western countries against dollar or Mark payment arrangement.

**SHRI B. M. LAL :** So far as I know, there was no machinery imported from any other countries against dollar or Mark payment system.

**SHRI KRISHAN KANT :** Do you import from them ?

**SHRI B. M. LAL :** We have no licence and therefore we cannot import the machines from them.

**SHRI KRISHAN KANT :** So far as the payment is concerned, have you been fully paid ?

**SHRI B. M. LAL :** I used to take advance from them.

**SHRI KRISHAN KANT :** There is no arrear of payment.

**SHRI B. M. LAL :** There are some arrears to the tune of Rs. 14,000. I have also lodged my complaint in this connection.

**SHRI KRISHAN KANT :** You mentioned about the German company and one Mr. Muller. Was he in the Maruti Company ?

**SHRI B. M. LAL :** He was a German national or he might have become the German national. I used to speak to him in German language because I also speak German. I never asked him what nationality he was. When he spoke German very fluently, I thought he was a German. But I did not ask him about his nationality. He had Japanese wife.

**SHRI KRISHAN KANT :** Was Mr. Muller an Engineer who worked in a car company ? Do you know anything about him ?

**SHRI B. M. LAL :** I think he worked in States in a car company and he also worked in Japan. Actually his job was not exactly connected with cars. He could make automobile bodies. He was more or less a Sheet Metal Engineer.

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**SHRI B. SHANKARANAND :** Since you are supplying machines to your customers from the stock on stock and sale basis, is it that every machine you sell to others is done under an agreement ? Suppose there is ready stock and you sell it.

**SHRI B. M. LAL :** There is no restriction on that ; anybody can buy ; you even.

**SHRI B. SHANKARANAND :** When is the machine which is demanded by the customer supplied under an agreement ? Under what circumstances ?

**SHRI B. M. LAL :** Generally there is no agreement. First an offer is made to the client ; sometimes the customer also gives blueprint/drawing of machine he needs. If there is a machine which can do that job it is given. You may call that letter an agreement when he is told that such and such machine is available and the customer agrees to take it and the price is agreed and he sends us an order accordingly. There is no stamp paper, on which there is a signed agreement.

**SHRI B. SHANKARANAND :** Are all your dealings with the PEC under any specific agreement ?

**SHRI B. M. LAL :** This I would not know. We get circulars from the head office saying that such and such machines are lying in stock and the prices are so and so ; you can give one or one and half per cent on those machines. Today I have one and half crore worth of machines ; there are no takers because the market is dull.

**SHRI B. SHANKARANAND :** Are you under any legal obligation to supply information to PEC as far as their dealings are concerned with you ?

**SHRI B. M. LAL :** Yes, Sir ; we are under law obliged to keep PEC informed of the machines we have supplied. Not only that ; we are supposed to give them two per cent commission ; they collect it on every sale. They call it service charges. Not only that ; they collect the details of the prices at which we have supplied. We cannot supply beyond a certain price

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fixed by them. When we give them this information we also give them two per cent cheque.

SHRI B. SHANKARANAND : Can you imagine an instance where you could supply a machine to your customer without giving information to PEC ?

SHRI B. M. LAL : No ; impossible. The PEC had all the information in their pocket.

SHRI B. SHANKARANAND : Whether you supplied information or not, they had all the information ?

SHRI B. M. LAL : It was surprising to me that they should call for this information because it was with them ; they also collect two per cent.

SHRI B. SHANKARANAND : Did you have any information that PEC is collecting some information about some other company which was supplying machines to Maruti ?

SHRI B. M. LAL : I had no information.

SHRI B. SHANKARANAND : Were you called by Mr. Sharma ? Did you have to appear before the Shah Commission ?

SHRI B. M. LAL : Yes, I was called by Mr. Sharma. But he did not call me before the Shah Commission.

SHRI B. SHANKARANAND : Perhaps, you could not oblige him.

MR. CHAIRMAN : That part of the question, I do not approve.

SHRI B. SHANKARANAND : It is an honest witness. What is wrong about that ?

MR. CHAIRMAN : I have not approved that part of the question.

SHRI B. SHANKARANAND : In your affidavit you have said that some months later, Mr. A. S. Rajan contacted and told me about the harassment. How many months ?

SHRI B. M. LAL : Three months approximately.

SHRI B. SHANKARANAND : From what time ?

SHRI B. M. LAL : I have calculated from the time of the incident.

SHRI B. SHANKARANAND : Earlier did you have any occasion ?

SHRI B. M. LAL : He did not ask me and I was very busy also.

SHRI B. SHANKARANAND : What is the volume of business you are having with PEC ?

SHRI B. M. LAL : Approximately every year Rs. 2 crores. I think, Mr. Adeshra knows the figures. It was something like 2½ crores.

SHRI B. SHANKARANAND : Perhaps a very small percentage of your total business ?

SHRI B. M. LAL : Yes. It is not a big line for us.

SHRI B. SHANKARANAND : So also with Maruti—a still smaller percentage of business with Maruti ?

SHRI B. M. LAL : Yes.

SHRI B. SHANKARANAND : Your affidavit is filed as per the replies you gave to the questions of S.P., Mr. Sharma ?

SHRI B. M. LAL : That is right.

SHRI NARENDRA P. NATHWANI : An agreement need not be a formal legal document. When I write a letter offering something and it is accepted, that will be an agreement.

MR. CHAIRMAN : We have already written to the concerned office to furnish whether there is a general agreement of the PEC. That we will have it.

SHRI NARENDRA P. NATHWANI : About their selling and supplying various items of machinery, I say there must be some written evidence in support of their having accepted the order, or they write a letter confirming this. Of course, I do not mean that it should be a signed and sealed document.

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**MR. CHAIRMAN :** Certain industries are given licences for building up their structure on the basis of an assurance given to the Government that they will use only indigenous machines. It appears that Maruti had given the same kind of assurance to the Government. But if they get hold of machines not directly from the foreign market, but through agents who import them, then what is the position? Are those machines considered as foreign machines or indigenous machines or India-made machines or 'got in India' machines?

**SHRI B. M. LAL :** I will answer this question. I will enlarge the answer and question also. Previously when the MRTF came into the field, Big houses were not allowed to buy machines through agents like us. In those cases the DGTD put a stop for such machines saying that 'those machines you can import, but when you sell, you will sell specifically with our permission. Otherwise you cannot sell.' We used to call this a release order from DGTD. For example, the Jessop Engineering Company which was not allowed to expand, should get a release order and then we can supply the machines to them. In my mind it is clear that whatever the machines the Government do not want to put in the hands of big companies without their permission, the Government definitely put restriction on those machines. Since the last few years there was no such restriction imposed by DGTD on those machines. So, for as it is clear that there is no bar and that they can be supplied to anybody.

**MR. CHAIRMAN :** Did you come across any instance where there is any kind of conflict by way of the ambivalent nature of issuing a licence that a certain industry is not allowed to import directly foreign machineries?

**SHRI B. M. LAL :** We never came across.

**MR. CHAIRMAN :** But at the same time they have been allowed to have anything out of the machineries prepared with indigenous equipments.

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**SHRI B. M. LAL :** Now, from what was given to us by the customers, the customers told us that our letter of intent says that you cannot import, but can you have machines which have been imported? Our letter of intent says that they will not be given any import licence. But our letter of intent will not say that we can buy some stainless steel plates available in the market. And they clarified to us that we will not be allowed to import stainless steel plates, but if they are available in the market, we can buy.

**MR. CHAIRMAN :** Before you made the supply of machinery got from outside, did you ever see the Letter of Intent and its provisions?

**SHRI B. M. LAL :** No, Sir. We only address the customer. It is his problem. He must know what he is doing. Restrictions are placed on him, but not upon the PEC. For us, Maruti Ltd. were the actual users.

**SHRI NARENDRA P. NATHWANI :** It was known to your company that according to their Letter of Intent, they were not to import themselves.

**SHRI B. M. LAL :** They did not inform us in writing.

**SHRI NARENDRA P. NATHWANI :** It does not matter. You could try to understand why they were not allowed. This information was with you.

**SHRI B. M. LAL :** They did not explain to us.

**SHRI NARENDRA P. NATHWANI :** May be you thought that there was no legal impediment.

**MR. CHAIRMAN :** They were perfectly right, because that way, there is no obligation.

**SHRI B. M. LAL :** I would say that the obligations are on the part of the purchaser—unless I see the agreement.

**MR. CHAIRMAN :** I have given instructions. We shall give a copy of the Letter of Intent issued to Maruti.

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*Shri B. M. Lal*

PROF. P. G. MAVALANKAR : Mr. Lal, you said that you were in Germany.

SHRI B. M. LAL : Yes.

PROF. P. G. MAVALANKAR : For how many years, and during which period ?

SHRI B. M. LAL : I stayed in Germany from 1955 to 1958 ; and from time to time I had to go to Germany, because I have a German wife. This makes it necessary for me to go once every 4/5 years.

PROF. P. G. MAVALANKAR : I am not interested in your family life. You said that you were in Germany in connection with your specialized knowledge.

SHRI B. M. LAL : For 3 years, I was specializing in machine tools.

MR. CHAIRMAN : Thank you very much, Mr. Lal. We now adjourn.

*(The Committee then adjourned)*

Wednesday, the 5th April, 1978

**PRESENT**

Professor Samar Guha—*Chairman*

**MEMBERS**

2. Shri Halimuddin Ahmed.
3. Shri O. V. Alagesan.
4. Shri Hitendra Desai.
5. Shri Krishan Kant.
6. Professor P. G. Mavalankar.
7. Shri Narendra P. Nathwani.
8. Shri Meetha Lal Patel.
9. Shri B. Shankaranand.
10. Shri Madhav Prasad Tripathi.

**SECRETARIAT**

Shri J. R. Kapur—*Chief Legislative Committee Officer*

Shri M. P. Gupta—*Senior Legislative Committee Officer*

**WITNESSES**

- (1) Shri B. C. Malhotra (Group Executive State Trading Corporation of India Ltd., former Chief Personnel Manager, Projects and Equipment Corporation of India Ltd.)
- (2) Shri R. K. Tarneja (Chief Personnel Manager, Projects & Equipment Corporation of India Ltd., former Personnel Manager, Projects and Equipment Corporation of India Ltd.)
- (3) Shri L. K. Dhawan (Director, Projects & Equipment Corporation of India Ltd.)

*(The Committee met at 15.00 hours)*

- (1) Evidence of Shri B. C. Malhotra

MR. CHAIRMAN : Shri Malhotra, you have been asked to appear before the Committee to give your evidence on the

*Shri B. C. Malhotra*

question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation and harassment and institution of false cases against certain officials who were collecting information for answer to certain questions in Lok Sabha on Maruti Limited. I may inform you that the evidence that you may give is to be treated as confidential till the report and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would be considered a breach of privilege. I hope, the evidence which you give, will be true. You please take oath or affirmation as you like.

*(Shri B. C. Malhotra took the oath.)*

MR. CHAIRMAN : You have sent a copy of your Affidavit that you produced before the Shah Commission. Would you read it out ?

SHRI B. C. MALHOTRA : Yes, Sir.

"I, Bipin Chand Malhotra son of late Shri Wazir Chand Malhotra, R/o C-40, Defence Colony, New Delhi-110024 do hereby solemnly affirm and declare as under :—

That I joined the STC on deputation from the Associated Cement Company Limited with effect from the 1st May, 1957. The deputation was extended from year to year until 1st May, 1963 when I resigned from the ACC and was permanently absorbed in the STC. For the period from July, 1971 to 1st April, 1975, I was posted first in Bangkok and thereafter in Singapore. I joined back in New Delhi on 7th April, 1975 when I was given charge of the Personnel Division as Chief Personnel Manager. Out of my 28 years service till then, I

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had never handled the Personnel Division and have all along been in the field of marketing.

That I left the office at about 7 P.M. on 15th April, 1975 and went straight to my Guest House where I was staying with my family. At about 7.30 P.M. I received a call from PS to Chairman that I was required in the office immediately. I reach the office at about 8.00 P.M. and went straight to the Mini Board Room where the then Chairman of STC, Shri Vinod Parekh, the then Chairman of PEC, Shri B. D. Kumar, Director (Personnel), Shri M. N. Misra and Shri N. K. Singh, Personnel Assistant to the Commerce Minister, were present. Certain decisions had apparently been taken by the senior officials present in the Mini Board Room and I was asked whether I could issue suspension orders in respect of Shri P. S. Bhatnagar who was at that time working in the PEC. I mentioned to them that I did not know the technicality involved in the process. Then I was advised to call Shri R. K. Tarneja, the then Personnel Manager, STC, issue these suspension orders and deliver the same personally to Shri P. S. Bhatnagar at his residence the same evening. In accordance with these instructions, I personally went to the residence of Shri P. S. Bhatnagar at about 10.30 P.M. and handed over the suspension order to him. The duplicate copy was duly signed by Shri Bhatnagar. Shri R. K. Tarneja, the then Personnel Manager, STC, also accompanied me to Shri Bhatnagar's residence. There was a CBI case also against Shri Bhatnagar. On the

Shri B. C. Malhotra

advice of C.V.C., his case was proceeded with and accordingly a minor penalty of 'censure' imposed on him. Shri Bhatnagar was thereafter reinstated and all his dues paid to him in full.

That the then Chairman, STC, Shri Vinod Parekh asked me also on 15th April, 1975 to issue orders transferring Shri L. R. Cavale, who was then working in the PEC from Delhi to Madras. These orders were accordingly issued on the morning of 16th April, 1975. However, as Chairman had asked me to issue these orders on the 15th April, 1975, the issue of orders bearing another date was not considered proper and I was asked to issue the orders bearing the date 15th April, 1975. Accordingly, the orders already issued were withdrawn and another order without any change in contents was issued bearing the date of 15th April, 1975.

That Shri Cavale proceeded on leave in the first instance and later submitted his resignation which was accepted by the Committee of Management."

MR. CHAIRMAN : Have you anything more to add ?

SHRI B. C. MALHOTRA : I have nothing more to add.

SHRI O. V. ALAGESAN : You have said that you have come from private company and have joined government organisation and that you have no experience of personnel work. You have all along been engaged in marketing and you have only marketing experience. Now you are in the personnel division.

SHRI B. C. MALHOTRA : No, Sir ; I am no longer holding a personnel division.

SHRI O. V. ALAGESAN : Now you are looking after what ?

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**SHRI B. C. MALHOTRA** : Now I am looking after cement, castor-oil and export and import of tallow.

**SHRI O. V. ALAGESAN** : You describe that as a marketing work or how is it described ?

**SHRI B. C. MALHOTRA** : I said : marketing work.

**SHRI O. V. ALAGESAN** : For how long you have been in the personnel division ?

**SHRI B. C. MALHOTRA** : For the first time, when I returned from Singapore on the 7th April, I joined the personnel department and I was there for a little more than two years.

**SHRI O. V. ALAGESAN** : Now you should have been acquainted with personnel work or are you feeling uncomfortable or how could we take it ?

**SHRI B. C. MALHOTRA** : I have acquired knowledge of the personnel work.

**SHRI O. V. ALAGESAN** : You have mentioned about the suspension order. Is it that you were asked to see whether you could issue a suspension order against Mr. Bhatnagar ? Did you enquire as to why you were asked to suspend Mr. Bhatnagar ?

**SHRI B. C. MALHOTRA** : I did not enquire about it. But I was called at 8 O'clock and two Chairmen of the corporations were present. I really felt that something very serious could have happened which must warrant such an action.

**SHRI O. V. ALAGESAN** : He was a senior officer working under you and also about whom you could have come to know; he did not commit anything wrong according to your knowledge. When you were asked to take action, he being the Deputy Marketing Manager, did it not strike you that you should enquire as to what had happened and why were you asked to place him under suspension ?

**SHRI B. C. MALHOTRA** : Since instructions came from my Chairman, I did not really enquire about it.

*Shri B. C. Malhotra*

**SHRI O. V. ALAGESAN** : You say that in order to frame the suspension order, you took the help of the Personnel Manager, STC, Mr. Tarneja and framed the suspension order, he drafted the suspension order and you signed it or how it had happened ?

**SHRI B. C. MALHOTRA** : Both of us did it together because I sent for him from the house and as soon as he came, the order was issued.

**SHRI O. V. ALAGESAN** : When did Mr. Tarneja draft the suspension order for him ?

**SHRI B. C. MALHOTRA** : I took his help because I was not aware of the particular conduct rule, he gave me a relevant portion of the conduct rules.

**SHRI O. V. ALAGESAN** : You went at night at 10.30 P.M. and served the suspension order.

**SHRI B. C. MALHOTRA** : Yes, Sir.

**SHRI O. V. ALAGESAN** : You took his signature on the office copy.

**SHRI B. C. MALHOTRA** : Yes, Sir.

**SHRI O. V. ALAGESAN** : Is it there in the files of your Department that you served the order at 10.30 P.M. and you took his signature with time and date marked ?

**SHRI B. C. MALHOTRA** : I do not exactly remember whether the time was marked, but he did, I remember, sign the copy.

**SHRI O. V. ALAGESAN** : It is a very unusual thing that the superior officer has to go and deliver the suspension order in the house of his subordinate along with another officer, and you did not care to take the receipt with time and date marked. Ordinarily, these things do not happen.

**SHRI B. C. MALHOTRA** : I do not remember whether the time was put by Mr. Bhatnagar, but I do remember, he signed on the office copy.

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SHRI O. V. ALAGESAN : May we take it that you did not apply your mind at all to this serious matter of suspending a subordinate, nor did you care to enquire as to what happened ?

SHRI B. C. MALHOTRA : As I have explained, when instructions were coming from my Chairman, I really felt, I honestly felt, that something very serious must have taken place warranting such a drastic action. I really had no reason to think that the ground would not be sufficient to warrant such an action.

SHRI O. V. ALAGESAN : That is to say, you did not apply your mind. You simply took something that came from a group of gentlemen who above you as sacrosanct and you did not make any effort to enquire as to what the victim of your action had done. You may have been in marketing or in personnel department. But you are a senior officer. When you were asked to suspend an officer, without applying your mind to it, you suspended him. Is that correct ?

SHRI B. C. MALHOTRA : I followed the instructions.

SHRI HITENDRA DESAI : At whose instance did you pass the order of suspension on Mr. Bhatnagar ?

SHRI B. C. MALHOTRA : I was called to the office . . .

SHRI HITENDRA DESAI : At whose instance ? At the instance of Chairman, Shri Parekh.

SHRI B. C. MALHOTRA : Yes, Sir.

SHRI HITENDRA DESAI : What did he tell you ?

SHRI B. C. MALHOTRA : He asked me to issue suspension order in respect of Mr. Bhatnagar and see that it was personally delivered by me to him the same night.

SHRI HITENDRA DESAI : Similarly, you passed orders of transfer of Mr. Cavale also at his instance ?

SHRI B. C. MALHOTRA : That is right.

SHRI HITENDRA DESAI : What was the point in changing the date from 16th April to 15th April ? What was the reason ?

SHRI B. C. MALHOTRA : The Chairman had asked me to issue it on the 15th night. It was too late at night and I was going to Mr. Bhatnagar's house. Therefore, on 16th morning I issued the transfer orders of Mr. Cavale transferring him from Delhi. When the order was issued I was told by my Chairman . . .

SHRI HITENDRA DESAI : So, at his instance, you changed it from 16th to 15th ?

SHRI B. C. MALHOTRA : With the same contents, it was issued as on the 15th.

SHRI HITENDRA DESAI : Now, did you ask the Chairman Mr. Parekh why this man was being suspended ?

SHRI B. C. MALHOTRA : I did not ask him.

श्री नारायण प्रसाद त्रिपाठी : आप ने श्री पारिख की आज्ञा बिना सोचे समझे मान ली ?

SHRI B. C. MALHOTRA : As explained earlier, when these instructions were given by the Chairman, I was called at 8 O'clock in the night, which is very unusual, and I really felt that something serious must have taken place.

श्री नारायण प्रसाद त्रिपाठी : यह सस्पेंशन आर्डर आप ने डिफ्टेट किया था या स्वयं अपने हाथ लिखा था ?

श्री बी० सी० मल्होत्रा : मैं ने तारनेवा को घर से बुलाया था ।

श्री नारायण प्रसाद त्रिपाठी : उन्होंने डिफ्टेट किया था ?

श्री बी० सी० मल्होत्रा : उन्होंने खुद लिखा था ।



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श्री अध्यक्ष प्रसाद त्रिपाठी: उन के लिये हुए पर आप ने केवल दस्तखत कर दिये। उन्होंने सस्पेंशन आर्डर लिखे और आप ने दस्तखत कर दिये।

श्री बी० सी० मल्होत्रा: दोनों ने ज्वाहटली लिखा था।

श्री अध्यक्ष प्रसाद त्रिपाठी: हैड-राइटिंग में या या टाइप था ?

श्री बी० सी० मल्होत्रा: टाइप था। स्टैनो ने टाइप किया था।

श्री अध्यक्ष प्रसाद त्रिपाठी: प्राधा आप बोलते थे और प्राधा वे बोलते थे, क्या ऐसी बात थी ?

श्री बी० सी० मल्होत्रा: स्टैनो वहाँ पर मौजूद था। मुझे कंडक्ट रूल्स का न० नहीं मालूम था, इस लिए श्री तानेजा को मैंने बुलाया था। सिर्फ कंडक्ट रूल्स का न० उन्होंने बताया था।

श्री अध्यक्ष प्रसाद त्रिपाठी: उस के बाद आप ने लिखा। अगर उसी तरह का सस्पेंशन आर्डर पारिषद साहब आप के खिलाफ आप को देते; तो आप बिना अपने मस्तिष्क का प्रयोग किये हुए, उस पर दस्तखत कर देते क्योंकि आप ने बताया है कि चैयरमेन साहब ने आप को सस्पेंशन आर्डर लिखने के लिए कहा था, इसलिए आप ने समझा कि सब ठीक होगा। आप के विषय अगर हम तरह का आर्डर आप को देते, तो क्या आप उस पर दस्तखत कर देते या आप का अपने लिए दूसरा मापदण्ड होता और दूसरों के लिए दूसरा मापदण्ड होता ?

श्री बी० सी० मल्होत्रा: अगर चैयरमेन मुझे लिख कर देते, तो मैं उस के बारे में क्या कह सकता था।

श्री अध्यक्ष प्रसाद त्रिपाठी: एक बार भी आप ने यह जानने की कोशिश नहीं की; यह समझने की कोशिश नहीं की कि यह जो सस्पेंशन आर्डर है, इस का औचित्य बनता है या नहीं ?

श्री बी० सी० मल्होत्रा: मैंने पहली दफा 30 सत्र में यह काम किया था। इस से पहले मेरे सामने ऐसी कोई सूरत पैदा नहीं हुई थी। जब प्राक्रिस में चैयरमेन बैठे थे और उन्होंने मुझे बुला कर ऐसा करने के लिए कहा, तो मैं प्रानेस्टली कहता हूँ कि मेरे दिल में यह बात आई कि कोई बहुत ही सीरियस चीज होगी।

MR. CHAIRMAN : You yourself drafted the suspension order ? Is this your signature ?

You have simply said 'mis-conduct' and you did not even enquire whether that is a sufficient ground. Supposing the case was taken to Court ? As you have said yourself, you would have been held responsible. You did not even ask whether this 'mis-conduct' is enough to suspend an officer. What type of an officer are you ? You are responsible for protecting your subordinates, but you did not even apply your mind to it.

SHRI KRISHAN KANT : Who is the appointing authority ?

SHRI B. C. MALHOTRA : Director (Personnel).

श्री अध्यक्ष प्रसाद त्रिपाठी: कोई और भी ऐसा आर्केजन पहले कभी आप के कर्तव्य पालन में आया है जब आप ने अपने मस्तिष्क और धन्य: करण का प्रयोग न किया हो या ऐसा आप ने प्रथम बार ही किया है ?

श्री बी० सी० मल्होत्रा: ऐसा पहले कभी नहीं हुआ है।

श्री अध्यक्ष प्रसाद त्रिपाठी: इस के बाद कभी आप ने यह जानने का प्रयास नहीं किया कि जो आप ने भावना दिया था, वह मुनासिब है या नहीं।

श्री बी० सी० मल्होत्रा: उस के बाद जब चार्ज-शीट इजू की तो उस वक्त मुझे यह मालूम पड़ा कि कामर्स मिनिस्टर साहब का एक नोट था जिस में यह था कि इन के खिलाफ सीरियस शिकायतें आती रहीं हैं और कुछ एक्शन लेना चाहिए।

श्री अध्यक्ष प्रसाद त्रिपाठी: तब आप ने समझा कि सस्पेंशन आर्डर उचित था ?

SHRI B. C. MALHOTRA : I did not come to this conclusion I really felt. होना नहीं चाहिए था।

श्री अध्यक्ष प्रसाद त्रिपाठी: कब मालूम हुआ कि सस्पेंशन आर्डर नहीं होना चाहिए था ?

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श्री बी० सी० मलहोत्रा : चार्ल-सीट के समय कामर्स मिनिस्टर साहब का नोट देखा जिस में उन्होंने लिखा था कि इस प्रादमी के खिलाफ पहले बड़ी शिकायतें आई हैं और इन्होंने मिसबिहेव किया है, इस लिए इन के खिलाफ मिसकंडक्ट का एक्शन लेना चाहिए। पब्लिक के साथ इन्होंने मिसबिहेव किया है, बेटे बाबू बि घोसली चार्ल।

श्री कृष्ण कास्त : जिस नोट का आप जिक्र कर रहे हैं यह कामर्स मिनिस्टर मि० चट्टोपाध्याय का था या मिनिस्ट्री का यह नोट था ?

श्री बी० सी० मलहोत्रा : यह मि० चट्टोपाध्याय का नोट था और यह भी 15 अप्रैल का ही नोट था।

MR. CHAIRMAN : You were concerned with marketing. Did you ever sign blindly on the instructions of your senior officers any contract or any other documents concerning marketing ?

SHRI B. C. MALHOTRA : No, Sir.

MR. CHAIRMAN : That means that your whole conscience was freezed here only.

SHRI NARENDRA P. NATHWANI : You said that in respect of Bhatnagar, Director (Personnel) is the appointing authority. You have stated in your affidavit that four persons were sitting there including Vinod Parekh, B. D. Kumar, Mishra, Director (Personnel). He is also the disciplinary authority ?

SHRI B. C. MALHOTRA : Yes, Sir.

PROF. P. G. MAVALANKAR : You said that you were new to this job of Chief Personnel Manager. How long did you work as Chief Personnel Manager before you took this action of signing this order?

SHRI B. C. MALHOTRA : 7 days.

PROF. P. G. MAVALANKAR : You were Chief Personnel Manager only for 7 days ?

SHRI B. C. MALHOTRA : Yes, Sir.

PROF. P. G. MAVALANKAR : Since you were given this assignment as Chief Personnel Manager, did you try to ac-

quaint yourself with the job, with the requirements, responsibilities and obligations?

SHRI B. C. MALHOTRA : Yes, Sir.

PROF. P. G. MAVALANKAR : What did you do ?

SHRI B. C. MALHOTRA : I studied the rules and regulations and the procedure which is necessary.

PROF. P. G. MAVALANKAR : That means that during the first 7 days in office you acquainted yourself with all the rules and regulations ?

SHRI B. C. MALHOTRA : In the first seven days I was not able to do it. Afterwards; that means it may be after one or two months.

PROF. P. G. MAVALANKAR : You took up your new job and 7 days later you signed this order. At the moment of taking up your assignment and signing this order, did you apply your mind to the duties and responsibilities that as the Chief Personnel Manager you had to perform ? What did you do in those 7 days ?

SHRI B. C. MALHOTRA : I was looking after the day-to-day work.

PROF. P. G. MAVALANKAR : What was it ?

SHRI B. C. MALHOTRA : Recruitment, promotions and transfers.

PROF. P. G. MAVALANKAR : You did all this independently or on the advice of your superiors ?

SHRI B. C. MALHOTRA : On the question of transfers, of course, it was independent. But, on the question of recruitment, there are committees. On promotions also there are committees. It is only the committees' recommendations which are implemented by us.

PROF. P. G. MAVALANKAR : Whatever you did, it was according to the rules or according to your own ideas and whims?

SHRI B. C. MALHOTRA : To the best of my judgment.

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PROF. P. G. MAVALANKAR : Judgment in conformity with what ?

SHRI B. C. MALHOTRA : The rules.

PROF. P. G. MAVALANKAR : That means that you have to study the rules.

SHRI B. C. MALHOTRA : I did not study the conduct rules threadbare. But, later on...

PROF. P. G. MAVALANKAR : If you have not studied the rules, how could you function in conformity with the rules ?

SHRI B. C. MALHOTRA : This is the only case of suspension.

PROF. P. G. MAVALANKAR : Apart from this—I will come to this later—you took up the job and started functioning. Did you ever acquaint yourself with the requirements and responsibilities of your position ?

SHRI B. C. MALHOTRA : In about 3 months' time I did study all the rules.

PROF. P. G. MAVALANKAR : You went on reading ?

SHRI B. C. MALHOTRA : During the course of my job I went on studying.

PROF. P. G. MAVALANKAR : I will not pursue this matter further since you are not replying to the points pointedly.

One question I would like to ask you is : you signed this particular order in which it is mentioned that Mr. Bhatnagar is suspended under rule so and so. When you were asked to sign by your bosses, did you at least try to find out what those rules are under which you were asked to suspend Mr. Bhatnagar ?

SHRI B. C. MALHOTRA : That is why I said that I went for Mr. Tarneja. He knows these rules very thoroughly and he was the Personnel Manager.

PROF. P. G. MAVALANKAR : What were you ?

SHRI B. C. MALHOTRA : I was Chief Personnel Manager.

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PROF. P. G. MAVALANKAR : Who was above whom ?

SHRI B. C. MALHOTRA : I am above him.

PROF. P. G. MAVALANKAR : You were above him, but you were guided by him.

SHRI B. C. MALHOTRA : Because he was aware of the conduct rules.

SHRI KRISHAN KANT : During your service anywhere—either here or before, did you have any chance of giving suspension orders or appointment orders or revocation orders at such a short notice ?

SHRI B. C. MALHOTRA : Never.

SHRI KRISHAN KANT : You met Mr. P. S. Bhatnagar at 10.30 at night. Did he ask you why he has been suspended ?

SHRI B. C. MALHOTRA : Yes, sir.

SHRI KRISHAN KANT : What is the reply that you gave ?

SHRI B. C. MALHOTRA : These are the orders of the Management and you have to carry out.

SHRI KRISHAN KANT : When you sent this memorandum dated 29th April, 1975 there were two annexures—1 & 2 which said—

For sometime persistent complaints have been received about the misbehaviour and misconduct of Shri P. S. Bhatnagar, Deputy Marketing Manager, Projects and Equipment Corporation (a subsidiary of STC) towards the business clients and associates. On 15th April, 1975 he kept the representatives of the firm—M/s. Batliboi and Co.—waiting for an unduly long time and coerced them to part with certain information. The manner in which the information was sought to be obtained by him was unbecoming of an employee of the Corporation as per Rule 3(iii) of the STC of India Ltd., Employees Conduct Rules, 1967 and also constitutes misconduct and misbehaviour.

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And the second was—

Shri P. S. Bhatnagar while functioning as Deputy Marketing Manager in Projects and Equipment Corporation (subsidiary of STC) committed gross misconduct and misbehaviour in as much as he kept the representatives of the firm M/s. Batliboi and Co., waiting for an unduly long time on 13th April, 1975 and coerced them to part with certain information. The manner in which the information was sought to be obtained by him was unbecoming of an employee of the Corporation as per Rule 3(iii) of the S.T.C. of India Limited Employees (Conduct) Rules, 1967.

These are the things you signed.

SHRI B. C. MALHOTRA : Yes.

SHRI KRISHAN KANT : Here a definite charge has been made—

'for some time persistent complaints have been received about misconduct and misbehaviour'.

Did you go through those complaints ?

SHRI B. C. MALHOTRA : This was recorded on Commerce Minister's note.

SHRI KRISHAN KANT : Was there nothing recorded in the STC about his misconduct and misbehaviour ?

SHRI B. C. MALHOTRA : No.

SHRI KRISHAN KANT : Minister's note must be there on the file. Is it so ?

SHRI B. C. MALHOTRA : Yes.

SHRI KRISHAN KANT : You mentioned that on 15th April, 1975 & 13th April, 1975 he kept Batliboi & Co., people waiting. Did you get any complaint from M/s. Batliboi ?

SHRI B. C. MALHOTRA : To the best of my recollection these things are

mentioned in the Commerce Minister's note.

MR. CHAIRMAN : Now, I think, you send the Commerce Minister's note to the Shah Commission.

SHRI B. C. MALHOTRA : Yes. Our files are still with them. Our Vigilance Commission may have copy.

SHRI KRISHAN KANT : You had neither any complaint before, nor, on this issue. Did you verify whether it is a fact or not from Batliboi ?

SHRI B. C. MALHOTRA : Any internal or local enquiries will be done by PEC. At that time they had common cadre. Local complaints of a daily nature will be enquired into by them.

SHRI KRISHAN KANT : The Charge of imputation is made and this is under your signature. When you filed that Memorandum, you had the note of the Minister and nothing else with you.

SHRI B. C. MALHOTRA : Note recorded by the Commerce Minister.

SHRI KRISHAN KANT : That was the only document on the basis of which the statement of imputation was prepared. Nothing else on the file.

SHRI B. C. MALHOTRA : No.

SHRI KRISHAN KANT : These are the only words, Mr. Chairman, repeated from the note of the Commerce Minister.

Now, reply to the Memorandum was given on 1st May, 1975. May, June, July, August, you looked into it, for 4 months'. On the 1st of September, you have this signed by you. It says :

The competent disciplinary authority in exercise of the powers conferred by clause (c) of sub-clause (v) of rule 8 of the STC of India Limited, Classification, Control and Appeal Rules, 1967, has revoked the said order of suspension with immediate effect. The entire period of suspension etc. shall be treated as on duty

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and he would be entitled to his pay and allowances for that period.'

He had mentioned, 'there is no basis of the charge'. Why did it take four months? What were you enquiring?

**SHRI B. C. MALHOTRA :** The suspension order was on 15th April. There was a CBI case against him. CBI enquiry was going on. It is only after the close of the case that we could issue the order. The CVC gave certain recommendations. On the basis of this the penalty of censure was imposed.

**SHRI KRISHAN KANT :** CBI case was not on these two charges?

**SHRI B. C. MALHOTRA :** No.

**SHRI KRISHAN KANT :** It may be for criminal charge, having property more than your known source of income and things like that. On these two charges there was the reply he had given. I think you were satisfied with the reply.

**SHRI B. C. MALHOTRA :** Yes.

**SHRI KRISHAN KANT :** Nothing happened afterwards. Did you enquire from Bhatnagar and others?

**SHRI B. C. MALHOTRA :** No, Sir.

**SHRI KRISHAN KANT :** Then, how did you come to know that the statement made by Mr. Bhatnagar is correct because, in the Order, you say that the disciplinary authority exercises the power conferred by clause (c) to revoke the order? It means, you did not enquire whether the reply given by Mr. Bhatnagar is correct or not because that would require you to enquire from any other source which means the Minister as well.

It means you only waited for the final investigation of the CBI. After they had given, your letter was drafted and sent to you. Is it not so?

I am only asking you because you sent your reply on the 7th September. By

that time, you had received an intimation about the enquiries being made by the C.B.I. The C.B.I. found nothing and you immediately came to the conclusion that you also did not find anything; in your charges there is nothing.

**SHRI B. C. MALHOTRA :** Normally if the C.B.I. enquiry is going on, we wait for the report.

**SHRI KRISHAN KANT :** That is true you wait for the C.B.I. report.

**SHRI B. C. MALHOTRA :** It is also true that a man is suspended when the CBI's enquiry is going on.

**SHRI KRISHAN KANT :** I shall come to your point. There is a mention that Batliboi gave the information. If the charges are about the behaviour of a person badly, then at least, you must have enquired into it. Because the C.B.I. said 'no' you also verbally came to the conclusion that there is nothing. It means when you issued a charge sheet, you had no hand in it. The C.B.I. enquiry did not find anything that you had any hand in it.

So, you had no hand in it.

**SHRI B. C. MALHOTRA :** I had no hand in it.

**SHRI KRISHAN KANT :** It means you took the revocation order also. Even, at that time also, did you try to enquire about the charges? The CBI said 'no'. You also said 'no'. It was all because of some pressure from above. It was all done without going into the charge sheet you are not serious about the charge sheet firstly. You were only waiting for the instructions to revoke. May I take it like that?

**SHRI B. C. MALHOTRA :** That is true.

**SHRI KRISHAN KANT :** It means the charges are without any foundation. There are so many other papers also. I have not gone through them. So, I cannot put questions. I have to go through them. Then only I can put to him questions.

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Shri B. C. Malhotra

SHRI B. SHANKARANAND : I will not ask him the questions unless I get hold of the note. He said that he had got a note. Unless I get hold of it, I won't be able to put to him the questions. This is the only piece of evidence that connects the two. The rest are only the details.

MR. CHAIRMAN : May I take it that you were only dictated to act? You did not act upon any note or any complaint. You did not exercise your conscience earlier or your sense of discretion in any way. You just followed what was dictated to you—you may call it dictation or order from the Minister.

SHRI B. C. MALHOTRA : That is true.

MR. CHAIRMAN : You said that somebody else was the appointing authority.

SHRI B. C. MALHOTRA : Yes, Sir.

MR. CHAIRMAN : Was the suspension order issued in consultation with the appointing authority?

SHRI B. C. MALHOTRA : It was issued with his approval.

MR. CHAIRMAN : Did you get any operative order from the appointing authority?

SHRI B. C. MALHOTRA : Yes. Actually, it is there on the same note of the Commerce Minister. After the Commerce Minister's note, there is a note recorded by the Chairman, PEC. Then there is a note recorded by the appointing authority in which I have been directed.

MR. CHAIRMAN : Please try to get a copy of that note from the Shah Commission and send the same to the Committee.

SHRI B. C. MALHOTRA : I will send it either today or tomorrow. It may be available with our vigilance Department.

MR. CHAIRMAN : Thank you very much.

*(The witness then withdrew)*

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(ii) Evidence of Shri R. K. Tarneja

MR. CHAIRMAN : Mr. R. K. Tarneja, you have been asked to appear before this Committee to give your evidence in connection with the question of privileges against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited. I hope you will state the factual position and your version of events freely and truthfully.

(Attention of the witness was also drawn to Direction 58 of the Directions by the Speaker.)

You may please take oath or affirmation as you like.

(Shri R. K. Tarneja took the oath)

MR. CHAIRMAN : Did you appear before the Shah Commission ?

SHRI R. K. TARNEJA : No, Sir.

MR. CHAIRMAN : You did not submit any statement before the Shah Commission.

SHRI R. K. TARNEJA : No, Sir. It was not required.

MR. CHAIRMAN : In serving the suspension order on Bhatnagar and Cavale, what role did you play ?

SHRI R. K. TARNEJA : At about quarter to 9 or so, in the night, the staff car came to my house and the driver told me that Mr. B. C. Malhotra wanted me in the office. I went to the office and there I was told by Mr. Malhotra that Mr. Bhatnagar had to be suspended and he asked me to see whether the suspension order was all right. I am not in the vigilance and I was not concerned with it and in any case, I said : let me see it. It was typed and he asked me to accompany him for delivering it at Mr. Bhatnagar's house and I accompanied him.

श्री माधव प्रसाद त्रिपाठी : आप ने श्री मलहोत्रा से यह नहीं पूछा कि आप जो यह

Shri R. K. Tarneja

सस्पेंशन आर्डर दे रहे हो, इस का कारण क्या है ?

श्री आर० के० तनेजा : मैंने पूछा था कि क्या कारण है लेकिन उन्होंने यही कहा कि ऊपर से इस्ट्रक्शन्स आई हैं और आप मेरे साथ इस सस्पेंशन आर्डर को देने के लिए चलो ।

SHRI B. SHANKARANAND : You are well versed with the rules of service and discipline ?

SHRI R. K. TARNEJA : I was not in the vigilance department ; I was not.

SHRI B. SHANKARANAND : You were not told as to who had asked him to issue the suspension order ? Did he tell you ?

SHRI R. K. TARNEJA : No.

SHRI B. SHANKARANAND : Did you have any other conversation with Mr. Malhotra in his office except drafting the suspension order of Mr. Bhatnagar ?

SHRI R. K. TARNEJA : I asked him why he was being suspended. Except that there was no other talk.

SHRI B. SHANKARANAND : When you asked him why he was being suspended, did he give any reason ?

SHRI R. K. TARNEJA : He said that those were the instructions from the top.

SHRI B. SHANKARANAND : From whom did he say ?

SHRI R. K. TARNEJA : From the top.

SHRI B. SHANKARANAND : Not anybody ?

SHRI R. K. TARNEJA : I recall his having said that it is from the top.

SHRI B. SHANKARANAND : Did you meet Mr. Bhatnagar thereafter ?

SHRI R. K. TARNEJA : I went along with Mr. Malhotra to Mr. Bhatnagar's house.

SHRI B. SHANKARANAND : Did he meet you thereafter ?

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Shri R. K. Tarneja

**SHRI R. K. TARNEJA :** He came to the Office. He used to come to office and once or twice he did meet me.

**SHRI B. SHANKARANAND :** For what purpose did he meet you after the suspension order was given ?

**SHRI R. K. TARNEJA :** He wanted to know any development in his case because he was under suspension.

**SHRI B. SHANKARANAND :** You were keeping him informed about the developments.

**SHRI R. K. TARNEJA :** I told him that I am not concerned with it. "So, don't meet me". I also told him that I am not the dealing Officer.

**SHRI B. SHANKARANAND :** You also did not take any interest in this case.

**SHRI R. K. TARNEJA :** No, because my subjects were different. Another Officer was handling it.

**SHRI B. SHANKARANAND :** What were you handling ?

**SHRI R. K. TARNEJA :** I was Personnel Manager and I was not Chief Personnel Manager. There were two Personnel Managers.

**SHRI B. SHANKARANAND :** Who was the other Personnel Manager ?

**SHRI R. K. TARNEJA :** Mr. N. R. Sircar.

**SHRI B. SHANKARANAND :** He was connected with the case ?

**SHRI R. K. TARNEJA :** He and the Chief Vigilance Officer also.

**SHRI B. SHANKARANAND :** What is his name ?

**SHRI R. K. TARNEJA :** Mr. Joshi.

**SHRI B. SHANKARANAND :** Who else was connected with this case ?

**SHRI R. K. TARNEJA :** Mr. B. C. Malhotra.

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**SHRI B. SHANKARANAND :** They were the three persons who were connected with this case. You were not connected with it.

**SHRI R. K. TARNEJA :** I was consulted only the first day. Thereafter, I was not connected with the case.

**SHRI B. SHANKARANAND :** Did you appear before the Shah Commission ?

**SHRI R. K. TARNEJA :** No.

**SHRI B. SHANKARANAND :** Did police come to you to enquire about the case ?

**SHRI R. K. TARNEJA :** No.

**SHRI B. SHANKARANAND :** Did the Chairman come to you to enquire about it ?

**SHRI R. K. TARNEJA :** No.

**SHRI B. SHANKARANAND :** This was the only occasion when you were consulted by Mr. Malhotra ?

**SHRI R. K. TARNEJA :** Yes.

**PROF. P. G. MAVALANKAR :** You were the Personnel Manager of STC when this incident happened. Who was the Chief Personnel Manager ?

**SHRI R. K. TARNEJA :** Shri B. C. Malhotra.

**PROF. P. G. MAVALANKAR :** How many Personnel Managers were there like you ?

**SHRI R. K. TARNEJA :** Two—one myself and one more.

**PROF. P. G. MAVALANKAR :** What was the division of responsibilities between you two ? What kind of work were you assigned ?

**SHRI R. K. TARNEJA :** It can be changed. Sometime, I was handling his work. He also was handling my work for some time. It was by rotation.



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**PROF. P. G. MAVALANKAR :** What were you handling at that time ?

**SHRI R. K. TARNEJA :** I was concerned with selection, recruitment training, etc.

**PROF. P. G. MAVALANKAR :** I would like you to tell us as to what kind of work you were doing as Personnel Manager, one of the two Personnel Managers of STC in those years, not on that particular day or year ?

**SHRI R. K. TARNEJA :** In the Personnel Division, the work involved is selection, recruitment, promotion welfare measures, establishment, leave, industrial relations, etc.

**PROF. P. G. MAVALANKAR :** Were you dealing with suspension ?

**SHRI R. K. TARNEJA :** I was not concerned with it.

**PROF. P. G. MAVALANKAR :** Have you read the rules regarding the misconduct or misbehaviour of a Government employee ?

**SHRI R. K. TARNEJA :** I had a glance but not at that time.

**PROF. P. G. MAVALANKAR :** There are so many people in your Department. You have not taken the trouble to read all these rules and regulations ?

**SHRI R. K. TARNEJA :** I was not concerned. I simply read them.

**PROF. P. G. MAVALANKAR :** But how is it that Mr. Malhotra asked you to accompany him ?

**SHRI R. K. TARNEJA :** He called me from the house. When I reached there, he said I should accompany.

**PROF. P. G. MAVALANKAR :** Why were you asked to accompany ?

**SHRI R. K. TARNEJA :** My boss said I should accompany him and I accompanied him.

Shri R. K. Tarneja

**PROF. P. G. MAVALANKAR :** You did not ask what for were you to accompany ?

**SHRI R. K. TARNEJA :** Mr. Malhotra delivered the suspension order to Mr. Bhatnagar.

**PROF. P. G. MAVALANKAR :** Before that, did Mr. Malhotra consult you on anything ?

**SHRI R. K. TARNEJA :** No. He asked me to see this suspension order.

**PROF. P. G. MAVALANKAR :** Who wrote that order ?

**SHRI R. K. TARNEJA :** He was having a draft.

**PROF. P. G. MAVALANKAR :** Did Mr. Malhotra write it ?

**SHRI R. K. TARNEJA :** It was typed.

**PROF. P. G. MAVALANKAR :** But who wrote it ?

**SHRI R. K. TARNEJA :** I reached there late.

**PROF. P. G. MAVALANKAR :** But you know who wrote it ?

**SHRI R. K. TARNEJA :** He showed me to see whether this was all right.

**PROF. P. G. MAVALANKAR :** Any way, you accompanied Mr. Malhotra to Mr. Bhatnagar's residence. Then what happened ?

**SHRI R. K. TARNEJA :** We really did not know his house. We searched for it and found out. Then Mr. Malhotra talked to him and said that "this is your suspension order. Please take it". After some discussion with him, he accepted it.

**PROF. P. G. MAVALANKAR :** For how long were you and Mr. Malhotra at the residence of Mr. Bhatnagar ?

**SHRI R. K. TARNEJA :** We were standing outside his residence. We did not go inside his house. Mr. Bhatnagar just came out.

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Shri R. K. Tarneja

PROF. P. G. MAVALANKAR : But how long ?

SHRI R. K. TARNEJA : About 15 minutes.

PROF. P. G. MAVALANKAR : What Mr. Bhatnagar said ?

SHRI R. K. TARNEJA : He said 'Why this suspension order' like this? Some discussion took place.

PROF. P. G. MAVALANKAR : At the residence of Mr. Bhatnagar you were with Mr. Malhotra. I want you to tell us what happened when you were there outside the residence or verandah or whatever it is. What discussion took place ?

SHRI R. K. TARNEJA : I don't recollect exactly. The subject was like this. Mr. Bhatnagar said : "Why you are giving this to me ? What happened ? I have not done anything. Why should you suspend me ?"

PROF. P. G. MAVALANKAR : What did Mr. Malhotra say ?

SHRI R. K. TARNEJA : He said : "I have brought this letter. You please accept".

PROF. P. G. MAVALANKAR : Did you say anything at that point ?

SHRI R. K. TARNEJA : I was silent.

PROF. P. G. MAVALANKAR : All the time ?

SHRI R. K. TARNEJA : I was a junior officer. I simply accompanied him.

PROF. P. G. MAVALANKAR : After 15 minutes or so when he signed and took the order, both of you left ?

SHRI R. K. TARNEJA : Yes.

MR. CHAIRMAN : That is all.

SHRI R. K. TARNEJA : Thank you, Sir.

(The witness withdrew)

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(iii) Evidence of Shri L. K. Dhawan

MR. CHAIRMAN : Mr. Dhawan, you have been asked to appear before this Committee to give your evidence in connection with the question of privilege against Shrimati Indira Gandhi for alleged obstruction in the collection of information and the institution of false cases against certain officials who were collecting information to answer certain questions on Maruti. I hope you will state the factual position freely and truthfully.

I may inform you that the evidence that you give before the Committee is to be treated as confidential till the Report of the Committee and its proceedings are presented to the Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. The evidence which you give before the Committee may be reported to the House.

Now, you may please take the oath or make the affirmation.

(Shri L. K. Dhawan then took the oath)

MR. CHAIRMAN : Did you appear before the Shah Commission ?

SHRI L. K. DHAWAN : No. I was summoned, but oral evidence was not called for because Mrs. Gandhi did not give her statement. So, I was asked to be present. I was present, but then after Mrs. Gandhi went away, the witnesses who were to be called were discharged by the Commission.

MR. CHAIRMAN : You have sent a statement. Would you read out the statement ? Read it slowly.

SHRI L. K. DHAWAN : The following is my statement :

"Shri Vidya Sagar, DSP attached to the Shah Commission met me and wanted to know if I could throw some light on the reasons for the transfer of Shri L. R.

Shri L. K. Dhawan

Cavale who was then Chief Marketing Manager, to Madras and the suspension of Shri P. S. Bhatnagar who was Deputy Marketing Manager which took place in April 1975. I informed him that I was not aware of any reasons in writing "for these actions; also I had no prior intimation for these actions and was not consulted beforehand. Subsequently Shri Cavale and Shri Bhatnagar had verbally informed me of the reasons which according to them, had led to these actions. Shri Vidya Sagar suggested that whatever had been informed to me, may be put down in a statement.

In April 1975, I was the only Executive Director of the PEC. The Chairman was Shri B. D. Kumar who was then working as the Chief Controller of Imports & Exports. Shri B. D. Kumar was appointed Part time Chairman of PEC in addition to his duties as CCI&E in March 1975. Shri Cavale was working directly under me and Shri Bhatnagar was reporting to Shri Cavale. After the issue of orders for transfer and suspension by the Personnel Department of the STC, Shri Cavale and Shri Bhatnagar met me separately. From the conversation with them, it appeared that some officer in the Ministry of Industry had rung up Shri Cavale and wanted information about machine tools imported on stock and sale basis from East European countries and supplied to Maruti. He had indicated that this was required in connection with a Parliament question. Shri Cavale had asked him to send the request in writing, but in the meantime had asked Shri Bhatnagar to collect the information. Shri Bhatnagar contacted

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Shri L. K. Dhawan

Batliboi and Co. who are one of the associates importing stock and sale machine tools. Apparently the action against them was taken for trying to collect this information.

Although I was the Executive Director incharge, I was neither consulted nor informed beforehand of the action taken. I had, however, felt very unhappy on the action taken and had mentioned this to the then Chairman PEC. I was informed that this was as per instructions from the top."

MR. CHAIRMAN : Do you want to add anything more ?

SHRI L. K. DHAWAN : As I have mentioned in the statement, action taken against Mr. Bhatnagar and Mr. Cavale was uncalled for and not justified.

MR. CHAIRMAN : What do you mean by 'as per the instruction from the top' ?

SHRI L. K. DHAWAN : This was the reply given to me.

MR. CHAIRMAN : Who is your top ?

SHRI L. K. DHAWAN : When I mentioned to the then Chairman, after this action had been taken that this action was not called for and there seemed to be nothing against these officers, I was informed that the action had been taken on instructions from the top. The word perhaps 'right from the top' might have been used; I cannot recollect now. And I understood from the word 'top' that this had come as a result of instructions from No. 1, Safdarjang Road.

MR. CHAIRMAN : What is the name of your Chairman ?

SHRI L. K. DHAWAN : Shri B. D. Kumar. He has since retired from service.

PROF. P. G. MAVALANKAR : When he said 'top', you inferred that it was the Prime Minister's establishment. Did you

have any particular person in mind when you inferred that ?

SHRI L. K. DHAWAN : No. My purpose was to tell the Chairman that action against these officers who were working under me, was not called for and to try and persuade him that this action should not be taken. The reply that I got was that this had not been initiated from him but as per instructions from the top. Since he was the Chairman, the top could have been the Minister or the Prime Minister. But in the general trend of conversation, the impression that I got was that this was higher than the Minister.

PROF. P. G. MAVALANKAR : Subsequent to that, did you try to go into this matter and find out what was the actual situation ?

SHRI L. K. DHAWAN : The case was never referred to me. He was suspended. I came to know about this only after Mr. Bhatnagar had been suspended and Cavale's transfer orders had been issued. He went on leave. I think, he availed of four months leave and after that, he submitted his resignation. The case never came to me. A few times, I did speak to the then Chairman suggesting to him that nothing seemed to have come out and the suspension orders against Mr. Bhatnagar should be revoked. I was informed that there was a CBI case or something against them and we should await the results of that inquiry. No case was put up to me with regard to any CBI inquiry or anything against any one of these officers.

PROF. P. G. MAVALANKAR : Since you have said that the suspension and transfer orders were uncalled for, did you subsequently, on your own, try to look into the matter or ensured that the officers were not served with such things ?

SHRI L. K. DHAWAN : After April 15, Mr. Cavale proceeded on leave and, on one or two occasions, I tried to tell the then Chairman of PEC, Mr. Kumar, that Mr. Bhatnagar could be put back

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on duty because there did not seem to be anything against him. But this met with no response.

PROF. P. G. MAVALANKAR : You said that Mr. Cavale and Mr. Bhatnagar met you separately.

SHRI L. K. DHAWAN : They did not come together.

PROF. P. G. MAVALANKAR : What did they tell you ?

SHRI L. K. DHAWAN : In the morning when I came to office, Mr. Bhatnagar was there. He showed me the suspension order. I was very surprised. I asked, "What happened ?" He related the story. After, I think, about an hour or so, Mr. Cavale came and showed me his transfer order.

PROF. P. G. MAVALANKAR : You listened to both of them.

SHRI L. K. DHAWAN : Yes.

PROF. P. G. MAVALANKAR : Did you think of taking any further action ?

SHRI L. K. DHAWAN : I spoke to the Chairman and presented my views saying that the action taken, on the basis of my knowledge about the working of the officers, did not seem to be called for.

PROF. P. G. MAVALANKAR : Did you know anyone by name or personally at the ex-Prime Minister's Secretariat ?

SHRI L. K. DHAWAN : No. I have never been to 1, Safdarjang Road. I did not know anybody there. In fact, I have not met anyone as far as I can recollect from the ex-P.M.'s secretariat.

PROF. P. G. MAVALANKAR : Did you know by name at least some of the persons working in the ex-P.M.'s secretariat ?

SHRI L. K. DHAWAN : I heard of Mr. R. K. Dhawan, particularly because he carried the same name as I do.

Shri L. K. Dhawan

PROF. P. G. MAVALANKAR : Is he your relation ?

SHRI L. K. DHAWAN : No.

PROF. P. G. MAVALANKAR : Have you ever met him ?

SHRI L. K. DHAWAN : No. I have never met him.

SHRI P. G. MAVALANKAR : Did you get any telephone call from him for any purpose ?

SHRI L. K. DHAWAN : No.

PROF. P. G. MAVALANKAR : In your statement, you have said, "I informed him that I was not aware of any reasons in writing for these actions". You had not seen anything in writing ?

SHRI L. K. DHAWAN : I had seen nothing in writing. On the basis of the reasons which were indicated to me after the action was taken and what Mr. Bhatnagar and Mr. Cavale told me, I could put two and two together. There was no file or anything in writing which was put before me saying that these were the reasons for which this action was proposed to be taken which is the normal procedure in Government offices. If any serious action is to be taken, it is put before the immediate superior or senior officer saying that this is what we would like to do. No such thing was done.

PROF. P. G. MAVALANKAR : In these two cases, all the normal established practices were put aside.

SHRI L. K. DHAWAN : I think so.

PROF. P. G. MAVALANKAR : Everything was done because of the assumed instruction from the top.

SHRI L. K. DHAWAN : Everything was done on that basis. Mr. Bhatnagar told me that he was served with a suspension order at 10 or 10.30 p.m. at night. I could not see where was the hurry for the suspension order to be served at night, dragging out the person from the bed, so to say.

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**PROF. P. G. MAVALANKAR :** Then, in the statement, you have said, "Apparently, the action against them was taken for trying to collect this information". Can you elaborate on this ?

**SHRI L. K. DHAWAN :** This is what I inferred after Mr. Bhatnagar and Mr. Cavale talked to me and the way the action was taken. After I had talked to the then Chairman, PEC, he told me that the action had been taken on instructions from the top. This was my inference.

**SHRI HITENDRA DESAI :** You have said, "I was informed that this was as per instructions from the top". You said that by that you meant, I, Safdarjang Road. What is the basis on which you came to this inference ?

**SHRI L. K. DHAWAN :** As I submitted, I had represented to the Chairman that the action was not called for and he indicated to me that the action was as a result of instructions from the top.

**SHRI HITENDRA DESAI :** I want to know the exact words. That is very important. What did he exactly tell you ?

**SHRI L. K. DHAWAN :** As far as I can recollect, he said, this is from the top.

**SHRI HITENDRA DESAI :** That is all he said.

**SHRI L. K. DHAWAN :** That is what he said. I cannot now definitely say, whether he said, "very top" or "the top". But he definitely said that the action had been taken on instructions from the top.

**SHRI HITENDRA DESAI :** Then you concluded that it was from I, Safdarjang Road.

**SHRI L. K. DHAWAN :** I took it after going into the overall thing with regard to collecting information from Maruti. The fact is that these orders were issued at dead of night without going into the proper procedure.

*Shri L. K. Dhawan*

**SHRI HITENDRA DESAI :** That is all ; that is not relevant. The point is how do you say that it was from I, Safdarjang Road ?

**SHRI L. K. DHAWAN :** I can only say that this was my inference.

**SHRI KRISHAN KANT :** Did you deal with this question of Maruti ?

**SHRI L. K. DHAWAN :** In what way ?

**SHRI KRISHAN KANT :** In the office about it. You have mentioned it in your memorandum.

**SHRI L. K. DHAWAN :** No, Sir. The Parliamentary question was not received by me or for that matter it was not received in the corporation.

**SHRI KRISHAN KANT :** In the absence of Mr. Cavale, did you have anything to deal with it ?

**SHRI L. K. DHAWAN :** You mean to say with regard to Parliamentary question with regard to Maruti.

**SHRI KRISHAN KANT :** Mr. Bhatnagar had said in the memorandum that when Mr. Batliboi and others were there, he got a ring from you.

**SHRI L. K. DHAWAN :** No, no ; let me explain this. Mr. B. D. Kumar, who was the Chairman, said that there was some information being collected with regard to supply of machines to Maruti. I said : "I know nothing about it". He said : "Please check if there was any papers and I would like to have those papers". I called Mr. Bhatnagar on the same day and said : "Are you collecting any information ?" He said : "this is a letter which came from the Ministry of Industry asking about the list of our associates. There was a telephone call on the basis of which I asked Batliboi to give me the list". I think he gave me two papers. One was that letter and the other was one paper which I immediately went and gave to Mr. B. D. Kumar. I hardly saw them.

**SHRI KRISHAN KANT :** You rang up Mr. Bhatnagar and asked him to give you the papers. You got the papers and

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handed them over to Mr. B. D. Kumar. That is the end of all.

**SHRI L. K. DHAWAN :** That was the last till next morning. Then Mr. Cavale and Mr. Bhatnagar came and told me what action was taken.

**SHRI B. SHANKARANAND :** You had no personal knowledge about collection of information regarding Parliament Question ?

**SHRI L. K. DHAWAN :** I had no information till this particular date : I had no knowledge.

**SHRI B. SHANKARANAND :** I will read out what Mr. Bhatnagar has said before us, so that you can say whether it is right or wrong. This is what he has said :

"That on 15-4-1975 between 3.30 p.m. and 4.00 p.m., Mr. Mathur of Batliboi & Co., along with Mr. Adeshra, called on me. I enquired from Mr. Mathur whether he had brought the required information or not. He said 'yes' and gave the letter to me which I could not even go through as just at that moment I was called by my Director, Shri L. K. Dhawan, who asked me if I was collecting any information regarding supply of machine tools. I told him 'Yes, Sir' but under instructions of my Chief Marketing Manager. He instructed me to hand over to him all the papers, whatever I had, in this connection. I went to my table and collected all the papers I had in this connection and handed over the same to him."

**SHRI L. K. DHAWAN :** I do not know about anybody from Batliboi & Co. coming and meeting him. Maybe, somebody from Batliboi & Co. was there. I do not know.

**SHRI B. SHANKARANAND :** Because at that time you come in the picture.

Shri L. K. Dhawan

**SHRI L. K. DHAWAN :** He used to sit at another place. My office was separate. I did send for him and ask him because I had just at that moment been given a ring by the then Chairman, Mr. Kumar. He asked me whether any information was being collected about supply of machine tools to Maruti. I said, 'Not to my knowledge'. He wanted me to check up and bring whatever papers were there. When Mr. Bhatnagar brought those papers, I immediately went and handed them over to him.

**SHRI B. SHANKARANAND :** When Mr. Bhatnagar gave you the papers, did you look into those papers ?

**SHRI L. K. DHAWAN :** I hardly glanced over them. Immediately I went and handed over those papers...

**SHRI B. SHANKARANAND :** Did you enquire Mr. Bhatnagar about these papers ?

**SHRI L. K. DHAWAN :** As I said, the Chairman telephoned to me and asked me whether any information was being collected about supply of machine tools to Maruti. I said, 'Not to my knowledge'. He said, 'Check up if there is any paper and if there is, bring it to me'. Mr. Cavale was not there. Therefore, I telephoned to Mr. Bhatnagar. He said, 'There is some information which I have been asked by Mr. Cavale to collect'. I asked him to bring all the papers to me. That is all.

**SHRI B. SHANKARANAND :** When did you come to know of the suspension of Mr. Bhatnagar and the transfer of Mr. Cavale ?

**SHRI L. K. DHAWAN :** The next morning.

**SHRI B. SHANKARANAND :** At what time ?

**SHRI L. K. DHAWAN :** When I came to office. I generally come to office around 9.30—9.45 a.m. At about 10.00 a.m. I came to know.

**SHRI B. SHANKARANAND :** You came to know of it the next day morning and in the office.

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SHRI L. K. DHAWAN : Yes, Sir.

SHRI B. SHANKARANAND : Who told you ?

SHRI L. K. DHAWAN : Mr. Cavale was there. Mr. Cavale mentioned about his transfer and this suspension order was circulated. A suspension order is normally issued as a circular in cyclostyle.

SHRI B. SHANKARANAND : When was it circulated ?

SHRI L. K. DHAWAN : It was in the morning.

SHRI B. SHANKARANAND : Now, you are their immediate officer ?

SHRI L. K. DHAWAN : Mr. Bhatnagar was reporting to Mr. Cavale and Mr. Cavale was reporting to me.

SHRI B. SHANKARANAND : So you are the immediate officer as far as Mr. Bhatnagar and Mr. Cavale are concerned ?

SHRI L. K. DHAWAN : That is correct.

SHRI B. SHANKARANAND : Can anything be done without your knowledge and permission ?

SHRI L. K. DHAWAN : If the normal rules had been followed, it should certainly have come to me before any action was taken.

SHRI B. SHANKARANAND : Did you protest against this action ?

SHRI L. K. DHAWAN : As I have said, I spoke to the Chairman of PEC and mentioned to him that the action was uncalled for.

SHRI B. SHANKARANAND : What was his reaction ?

SHRI L. K. DHAWAN : His reaction was that this action has been taken on instructions from the top.

Shri L. K. Dhawan

SHRI B. SHANKARANAND : Now I am referring to the statement filed by you before the Shah Commission. You have not filed any Affidavit ?

SHRI L. K. DHAWAN : No Sir.

SHRI B. SHANKARANAND : Because you have not filed an Affidavit I am asking you one more question. Now, you have read out the statement which you had filed before the Shah Commission and before this Committee also...

SHRI L. K. DHAWAN : Yes Sir.

SHRI B. SHANKARANAND : Is there anything in this which is not true and correct, to the best of your knowledge ?

SHRI L. K. DHAWAN : I don't think so.

SHRI NARENDRA P. NATHWANI : When was the PEC formed ?

SHRI L. K. DHAWAN : In 1971.

SHRI NARENDRA P. NATHWANI : Was it under a separate statute or under the Companies Act ?

SHRI L. K. DHAWAN : It was under the Companies Act. It is a wholly owned subsidiary of the STC but it has a separate Board of Directors.

SHRI NARENDRA P. NATHWANI : It is a separate legal entity, but I wanted to know whether there was a separate Act or it was incorporated under the Indian Companies Act. You have answered it. I however remember somebody saying that this Corporation was incorporated under a separate statute : or am I wrong ?

SHRI L. K. DHAWAN : I don't think there was a separate statute or Act of Parliament for this purpose, as far as I know.

SHRI NARENDRA P. NATHWANI : Both are under the Indian Companies Act ?

SHRI L. K. DHAWAN : Yes.

MR. CHAIRMAN : Thank you.

(The Committee then adjourned)



Thursday, the 6th April, 1978

PRESENT

Professor Samar Guha—*Chairman*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Krishan Kant
6. Professor P. G. Mavalankar
7. Shri Narendra P. Nathwani
8. Shri B. Shankaranand
9. Shri Madhav Prasad Tripathi

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer*

Shri M. P. Gupta—*Senior Legislative Committee Officer*

WITNESS

Shri Vinod Parekh (former Chairman, State Trading Corporation of India Ltd.)

(The Committee met at 15.00 hours)

Evidence of Shri Vinod Parekh

MR. CHAIRMAN : Mr. Vinod Parekh, you have been asked to appear before this Committee to give your evidence in connection with the question of privilege against Shrimati Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited. I hope you will state the factual position and your version of the events freely and truthfully. I may inform you that the evidence that you may give before this Committee is to be treated by you as confidential till the Report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. The evi-

Shri Vinod Parekh

dence which you will give before this Committee may be reported to the Lok Sabha.

Now, you may take oath or affirmation as you like.

SHRI VINOD PAREKH : Thank you, Sir. I, Vinod Parekh, solemnly affirm that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false.

MR. CHAIRMAN : Mr. Parekh, did you appear before the Shah Commission ?

SHRI VINOD PAREKH : No.

MR. CHAIRMAN : Were you summoned ?

SHRI VINOD PAREKH : No, I was not.

MR. CHAIRMAN : Would you kindly give an account of your experience in the matter connected with the breach of privilege, if you have any ?

SHRI VINOD PAREKH : I presume that this discussion relates to the two officers in the subsidiary of STC called the Project Equipment Corporation, namely Mr. Cavale and Mr. Bhatnagar. Am I correct ?

MR. CHAIRMAN : Yes.

SHRI VINOD PAREKH : The facts of the case are as follows :

One evening, fairly late, I think about 7 p.m. or 7.30 p.m., when I was working in my office, Mr. B. D. Kumar, who was then the Chairman of the Project Equipment Corporation, a subsidiary of the STC, along with other jobs which he was doing in the Ministry such as holding the portfolio of Controller of Imports and Exports, and Mr. N. K. Singh, who was Special Assistant to the then Commerce Minister, came and saw me. They told me that the Commerce Minister was very much disturbed that some officers of the Project Equipment Corporation have been reported to be rude to some customers of

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the Corporation and that their behaviour was bad and that some action was called for. My reply was that these were officers of the Project Equipment Corporation and they were only on the STC cadre and they belonged to the Project Equipment Corporation and therefore, it was up to the Chairman of that Corporation to tell us what was wanted to be done. The Chairman of the Corporation said that he wanted one officer to be suspended and one officer to be transferred. Because it was a personnel matter, I called the Personnel Director, Mr. Mishra and the Personnel Chief Manager, Mr. Malhotra, and we had a discussion in front of all the people—Mr. B. D. Kumar, myself, Mr. Singh, Mr. Mishra and Mr. Malhotra—at which the decision was taken that one officer should be suspended and one officer should be transferred. I had no information whatsoever or even the slightest suspicion that it had anything to do with Maruti or any questions in Parliament. In S.T.C., we did not have this information, we were not told about it and we were merely told of the annoyance of the Minister regarding the rude behaviour of some officers in the Project Equipment Corporation, on the basis of which this action was taken.

MR. CHAIRMAN: Mr. Parekh, Mr. Cavale in a statement before the Shah Commission and also before this Committee has said this. I quote:

“Due to certain events which took place during the month of April 1975, I was forced to resign STC/PEC by the then Chairman of the STC, Mr. Vinod Parekh, and the Chairman of the PEC Mr. B. D. Kumar (the then Chief Controller of Imports and Exports) on 15th June 1975.”

What have you to say about this?

SHRI VINOD PAREKH: I would not agree with this statement, because, he was positively not asked by me to resign. He was transferred from Delhi to Madras. He was an officer of the PEC. It was merely a technicality that people working in the

PEC were on the books of the STC, because it was a division of STC, which was transferred to PEC when it was formed. And the Personnel Department of STC, on the instructions of the Chairman of the PEC, had issued his transfer orders from Delhi to Madras. Mr. Cavale saw me several times. I was sympathetic to him. I said: ‘Once a transfer order is issued, it is difficult to cancel it.’ In no case did I advise him to resign. In fact, I believe he has quoted me as a reference for employment for other jobs that he applied for, subsequently.

SHRI KRISHAN KANT: That is not the question. You might have given the soundest advice. It does not mean that you advised him the right thing. You could have said, ‘Because the transfer order has been issued, if you don’t want to go to Madras, you may have to resign.’

SHRI VINOD PAREKH: No, Sir.

SHRI KRISHAN KANT: It is not something new. On 6th July 1975, he wrote a letter—it is on the records of STC—to the Chairman of STC; I suppose you were the Chairman; and it must have come to you.

SHRI VINOD PAREKH: Yes.

SHRI KRISHAN KANT: After speaking about what he has been doing earlier, i.e. what commendable work he was doing, he has written this:

“In the first week of April 1975, the management were pleased to confirm me and grant me an increment with retrospective effect, from 1st January 1975. Lately, the developments in the Corporation have made me believe that the Corporation does not seem to impose the same confidence in my efforts which hitherto I was enjoying. Under these circumstances, and on principles, I am tendering my resignation with immediate effect.”

So, it cannot be merely a question of transfer. You cannot make us believe that.

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Something has gone wrong, because we have seen the papers given to the Committee. What happened on the 15th April 1975? A note from the Minister came, on the basis of which Mr. Bhatnagar was suspended. Later on, Mr. Cavale was transferred. It was not a simple affair. You could not have told him only this: 'You have to follow the order.' As the boss of the organization, you must have been sympathetic to your subordinates. You must have apprised him of the situation. We would like to know what the situation was. When he appeared before us, Mr. Cavale did not say anything about you. He said that it was difficult for him. You said that he should not resist it. We want to know your version.

**SHRI VINOD PAREKH:** I narrated my version right in the beginning, when I was answering the Chairman's question, that I did not ask Mr. Cavale to resign. I saw him any time he wanted to see me, discussed with him and I told him that the transfer order has to be issued and it has to be respected.

**SHRI KRISHAN KANT:** Why was the transfer order issued?

**SHRI VINOD PAREKH:** That was the result of the meeting held in my room at which Mr. B. D. Kumar and Mr. N. K. Singh saw me and said that this is what the Minister wants to be done. The Chairman, PEC, was in concurrence with that particular decision.

**SHRI KRISHAN KANT:** The note of 15th April 1975 of Mr. D. P. Chattopadhyaya, Minister of Foreign Trade, says:

"For sometime I have been receiving persistent complaints about the behaviour of certain officers of the Project Equipment Corporation, a subsidiary of the STC, towards their business clients and associates. A specific case was brought to my notice today where Mr. B. S. Bhatnagar, Deputy Marketing Manager, PEC, kept the representatives of

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a firm waiting for an unduly long time and coerced them to part with some information. The manner in which the information was sought to be obtained was unbecoming of a public servant. I would like the Chairman, PEC, to take disciplinary action against the officer."

There is reference here only to one officer in the note. May I know whether the name of Mr. Cavale was mentioned to you verbally, or any other written instructions, either from the Minister or from his Special Assistant, came to you?

**SHRI VINOD PAREKH:** I am saying things only from memory, because these things happened three years ago. I have told you right from the beginning that both the decisions were arrived at that meeting when these two gentlemen met me, on the evening of the 15th of April, and the decision was to suspend Mr. Bhatnagar and to transfer Mr. Cavale.

**SHRI KRISHAN KANT:** As the Chairman of the Corporation, you are the head of the Department. You have not only to obey the orders from above but also to protect your officers, who were working under you, to whom you have given increments only a few days earlier. Did you ask them for the reasons?

**SHRI VINOD PAREKH:** The information that we were given was that these officers had been difficult with the Company's customers. It was largely a matter concerning the PEC, which functioned totally separately. I may say for your information that the staff of PEC were totally separated from that of STC some months after this event. In other words, it was functioning completely separately.

**SHRI KRISHAN KANT:** When a meeting was held in your room, what was discussed? It is not that simple. You cannot say that. Something had transpired before the Shah Commission and something had appeared in the papers. It is stated that Mr. Bhatnagar was collecting

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some information, the representative of Batliboi had come, those papers were taken away by him to Mr. L. K. Dhawan, Executive Director, who passed them on immediately to Mr. B. D. Kumar...

**SHRI B. SHANKARANAND :** That is what the witnesses have stated before the Committee. Whether they are facts or not have yet to be decided. He is asking questions on the basis of what has been deposited before the Shah Commission.

**SHRI KRISHAN KANT :** And also what appeared in the press. Mr. B. D. Kumar met you and Mr. Malhotra was also there that day. Those papers were received from Batliboi, information and everything, that was given to Mr. Dhawan and he handed them over to Mr. Kumar. Do you mean to say that they did not discuss anything connected with that in that meeting?

**SHRI VINOD PAREKH :** That is correct. I had no knowledge that any questions whatever concerning Batliboi & Co. or Maruti or any particular specific treatment by PEC was there. I knew about it over one or two months later. Because these two gentlemen, Bhatnagar and Cavale, kept on seeing me. They could not get a meeting with their own Chairman, Mr. B. D. Kumar, and they used to come and see me and that is how I gathered more details.

**SHRI KRISHAN KANT :** They continued meeting you and telling you. Then the day after they were suspended or the day after that they must have talked to you. The letter shows that on 16th April there was transfer. Mr. Cavale said: "As a result of this transfer, I am very demoralised and am suffering from depression" etc. They did not talk to you anything about this question?

**SHRI VINOD PAREKH :** I have mentioned it before, and I am repeating it, that on the evening when the decision was taken to suspend one officer and transfer another, I had no knowledge whatsoever.

**SHRI KRISHAN KANT :** On the next day?

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**SHRI VINOD PAREKH :** I cannot remember the exact period, but I should imagine that it must have been at least a month or more before I knew the real truth about those two decisions.

**SHRI KRISHAN KANT :** Did they meet you after a month or before a month?

**SHRI VINOD PAREKH :** As I said, I once again repeat, I am talking of an incident which took place three years ago. So, naturally one is relying on one's memory. But I am telling you of the broad facts, that this decision was taken on the 15th April. Thereafter, both the officers saw me from time to time, sometimes I got messages through my P.A., and it was, as I said, a period subsequent, it may have been a month or 20 days or 40 days, I cannot tell you the exact time now, but it was considerably after the decision taken to suspend and transfer that I knew the real truth.

**SHRI KRISHAN KANT :** During the discussion with Cavale, did you advise him that there was no use protesting or doing something, and that it was better for his security...

**SHRI VINOD PAREKH :** I did not ask him to resign, I did not discuss security, but I did tell him that these orders had come from the Commerce Minister, the transfer order had been issued, and it was futile to argue about it, and that if he went to Madras, a few months later all might be well.

**SHRI KRISHAN KANT :** This order or intimation from Mr. Chattopadhyaya was only about Bhatnagar?

**SHRI VINOD PAREKH :** Yes.

**SHRI KRISHAN KANT :** On what basis did you issue the orders of transfer to Mr. Cavale? There is nothing written. Is there anything on the files?

**SHRI VINOD PAREKH :** I am not aware of it, but as I told you in my very first sentence, we were asked to take action against two officers; when Mr.

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B. D. Kumar and Mr. N. K. Singh came to me and told me of this matter, they had mentioned two names, one was Bhatnagar and the other was Cavale.

**SHRI KRISHAN KANT :** But this thing mentions only Bhatnagar.

**SHRI VINOD PAREKH :** Because the other one was transfer.

**SHRI KRISHAN KANT :** Is there any note like that ?

**SHRI VINOD PAREKH :** I am not aware.

**SHRI KRISHAN KANT :** Do you take action on the basis of oral instructions ?

**SHRI VINOD PAREKH :** Because the Chairman of PEC was there.

**SHRI KRISHAN KANT :** But you are senior to him. If the Chairman of the subsidiary organisation gives you verbal information, on that basis you agree to the transfer order ?

**SHRI VINOD PAREKH :** No, Sir, as I explained to you, the structure of the STC...

**SHRI KRISHAN KANT :** Whatever may be the structure, I am only asking one question, i.e., did the order take place about transfer or suspension only on oral instructions.

**SHRI VINOD PAREKH :** As I was explaining—I am answering the very same question that you are raising—whether to post an officer of the PEC at one place or another is the decision of the Chairman of the PEC. Though they were attached to the STC in those days, now they are totally separate, it was the order of the PEC which was issued by the Personnel Officer of STC because the officers of PEC were still on the cadre of STC.

**SHRI KRISHAN KANT :** May I take it that during the 1½ or 2 hours that you sat in the room when the decision to suspend and transfer was taken—the date was later on changed on the letter from

15th to 16th—no talk about the background of the order took place ?

**SHRI VINOD PAREKH :** Not with me.

**SHRI KRISHAN KANT :** You were only discussing the five lines of the Minister ?

**SHRI VINOD PAREKH :** I have told you before, forgive me if I repeat it but I want to make the position clear. At that stage I had no information about the background for this action.

**SHRI KRISHAN KANT :** Later on, on the basis of the information you received, you came to the conclusion about the truth why this suspension and transfer took place ?

**SHRI VINOD PAREKH :** The Officer concerned had been transferred. He used to come to me, tell me of his difficulties and my advice always was 'why don't you go to Madras where you have been posted'.

**SHRI KRISHAN KANT :** Later on—not that day—when you came to know by talking with somebody in the Ministry, Joint Secretary or Secretary, did you have any idea as to why these suspension and transfer orders took place ?

**SHRI VINOD PAREKH :** I had no discussion with anybody in the Ministry or anybody in the STC. After these events had occurred, sometimes, stories go round and you hear that suspension and transfer of these two officers had been ordered for reasons which I learnt subsequently.

**SHRI KRISHAN KANT :** What was your impression as to why one man was transferred and another was suspended ?

**MR. CHAIRMAN :** In your conversation, you have yourself used that word. You came to know the 'real truth' sometimes afterwards. What do you mean by the word 'real truth'? What is the truth that you came across ?

**SHRI VINOD PAREKH :** The real truth means that this had some connection with the question of Maruti. That is the meaning

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of that. But I had no information at that time as I learnt it much later.

**SHRI KRISHAN KANT:** During your conversation, did you get the impression that they were transferred and suspended because they were collecting information relating to Maruti for parliamentary questions?

**MR. CHAIRMAN:** He has categorically said that this was related to the question of Maruti.

**PROF. P. G. MAVALANKAR:** How long were you Chairman before that date?

**SHRI VINOD PAREKH:** I joined in June, 1973 and I was there till March, 1977.

**PROF. P. G. MAVALANKAR:** Technically PEC is separate. Is it not a subsidiary of the STC?

**SHRI VINOD PAREKH:** It is a subsidiary of STC. There have been many discussions on this question as to what should be the relationship between the STC and the PEC. But they are virtually independent. They have shifted to a new office. They have separated their office totally and they have direct access and connection to the Commerce Ministry.

**PROF. P. G. MAVALANKAR:** Is STC also working with some legal autonomy or is it working as part of the Department of Ministry of Commerce?

**SHRI VINOD PAREKH:** The definition of STC is that it is treated as a company.

**PROF. P. G. MAVALANKAR:** Is it working autonomously or part of the Department of Commerce Ministry?

**SHRI VINOD PAREKH:** There are a lot of overlapping functions between the STC and the Commerce Ministry.

**PROF. P. G. MAVALANKAR:** As the Chairman of the STC, what was your degree of autonomy in terms of decision making?

**SHRI VINOD PAREKH:** Although this does not directly relate to the subject that

we are discussing since you have asked me, my opinion is that I did not have the necessary degree of autonomy.

**PROF. P. G. MAVALANKAR:** You were under the direction of the Ministry of Commerce.

**SHRI VINOD PAREKH:** A lot of functions are inter-related and, as to where the STC takes over and where the Ministry takes over, it becomes very difficult to define. This is a subject on which one can talk for hours. My individual opinion was that it could do with greater autonomy. This opinion I have expressed in many forums in the past.

**PROF. P. G. MAVALANKAR:** There were Questions, several times, on STC in Parliament. You were answering the Questions and collecting material for answers by the Minister.

**SHRI VINOD PAREKH:** In the STC, they had a parliamentary division and, whenever any Questions in Parliament were asked, that division collected the material from various marketing divisions concerned and put up the material to the Director or the Chairman depending upon the nature of the Questions. Then, we replied back either through the Ministry or directly.

**PROF. P. G. MAVALANKAR:** The responsibility of giving material on parliamentary Questions *vis-a-vis* PEC was on you, that is, the STC or the PEC directly?

**SHRI VINOD PAREKH:** The PEC directly.

**PROF. P. G. MAVALANKAR:** In other words, the PEC and other subsidiaries who were collecting information on Parliamentary Questions went directly to the Ministry and you had no knowledge about it.

**SHRI VINOD PAREKH:** Yes, Sir.

**PROF. P. G. MAVALANKAR:** Coming to the specific incident of 15th April, you got this note marked "Secret" from

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the Minister, Mr. Chattopadhyaya or from Mr. Kumar.

**SHRI VINOD PAREKH:** As I told you, on that evening, Mr. Kumar, the Chairman of the PEC and Mr. N. K. Singh, Special Assistant to the Minister said that they wanted this action to be taken.

**PROF. P. G. MAVALANKAR:** Why should they have come and seen you ?

**SHRI VINOD PAREKH:** Technically, these two officers were on the STC cadre. Whatever decision had to be taken would have to be taken by the Chief Personnel Manager of the STC.

**PROF. P. G. MAVALANKAR:** He brought the Minister's note to you.

**SHRI VINOD PAREKH:** I do not remember whether they brought the note or they did not bring a note. They did come and discuss the matter with me.

**PROF. P. G. MAVALANKAR:** When they came to you on 15th April, that is, Mr. Kumar, the Chairman of the PEC and Mr. N. K. Singh, Special Assistant to the Minister, did they merely discuss matters with you on that day or they also brought with them a note which was shown to you.

**SHRI VINOD PAREKH:** I cannot be hundred per cent sure. They came and talked to me. These issues were discussed there.

**PROF. P. G. MAVALANKAR:** Mr. Chairman, I can understand the witness saying, he cannot remember how many times Mr. Cavale and Mr. Bhatnagar met him and the point of time when he got the real truth. That I can appreciate. Surely, my question is specific. On 15th April, when these two gentlemen, Mr. Kumar and Mr. N. K. Singh, came to see him, did they bring a note of the Minister, Mr. Chattopadhyaya or did they merely discuss the matter with him. Surely, he must remember that.

**SHRI VINOD PAREKH:** I am not sure of the note. But I am certainly sure of the discussion in broad terms that took place.

*Shri Vinod Parekh*

**PROF. P. G. MAVALANKAR:** The gist of the note was read out by Mr. Krishan Kant. I want to know if the gist of that note was a part of the discussion which Mr. Kumar and Mr. N. K. Singh had with you.

**SHRI VINOD PAREKH:** It is possible that a note from the Minister was with the Chairman of the PEC in his office and he brought the Special Assistant to the Minister to come and see me in my room.

**PROF. P. G. MAVALANKAR:** How long did this discussion last ?

**SHRI VINOD PAREKH:** Twenty-thirty minutes or something like that.

**PROF. P. G. MAVALANKAR:** How did you react when the decision of the Minister conveyed to you ?

**SHRI VINOD PAREKH:** I said, it is upto the Chairman of the PEC to do.

**PROF. P. G. MAVALANKAR:** Did you ask Mr. Kumar whether these two officers were really found guilty of the charges or not ?

**SHRI VINOD PAREKH:** As I explained to you, our functions was mainly to issue instructions to the Personnel Department as a result of the decision made by them.

**PROF. P. G. MAVALANKAR:** Did you come across such procedural instances before 15th April in your career ?

**SHRI VINOD PAREKH:** What kind of instance ?

**PROF. P. G. MAVALANKAR:** This kind of thing like oral discussion with no notes and no background to discuss. Ultimately, one officer was suspended and another was transferred.

**SHRI VINOD PAREKH:** I presumed that the Chairman of PEC must know everything about it.

**MR. CHAIRMAN:** I am requesting you to tell us whether you had come across

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such instances before 15th of April while you were the Chairman of the STC.

**SHRI VINOD PAREKH** : We had no similar instances.

**PROF. P. G. MAVALANKAR** : Subsequently also ?

**SHRI VINOD PAREKH** : No.

**PROF. P. G. MAVALANKAR** : This is the first and the last.

**SHRI VINOD PAREKH** : Yes.

**PROF. P. G. MAVALANKAR** : Out of two senior officers of your subsidiary, one was suspended and another was transferred. Did you think of getting the matter verified or taking it to your superiors before acting on it even though it was a technical responsibility on your part ?

**SHRI VINOD PAREKH** : It was largely and essentially not concerning me.

**PROF. P. G. MAVALANKAR** : You took a technical view of the matter.

**SHRI VINOD PAREKH** : It is factual.

**MR. CHAIRMAN** : You are using the word 'technically'. Do you equate the word 'technically' with legally ?

**SHRI VINOD PAREKH** : I am not a legal man. So, I do not know what exactly is the meaning of each word.

**MR. CHAIRMAN** : Supposing there was no emergency. These two officers—one was suspended and another was transferred—had got to appear in the court. Now you were the officers who had to issue instructions or the order. In that case, you would have been accountable.

**SHRI VINOD PAREKH** : I do not know the legal position. But, as I told you before, one reason why they came to me and saw me was that they found it much easier to see me and much easier to talk to me than to their own Chairman; and then I happened to be involved in that.

**MR. CHAIRMAN** : There is a very very interesting point in it and that is that the S/26LSS/78—14

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suspension order was personally issued. Who issued the suspension order ?

**SHRI VINOD PAREKH** : Chief Personnel Manager.

**PROF. P. G. MAVALANKAR** : Of which company ?

**SHRI VINOD PAREKH** : Of STC.

**PROF. P. G. MAVALANKAR** : Of which you are the Chairman and you are saying it because it was only technical. What is the technicality ?

**SHRI O. V. ALAGESAN** : Who is the Chief Personnel Manager ?

**SHRI VINOD PAREKH** : Mr. B. C. Malhotra.

**MR. CHAIRMAN** : Was he the appointing authority for Mr. Bhatnagar ?

**SHRI VINOD PAREKH** : Yes; As I said, many of these officers were in STC. It was an engineering department of STC which subsequently became a separate company. Then the staff was transferred to PEC. We were still doing their clerical work like keeping books and salary charts and all that.

**SHRI HITENDRA DESAI** : Mr. Bhatnagar belonged to which cadre ?

**SHRI VINOD PAREKH** : He was Deputy Marketing Manager.

**SHRI HITENDRA DESAI** : Of STC ?

**SHRI VINOD PAREKH** : No Sir. Everybody is of STC cadre but...

**SHRI HITENDRA DESAI** : I am talking specifically about Mr. Bhatnagar. Was he of STC cadre ?

**SHRI VINOD PAREKH** : Yes sir.

**SHRI HITENDRA DESAI** : Who was the competent dismissing authority or suspending authority ?

**SHRI VINOD PAREKH** : It would be done on the instructions of the Board and Chairman of PEC.



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**SHRI HITENDRA DESAI :** By whom? Why do you bring in the PEC? Who is the authority competent to pass an order of suspension against Mr. Bhatnagar who was of STC cadre?

**SHRI VINOD PAREKH :** All such orders were always issued by the Chief Personnel Manager.

**SHRI HITENDRA DESAI :** He 'issues' them, but who 'passes' the order?

**SHRI VINOD PAREKH :** I am not technically qualified to answer it. But it is done by the Chief Personnel Manager.

**SHRI HITENDRA DESAI :** All orders suspending persons of STC cadre will be at the instance of the Chairman of STC: am I right?

**SHRI VINOD PAREKH :** The Chairman has no such powers. Either it goes to the Board or the Committee of Management...

**SHRI HITENDRA DESAI :** In the case of Mr. Bhatnagar, who is the competent authority?

**SHRI VINOD PAREKH :** As far as I know, the Chief Personnel Manager normally issues the orders.

**SHRI HITENDRA DESAI :** Don't try to misguide us. It is not a question of 'issuing': who 'passes' the order?

**SHRI VINOD PAREKH :** I did not pass any order...

**SHRI HITENDRA DESAI :** You are evading the question.

**SHRI VINOD PAREKH :** I am sorry if I am not giving you satisfaction, but...

**SHRI HITENDRA DESAI :** How long have you been Chairman of STC?

**SHRI VINOD PAREKH :** Just short of four years.

**SHRI HITENDRA DESAI :** And still you don't know who is the competent authority to pass an order of suspension?

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**SHRI VINOD PAREKH :** As I have said, all these jobs were normally done by the Chief Personnel Manager.

**SHRI HITENDRA DESAI :** Do you mean to say that this order was passed by the Chief Personnel Manager?

**SHRI VINOD PAREKH :** He is the person who issued the order ultimately.

**SHRI HITENDRA DESAI :** Mr. Chairman, he is clearly evading the matter.

His answer is very evasive: we must take note of that.

**Mr. CHAIRMAN :** Mr. Parekh, will you kindly withdraw for a few minutes?

*(The Witness then withdrew)*

*(Shri Vinod Parekh called in again)*

**MR. CHAIRMAN :** Mr. Parekh, I request you one thing. If you feel that certain questions are not within the scope of your knowledge, then you say so. But please do not try to create an impression that you are avoiding answering questions. You say whatever you know. If you think you do not know, you say it so.

**SHRI HITENDRA DESAI :** We are only interested in the facts of the matter.

**SHRI VINOD PAREKH :** Thank you, Sir. I am trying my best to give you the facts. Sir if I have given any impression to any hon. Member that I am trying to be evasive, I can assure you that it is farthest from my mind.

**SHRI HITENDRA DESAI :** Which is the authority that has passed this order? Is it the Chief Personnel Manager which is the authority that passed the order?

**SHRI VINOD PAREKH :** I am not exactly aware. If you like I will find out. The STC people can tell you better.

**SHRI HITENDRA DESAI :** But you know and you are now certain that the two authorities are distinct.

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**SHRI VINOD PAREKH :** Yes, Sir.

**SHRI HITENDRA DESAI :** You have seen the note of the Commerce Minister ?

**SHRI VINOD PAREKH :** Yes, Sir.

**SHRI HITENDRA DESAI :** Was that note submitted to you ?

**SHRI VINOD PAREKH :** As I said we had that discussion on that particular evening. Thereafter the Chief Personnel Manager issued the order and the memo was made and sent to me for signature.

**SHRI HITENDRA DESAI :** According to the note, it was the Chairman, STC who was to take suitable action. Am I right ?

**SHRI VINOD PAREKH :** I do not have the note here ...

(The witness was then given a copy of the note).

**SHRI HITENDRA DESAI :** It refers to the noting of Prof. D. P. Chattopadhyaya marked to Chairman, PEC. You read the last paragraph by Mr. B. D. Kumar, 'As discussed. The Chairman, STC is now requested to take suitable action against the officer.' So you are supposed to take suitable action against the officer according to the note. Even the note has been marked to you as Chairman, STC. Is it correct ?

**SHRI VINOD PAREKH :** Yes.

**SHRI HITENDRA DESAI :** In the earlier note of Mr. Kumar, 'As discussed' means discussed with whom ?

**SHRI VINOD PAREKH :** As I said, whatever might have happened in PEC or the Commerce Ministry I do not know. But when the Chairman of PEC met me in the office, he told me that it was a personnel problem. I immediately called the Chief Personnel Manager and the Personnel Director and sat down and discussed the situation...

**SHRI HITENDRA DESAI :** That you have said. All of you discussed in your office.

*Shri Vinod Parekh*

**SHRI VINOD PAREKH :** Yes, sir.

**SHRI HITENDRA DESAI :** All of you decided that the officer would be suspended.

**SHRI VINOD PAREKH :** Yes, sir.

**SHRI HITENDRA DESAI :** Were you satisfied in passing the order of suspension or for this suspension you did not apply your mind at all ?

**SHRI VINOD PAREKH :** My feeling at that time was, regardless of how drastic it was or not, the matter fell under the purview of the Projects and Equipment Corporation.

**SHRI HITENDRA DESAI :** You relied on the Chairman, PEC. You did not apply your mind.

**SHRI VINOD PAREKH :** Yes, sir.

**SHRI HITENDRA DESAI :** During your tenure as Chairman did you have occasion to meet the Commerce Minister ?

**SHRI VINOD PAREKH :** Sometimes.

**SHRI HITENDRA DESAI :** one or twice a month.

**SHRI VINOD PAREKH :** It depended upon the problem or problems or the meetings, etc.

**SHRI HITENDRA DESAI :** Was it quite frequently ?

**SHRI VINOD PAREKH :** No, not that many times.

Our meetings were mainly with the Commerce Secretary rather than with the Commerce Minister.

**SHRI HITENDRA DESAI :** In which year and month was your appointment made ?

**SHRI VINOD PAREKH :** June, 1973.

**SHRI HITENDRA DESAI :** Did you have occasion to go to other Ministries, Prime Minister's Secretariat ?

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**SHRI VINOD PAREKH :** Sometimes. That depended upon the problems.

**PROF. P. G. MAVALANKAR :** You said earlier that the discussion in your office took place on the 15th April, 1975 for about 20 to 30 minutes. Who were present ?

**SHRI VINOD PAREKH :** Shri B. D. Kumar, Shri N. K. Singh, Shri M. N. Mishra, Shri B. C. Malhotra and myself.

**PROF. P. G. MAVALANKAR :** In this half an-hour discussion did you speak anything or you were just listening ?

**SHRI VINOD PAREKH :** They told me about their views. They told that these officers were reported to have been very crude to the customers.

**PROF. P. G. MAVALANKAR :** In this note of Shri Kumar to which Shri Hitendra Desai invited attention it mentions 'as discussed'. This means whatever Shri Kumar and Shri N. K. Singh conveyed to you, you concurred with their view.

**SHRI VINOD PAREKH :** They told me that the Commerce Minister was very much dis-satisfied with the happenings.

**PROF. P. G. MAVALANKAR :** Did you enquire, was it being acted upon the instructions or the guidelines given ?

**SHRI VINOD PAREKH :** I did not know.

**PROF. P. G. MAVALANKAR :** What was your contribution to the discussion ? You were just listening and accepting everything *in toto* ? What were you doing in regard to this suspension ?

**SHRI VINOD PAREKH :** It was largely listening. However, I did want to find out what and why was that decision ?

**PROF. P. G. MAVALANKAR :** After getting this you were satisfied and then you decided to go ahead.

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**SHRI VINOD PAREKH :** If it is STC's own manager my interest would have been greater. In this case it was manager of the PEC. Decisions concerning this were naturally to be taken by the Chairman of PEC or Board of PEC.

**PROF. P. G. MAVALANKAR :** That is right. But earlier in the answers you said, you did not force Mr. Cavale to resign.

**SHRI VINOD PAREKH :** Yes. Mr. Chairman read out a note of Mr. Cavale to the Shah Commission and certain expression was used that he was forced to resign. I don't know whether he was forced by somebody else, but certainly not by me.

**PROF. P. G. MAVALANKAR :** You were in STC and other responsible organisations. You had been there for pretty long time. You know this. Nobody wants to resign a good job unless he has some fundamental grievance. Do you think he was not forced to resign ? He told us that it was dramatic and sudden. He told us like that. Did you not find out why such sudden order was passed ?

**SHRI VINOD PAREKH :** Four or five times I saw him. I told him he is free to come and see me and discuss his problem with me. My advice was, he has been transferred to Madras, he had better go there.

**PROF. P. G. MAVALANKAR :** Cavale belongs to STC, he belongs to one of your senior cadres. You told him you had better go to Madras and in the meantime things will be smoothened out or whatever it is. You might have told it in your own way to him but it is certain you had legitimate interest in his functioning. When such a thing happens, which is sudden and dramatic, without any other basis, but only on the basis of the discussion with Kumar and Singh, did you try to find out why this order of transfer was given so suddenly ?

**SHRI VINOD PAREKH :** The only information was : Commerce Minister

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was dissatisfied with him. That is the only information at that stage.

PROF. P. G. MAVALANKAR: You never tried to verify from the Minister or . . .

SHRI VINOD PAREKH: One subsequently hears many things; some may be true, some may not be true, regarding CBI investigation, raids and things like that. But Mr. Cavale remained a personal friend of mine and I told him if he wanted to see me he is most welcome to do so.

PROF. P. G. MAVALANKAR: In the subsequent period did you again discuss these two issues with Mr. Kumar or Mr. Singh?

SHRI VINOD PAREKH: Regarding Kumar I don't know at what stage he gave up Chairmanship of PEC. Anyway he was there for a short while. I took up the question of Mr. Bhatnagar with the SA to Commerce Minister. I remember that I discussed with N. K. Singh twice saying that this man is suspended for 4 or 5 months and whatever might be the Government decision against him it must be given quickly.

PROF. P. G. MAVALANKAR: You had occasion to know some officers in PM's Sectt. You had occasion to go there.

SHRI VINOD PAREKH: Shri Hitendra Desai asked the question earlier and I replied. Regarding other Government companies I don't know what the position is today. Then a number of meetings used to be held in PM's Secretariat. And sometimes Mr. P. N. Dhar and sometimes Mr. Ramachandran used to call me to have discussions. To put the record absolutely correct—Mr. Desai had asked me this question—My answer to that is: I certainly did not frequently go to the Prime Minister's Secretariat. I do not know the month but, from mid-1975, till I left the STC Office—in other words, I did have occasions to go in the early years but I had no occasion—I do not remember exactly—but from about April

1975 onwards, I never went there on my own. But, there were meetings sometimes on edible oil shortages and sometimes on some other policy matters or whatever it is and sometimes Mr. Ramachandran rang me upon specific issues.

PROF. P. G. MAVALANKAR: Did you have occasion to meet Mr. R. K. Dhawan?

SHRI VINOD PAREKH: I never knew him at all.

PROF. P. G. MAVALANKAR: Was there an instance when any telephone came?

SHRI VINOD PAREKH: I would say that my contact, as I said, was with Mr. N. K. Singh and Mr. Kumar who came to my room on that evening. I had no occasion. . .

PROF. P. G. MAVALANKAR: Thank you.

SHRI NARENDRA P. NATHWANI: If I may repeat the questions to which you have already answered—I am doing so for making myself clear kindly be patient with me.

You had been the Chairman of the STC. Apart from being Chairman you were working as Managing Director, General Manager or so. Ordinarily, the Chairman, I believe—I want to make myself clear—who presides over the meeting of the board of directors. That is the usual function of the Chairman. Also at the Annual General meeting, the Chairman of the Board presides. Besides this, had you any other function as Director in the affairs of the company?

SHRI VINOD PAREKH: My answer to your question is that I was the Executive Chairman. Apart from presiding over the Board's meetings, I was running the affairs of the company in a supervisory, advisory and coordinating capacity.

SHRI NARENDRA P. NATHWANI: Will, I be right that you were Managing Director?

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**SHRI VINOD PAREKH :** Yes, Sir. That was not the designation. But the function was a full time one.

**SHRI NARENDRA P. NATHWANI :** Will it come within the definition of the Managing Director under the Companies Act ?

**SHRI VINOD PAREKH :** Executive capacity.

**SHRI NARENDRA P. NATHWANI :** Very well. There are, I believe, rules regulating the appointment, disciplinary action and so on of the services of the STC. There are rules. Do you remember ? Then only I will proceed to ask you questions about the rules. In relation to the services of your employees in the STC are there any rules which govern the procedure to be followed in case any disciplinary action is to be taken against any employee ?

**SHRI VINOD PAREKH :** Yes, Sir. There are STC service rules. I may not know them exactly clause by clause. But, our Personnel Division would advise the Director concerned or the Chairman about the meaning of each particular clause. There are certain well laid down service rules.

**SHRI NARENDRA P. NATHWANI :** A certain procedure has to be followed when any complaint is received against an employee. That procedure which has to be followed you are not able to say at this stage without looking at the rules to see what exactly is the procedure to be followed ?

You are able to say generally.

**SHRI VINOD PAREKH :** No, Sir. There are clearly laid down service rules in the STC.

**SHRI NARENDRA P. NATHWANI :** You have no recollection. Apart from that you cannot say anything at this stage about who was the authority who could hear the complaint against an employee who could recommend taking action against that servant and who could take

action against him ? Are you in a position to say from your memory apart from the rules ?

**SHRI VINOD PAREKH :** I cannot tell you off hand.

**SHRI NARENDRA P. NATHWANI :** Very well. May I ask you one more question ? When a servant, an employee, of the stature or designation of, say, Marketing Manager or Deputy Marketing Manager has to be appointed, will this decision be taken by you as an Executive Director ?

**SHRI VINOD PAREKH :** As I said, I do not know the exact provisions. The STC service rules vary from a certain salary grade to another salary grade. Under the service rules, we take action against a particular officer drawing a particular salary.

**SHRI NARENDRA P. NATHWANI :** You are unable to say that without looking at the rules. Who was the person who would be, according to rules, considered as the appointing authority so far as Mr. Bhatnagar and Mr. Cavale were concerned.

**SHRI VINOD PAREKH :** I cannot.

**SHRI NARENDRA P. NATHWANI :** You were an executive director and therefore, you were in charge of certain affairs of the company. Is there any rule or are there rules if any which lay down the functions of an executive director of the STC ?

**SHRI VINOD PAREKH :** I am trying to explain to you as much as possible. There is nothing hard and fast for the Director's functioning. The Chairman, right from 1968-69 onwards always exercises only the supervisory, advisory and coordinating functions.

Th actual functions are allotted to certain Directors and subsequently to certain Group Executives, Chief Marketing Managers and so on and so forth. There are committees for every major function.

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**SHRI NARENDRA P. NATHWANI :** There are well-defined rules which govern all these matters.

**SHRI VINOD PAREKH :** Yes, Sir.

**SHRI NARENDRA P. NATHWANI :** I suggest, Mr. Chairman, that we should have a copy of these rules.

You have said that these two employees—Mr. Cavale and Mr. Bhatnagar—continued to be on the cadre of State Trading Corporation. They were on your cadre. In the meanwhile they were looking after the work assigned by the PEC which is a hundred per cent subsidiary. So, if any disciplinary action is to be taken naturally it would be STC who can take it. Do you agree to it?

**SHRI VINOD PAREKH :** Yes, Sir.

**SHRI NARENDRA P. NATHWANI :** You have also told on the evening of 15th April while you were in your office Sarvaahri B. D. Kumar and N. K. Singh came and met you. They came with a note from the then Minister and orally they told you that two officers—one of them was to be transferred and the other one was to be suspended.

**SHRI VINOD PAREKH :** Yes, Sir.

**SHRI NARENDRA P. NATHWANI :** Naturally you must have asked them and you were told as far as Mr. Bhatnagar was concerned he was an accused—I am using the word accused—and the charge against him was that his behaviour with customers was reprehensible. Did you read that note at that time?

**SHRI VINOD PAREKH :** No, Sir.

**SHRI NARENDRA P. NATHWANI :** Did you see that they have brought a note?

**SHRI VINOD PAREKH :** It is possible that Mr. N. K. Singh went to Mr. Kumar's room first which is four or five rooms away from my room and then came and both of them saw me. I do not know what transpired between them. Later in

the evening they dropped in my room. I asked them the purpose and they told me that action was to be taken against these two officers. Since it was a personnel matter I called the concerned officers. We all sat down and the decision was taken.

**SHRI NARENDRA P. NATHWANI :** They said that some action is to be taken against these two officers because the Minister wants it like that. Now, according to you, you knew that there were rules of STC which provided for hearing into complaints before taking action. You knew it at that time. Did it not occur to you that that procedure should be followed?

**SHRI VINOD PAREKH :** It did not occur to me at that time and I acted by whatever the Chairman of the PEC had to say in the matter.

**SHRI NARENDRA P. NATHWANI :** Since the names of the officers in question continue on the roll of cadre of STC, if any disciplinary action is to be taken against them or any servant or employee and even if they are concerned with PEC work, you may take into consideration everything that the Chairman of the PEC has to say or you have to consider it yourself. Whether you had relied upon his findings, namely, that he found him guilty of misconduct or misbehaviour? And, therefore, whether you naturally relied upon him and trusted him? Was that the position?

**SHRI VINOD PAREKH :** STC Employees' rules will throw light on this whole matter. But that is correct.

**SHRI NARENDRA P. NATHWANI :** Now you have said that at that time when you knew broadly that there was a charge against Mr. Bhatnagar for being guilty of misconduct or misbehaviour with the customers, did it not occur to you to ask for any single instance of misconduct or misbehaviour? You were pleased that something a very unusual situation was created that the head of the PEC or the

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head of STC, not even the Secretaries of the Departments concerned were contacted but the Minister issued instructions straightway, something untoward, something extraordinary and, therefore naturally one would like to ask what had brought the matter to a head.

**SHRI VINOD PAREKH :** We did ask them what had brought the matter to a head and they said that these officers had not been behaving properly with the customers.

**SHRI NARENDRA P. NATHWANI :** Who were the customers who were kept waiting and who were treated rudely ?

**SHRI VINOD PAREKH :** I have not asked that. But the Chairman of the PEC observed that this gentleman's conduct was bad.

**SHRI NARENDRA P. NATHWANI :** Was there any single instance to show that this officer misbehaved with a customer ?

**SHRI VINOD PAREKH :** Looking back, I may tell you that I relied on the Chairman of PEC who was looking after that company.

**SHRI NARENDRA P. NATHWANI :** There were two factors which weighed with you. An order or instruction was issued that these two officers had to be dealt with in a particular manner; the instruction might have been issued by the Minister; and coupled with this was the endorsement made by the PEC Chairman and this weighed with you and you did not proceed to apply your own mind to it. Am I right ?

**SHRI VINOD PAREKH :** Yes, correct.

**SHRI NARENDRA P. NATHWANI :** I am putting it to you that you must have come to know, you came to know that one of the customers who were rudely treated was Messrs Batliboi Co. That discussion had taken place at that time.

**SHRI VINOD PAREKH :** I had not heard the name of Batliboi in that connection that evening; I heard about it

very much later. I had no knowledge of which customer they were talking about at that moment nor did I know that Batliboi had any connection with Maruti or any other company.

**SHRI NARENDRA P. NATHWANI :** You have told us that so far as the answer in Parliament was concerned, you were never concerned with that; there was a separate cell that dealt with it directly without any reference to you.

**SHRI VINOD PAREKH :** No, that is not correct. The cell would process the question, collect information from the proper departments. If it was a matter concerning STC it would go before the Director who is looking after the particular problem in STC and to the Chairman if in town.

**SHRI NARENDRA P. NATHWANI :** If it dealt with STC ultimately it was bound to come to you; it will go through you if it had a bearing, directly or indirectly with STC's working ?

**SHRI VINOD PAREKH :** You are right. Parliamentary questions concerning the STC would be processed by the parliamentary cell in conjunction with the appropriate department in the STC; it would be put up to the seniormost executive in charge of that particular matter and then it would come to me if I am in town. If it concerned PEC, it would not come to us; it would go directly to PEC; it would not come to officers of the STC.

**SHRI NARENDRA P. NATHWANI :** May I ask about the relationship of PEC ? It was a hundred per cent subsidiary of yours. The directors of PEC are appointed by you or in consultation with the STC ?

**SHRI VINOD PAREKH :** No, Sir; one of the points I made was that a company like the STC had no control over its subsidiaries. We had a right to appoint two directors on the board of PEC but even that was done by the Commerce Ministry, not by the STC. In other words

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it is the Government of India which would appoint the PEC Board.

**SHRI NARENDRA P. NATHWANI :** It is a technical and legal aspect. Whoever appoints them, it is the subsidiary and, therefore, as the executive director you will be involved; that you were ignored and passed over is another matter; let us not discuss about it. So far as the operation of the PEC was concerned, you had any say in the matter or not?

**SHRI VINOD PAREKH :** Two directors of the STC were appointed by the Government of India on the board of the PEC; other than that the functioning of PEC was done by the Chairman and board of directors of PEC; they had direct links with the Commerce Ministry and STC did not come into the picture even though they are having 100 per cent shares in PEC.

**SHRI NARENDRA P. NATHWANI :** Cavale has alleged that he was forced to resign by you. The note has been read out to you. Now I am putting it to you. By that time, about the time, just before he came to resign, he was coming to you requesting you that he should not be transferred, by that time you had come to know that his transfer was related to collecting information or answering parliament question.

**SHRI VINOD PAREKH :** That is not exactly true. I am not aware as to at which particular moment, I came to know that this had something to do with Parliament questions on Maruti.

**SHRI NARENDRA P. NATHWANI :** When did he resign?

**SHRI VINOD PAREKH :** I do not know the exact date.

**SHRI NARENDRA P. NATHWANI :** His letter of resignation was dated. . .

**SHRI VINOD PAREKH :** He proceeded on leave first of all.

**SHRI NARENDRA P. NATHWANI :** He was referring to his having been forced

to resign. You may object to the word "forcing". I must give you a fair opportunity to explain. Is it 1st June, 1975?

**MR. CHAIRMAN :** Yes.

**SHRI NARENDRA P. NATHWANI :** You have told us that even before that you had come to know that it has something to do with collecting information for answering Parliament questions on Maruti. Let us put it mildly.

**SHRI VINOD PAREKH :** Subsequently yes. At which particular stage, I am not sure.

**MR. CHAIRMAN :** At least when he was transferred to Madras? When was he transferred?

**SHRI VINOD PAREKH :** The transfer order was issued in the middle of April.

**MR. CHAIRMAN :** When was it executed?

**SHRI VINOD PAREKH :** He went on leave. He never went to Madras.

**MR. CHAIRMAN :** When did you come to know that the matter has something to do with Maruti?

**SHRI VINOD PAREKH :** You are talking about the incidents which happened three years ago. I want to give you the facts. One month or two months, I do not remember exactly.

**SHRI NARENDRA P. NATHWANI :** You had come to know that it has something to do with collecting information for answering questions relating to Maruti. Well you say that you did not force him to resign. But as a well-wisher did you advise him? I am not alleging that you forced him to resign, but as a well-wisher did you not tell him that if he does not go out, the second alternative would be to resign and that otherwise, he would be subjected to further harassment.

**SHRI VINOD PAREKH :** No. If you want to know my true feelings, I was horrified to read what he has said before



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the Shah Commission because according to me, I had been very sympathetic to him and there had been no pressure on him.

**SHRI NARENDRA P. NATHWANI :** I assume for the purpose of argument that you did not force him to resign. I proceed on the assumption that you were his real well-wisher and real sympathiser and that you knew that he is unnecessarily harassed in this matter. If he did not want to be transferred, the other alternative would be for him to resign.

**MR. CHAIRMAN :** In such a situation there are three alternatives. Either he should have accepted the transfer or he should have faced dismissal because of disobedience or he should resign. Which of the three advices did you give him ?

**SHRI VINOD PAREKH :** It was not my job to give him any advice. Any Manager who wanted to see me was most welcome. Mr. Cavale met me several times from time to time.

**MR. CHAIRMAN :** Did you explain to him the consequences of his disobedience of the order of transfer ?

**SHRI VINOD PAREKH :** I will tell you what I had told him and I would have told the same thing to anybody else. There are two things. One is that it had been done at the instance of the higher authorities and the other is the transfer order must be accepted because we have a definite problem in our organisation. You can transfer anybody to any place for any reason. Many people in STC are—terribly reluctant to go out of Delhi.

**MR. CHAIRMAN :** If not, then did you explain ?

**SHRI VINOD PAREKH :** By and large, my policy is to accommodate the officer as far as I could.

**MR. CHAIRMAN :** When there was a question of the transfer, naturally he was saying that he did not want to go to

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Madras. As senior officer you have to explain to him the consequences. There are only two alternatives. Either he should resign or he should face dismissal.

**SHRI VINOD PAREKH :** I did not discuss any alternatives with him, but I did tell him that the transfer order will have to be respected.

**SHRI B. SHANKARANAND :** Mr. Parekh, now that you have told everything about procedures, about your knowledge, about your functioning etc., I am not going to ask anything about those things. In your evidence you have said one thing that you came to know the truth sometime later. What was the truth ?

**SHRI VINOD PAREKH :** I preferred that expression 'truth' but it is a loose word.

**SHRI B. SHANKARANAND :** The 'real truth' you have explained is that it was concerned with Maruti.

**SHRI VINOD PAREKH :** Because this was discussed twice. As I said, action against these two officers was taken and then they used to see me from time to time. There were some rumours in the office. Subsequently, at a later date it transpired that it has something to do with Maruti and Batliboi.

**SHRI B. SHANKARANAND :** That is what I meant by 'truth'.

**SHRI VINOD PAREKH :** That is right, Sir.

**SHRI B. SHANKARANAND :** It was not to your personal knowledge. You heard it from others only ?

**SHRI VINOD PAREKH :** Correct, Sir.

**SHRI B. SHANKARANAND :** That is all.

श्री शंकरानंद प्रसाद किराडी : क्या आप यह बता सकते हैं कि यह जो आपके कमरे में डिस्कजन हुआ, यह किसकी देर हुआ ?

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श्री विनोद पारिख : कोई 20-30 मिनट ।

श्री माधव प्रसाद त्रिपाठी : इस 20-30 मिनट के दौरान आपके केवल सस्पेंशन के मामले पर ही विचार किया, उनकी मुद्रतली के मामले पर ही विचार किया ?

श्री विनोद पारिख : सस्पेंशन प्रीर ट्रांसफर दोनों मामलों पर ।

श्री माधव प्रसाद त्रिपाठी : इस अवधि के दौरान क्या आपके सामने केवल यही वाक्य आया कि इनको सस्पेंड कर दिया जाए या इनको ट्रांसफर कर दिया जाए ?

श्री विनोद पारिख : जी हाँ, यही सब ।

श्री माधव प्रसाद त्रिपाठी : केवल यह कहने सुनने में तो स्वाभाविक है कि इतना समय नहीं लगेगा । कुछ प्रीर भी कहा गया होगा ?

श्री विनोद पारिख : वे दोनों आवनी मेरे कमरे में मुझ से परसनल्स मिले I called Sarvashri Mishra and Mathotra. इसमें भी समय लगा ।

श्री माधव प्रसाद त्रिपाठी : आपने कहा कि 20-30 मिनट लगे । इस 20-30 मिनट में क्या केवल आपने बस यही बात की कि इनको सस्पेंड कर दिया जाए और इनका ट्रांसफर कर दिया जाए ?

श्री विनोद पारिख : 20-30 मिनट में अपनी मेमोरी से कह रहा हूँ । हमने उन लोगों को बुलाया था । उसमें भी पॉइन्ट-सात मिनट लगे हैं । वे कमरे में आये, उसके बाद वहाँ से चले गये । यह सब इस 20-30 मिनट में ही हुआ ।

श्री माधव प्रसाद त्रिपाठी : बस मुझे वही पूछना था ।

SHRI O. V. ALAGESAN : What were you, before coming to the STC ?

SHRI VINOD PAREKH : I was in the HUDCO, another Government of India Undertaking.

SHRI O. V. ALAGESAN : Earlier you had come from the private sector.

SHRI VINOD PAREKH: Before that, I was in Calcutta, I was Chairman of a company. I was in business.

SHRI O. V. ALAGESAN : Was it a private business ?

SHRI VINOD PAREKH : Yes, Sir.

SHRI O. V. ALAGESAN : Was it not connected with Government ?

SHRI VINOD PAREKH : No, Sir. It was a private business. It was a tea company.

SHRI O. V. ALAGESAN : Were you connected with a business, or were you yourself doing business ?

SHRI VINOD PAREKH : I was in James Warren & Co. (India) Ltd. It was an English company, which has been turned into a rupee company.

SHRI O. V. ALAGESAN : After leaving STC, what are you doing now ?

SHRI VINOD PAREKH : Nothing ; I am retired.

SHRI O. V. ALAGESAN : What was your salary as Chairman of the STC ?

SHRI VINOD PAREKH : I think Rs. 4,000 plus some city allowance and other things.

SHRI O. V. ALAGESAN : What was the time when you had this conference in your office ?

SHRI VINOD PAREKH : 7.30 or 7 p.m.

SHRI O. V. ALAGESAN : Do you normally stay in the office till that time, or did you go home and then you were called back ?

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**SHRI VINOD PAREKH :** I was in the office.

**SHRI O. V. ALAGESAN :** Normally, what were your office hours; and normally how long do you sit ?

**SHRI VINOD PAREKH :** When the work was very heavy, most people worked till 7, 7.30 or 8 p.m.

**SHRI O. V. ALAGESAN :** Was it usual for you to sit in the office till 7 or 8 p.m. ?

**SHRI VINOD PAREKH :** Yes, Sir.

**SHRI O. V. ALAGESAN :** Apart from these two cases involving one suspension and one transfer, in the course of your service as Chairman of STC, you should have transferred many people; you should have suspended many people. How many transfers you would have done and how many suspensions would you have been responsible for ?

**SHRI VINOD PAREKH :** I cannot off-hand answer how many people were transferred, because transfers do take place in big organisation like the STC.

**SHRI O. V. ALAGESAN :** On how many occasions did this happen ? Can I take it as 12 or as two dozen answers ?

**SHRI VINOD PAREKH :** I cannot honestly answer correctly. But I can find out from the Personnel Department.

**SHRI O. V. ALAGESAN :** As Chairman of STC, you have ordered transfers, in other cases, of your officers.

**SHRI VINOD PAREKH :** It is a big company; and transfers are taking place from time to time.

**SHRI O. V. ALAGESAN :** Mr. Chairman, this witness is evasive. I want your protection. I put a definite question. He wants to tell a story.

**SHRI NARENDRA P. NATHWANI :** At how many places are there branch offices of the STC, and how many employees are working there ?

**MR. CHAIRMAN :** Mr. Alagesan is asking you a very straight question as Chairman of the STC, had you any occasion of issuing any transfer order or approving any transfer order, or ordering transfer yourself during your term of office ?

**SHRI VINOD PAREKH :** As I said, it is a big company with a very large number of . . .

**SHRI O. V. ALAGESAN :** That is not the question. As Chairman of STC did you order even one or two ?

**SHRI VINOD PAREKH :** Any problem concerning transfer of junior officers would be dealt with at the Personnel Department level.

**SHRI O. V. ALAGESAN :** I do not want a story.

**SHRI VINOD PAREKH :** I am not telling a story.

**SHRI O. V. ALAGESAN :** I want him to tell us whether he ordered transfers in the course of his term as STC Chairman.

**MR. CHAIRMAN :** When you functioned as Chairman, had there been any occasion when you yourself issued any order of transfer ?

**SHRI VINOD PAREKH :** If I may explain. . .

**SHRI O. V. ALAGESAN :** No explanation. I want an answer.

**SHRI VINOD PAREKH :** I must explain what I am saying.

**SHRI O. V. ALAGESAN :** Your explanation is evasive. I want an answer to my question.

**SHRI VINOD PAREKH :** I am only trying to tell the Committee as much as I humanly can.

**SHRI O. V. ALAGESAN :** We want answers, we do not want stories.

**SHRI VINOD PAREKH :** This is not a story which I have told you.

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**PROF. P. G. MAVALANKAR :** STC may be a very large organisation, perhaps it is, and, therefore, involving a number of transfers in a routine or a special manner. The question that my colleague is asking is simple and pointed, whether Mr. Parekh as Chairman of STC ordered any transfers or any suspensions, and if so, the number.

**SHRI VINOD PAREKH :** The answer is very simple. Forgive me if you think I am telling a story, because there is no intention on my part to tell any story. As far as suspensions are concerned, I never issued any suspension orders or had any orders issued. As far as transfers are concerned, we had a system, as I told you, of a committee of management. In other words, every major problem . . .

**SHRI O. V. ALAGESAN :** I do not want a repetition. That is the story I got.

**MR. CHAIRMAN :** Did you sign any transfer order, ever ?

**SHRI VINOD PAREKH :** No.

**MR. CHAIRMAN :** My hon. friend is trying to know from you whether you yourself issued or you yourself signed any transfer order. That is the exact question.

**SHRI VINOD PAREKH :** No, Sir.

**SHRI O. V. ALAGESAN :** This is the only suspension you have carried out yourself. Have you ordered any transfers ?

**MR. CHAIRMAN :** He says no.

**SHRI O. V. ALAGESAN :** So, in your term as STC Chairman for four years or slightly less, the only suspension you ordered is the suspension of Bhatnagar, and the only transfer you ordered is the transfer of Cavale. Am I right ?

**SHRI VINOD PAREKH :** No, Sir, Cavale and Bhatnagar . . .

**SHRI O. V. ALAGESAN :** I am asking you. What is the answer ? Yes or no.

**MR. CHAIRMAN :** You were the Chairman of STC.

**SHRI VINOD PAREKH :** That does not mean very much.

**SHRI O. V. ALAGESAN :** Am I correct in assuming that the only suspension that you did was the suspension of Bhatnagar and the only transfer you carried out was the transfer of Cavale ? That is my question.

**MR. CHAIRMAN :** The sequence of the whole thing is clearly mentioned in the Secret Note that has been preserved in the office. The first paragraph note came from D. P. Chattopadhyaya; second paragraph : nothing from the PEC referred to the Chairman of STC. That means that the Chairman of STC has to take a final decision. Whether you call it technical or legal or give any other explanation, that it is according to the rules or the system, the fact of the whole thing is that the responsibility was yours and you issued, you had to issue, the transfer order as well as the suspension order.

**SHRI O. V. ALAGESAN :** Earlier you have deposed that you have not carried out any transfer or suspension orders. That means, you have not done this except in the case of these two people. Am I correct ?

**SHRI VINOD PAREKH :** It has got to be seen in the right perspective.

**MR. CHAIRMAN :** The noting is there before you. As Chairman of the STC, although it is signed by Shri Mishra, it is devolving on you to issue that order. Whether technically, legally or according to law, we do not know.

**SHRI VINOD PAREKH :** It is correct that I was the head of the corporation. But in actual practice, different functions are transferred or delegated to different people.

**SHRI O. V. ALAGESAN :** These have been said umpteen times. I do not want to hear these things.

**MR. CHAIRMAN :** Mr. Parekh, kindly withdraw for a few minutes.

*(The witness withdrew)*

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(The witness was called in again)

MR. CHAIRMAN : I will try to put brief questions and you should try to be as brief as possible.

SHRI O. V. ALAGESAN : I am sorry, I have to put some more questions to you again. You had told us—it can be verified from the proceedings from these Reporters—that in your entire life as Chairman of the STC, you had no occasion to transfer other than the transfer of Mr. Cavale and no occasion to order any suspension other than the suspension of Mr. Bhatnagar. Is that correct?

SHRI VINOD PAREKH : As I said, I did not sign any order. In signing orders, I was very careful. I also did not order any transfer.

SHRI O. V. ALAGESAN : Not signed but ordered.

MR. CHAIRMAN : You called Mr. Malhotra to issue that order.

SHRI VINOD PAREKH : No, Sir.

I think if we look at the STC Service Rules with regard to discipline, who is the appointing authority and who is the suspending authority, etc. all this will become clear. I think they will give us a clue to many answers, to many questions which have cropped up here this afternoon. The STC Service Rules will throw much light on these matters.

MR. CHAIRMAN : Do you want to say that you neither issued orders nor asked anyone else to do so?

SHRI VINOD PAREKH : As far as suspension is concerned, I am not responsible for anybody's suspension.

SHRI O. V. ALAGESAN : Who ordered Mr. Malhotra to issue the suspension orders. Mr. Malhotra issued the order, but he is a junior officer . . .

SHRI VINOD PAREKH : He is the Chief Personnel Manager.

SHRI O. V. ALAGESAN : If it is the function of the Chief Personnel Manager

and he is the person concerned, then why did you hold discussions with so many senior officers?

SHRI VINOD PAREKH : As I have said, they came to see me in my room . . .

SHRI O. V. ALAGESAN : Why did they come to you? Why did they not go to Mr. Malhotra?

SHRI VINOD PAREKH : I don't know why?

SHRI O. V. ALAGESAN : As Chairman of STC did he ever come across similar occasions as those with regard to Mr. Bhatnagar and Mr. Cavale? I hope he will answer that question correctly.

MR. CHAIRMAN : As Chairman of STC did you ever come across any such kind of suspension or transfer orders as happened in the case of Mr. Bhatnagar and Mr. Cavale?

SHRI VINOD PAREKH : As for transfers, there must have been quite a few, putting different people in different divisions: in a company this is inevitable. But suspension cases . . .

SHRI O. V. ALAGESAN : He will never answer the question.

MR. CHAIRMAN : Can you recall the background or a flash-back of that incident when senior officers came to you and then transfer orders were issued? Did you come across any similar or identical circumstances either before or after?

SHRI VINOD PAREKH : No, Sir.

SHRI O. V. ALAGESAN : Since you did not come across any such incident earlier during your tenure as STC Chairman, perhaps you were not quite clear as to what you should do in this matter. Were you clear in your mind as to what you should do in the matter? Because, this was something new, which you had never heard of. You never came across such a thing. It was something new, which came as a bolt from the blue and, especially at the fag end of the day when you were tired, having worked for eight hours in your

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room, you were simply not able to use your thinking powers. May we take it that way?

MR. CHAIRMAN : He had answered the question . . .

SHRI O. V. ALAGESAN : Let him say 'yes' or 'not' : otherwise, how will the Reporters take it down?

MR. CHAIRMAN : He answered this question in a particular way : he admitted that he had not applied his mind.

SHRI O. V. ALAGESAN : Then let him say that.

MR. CHAIRMAN : He has already said that.

SHRI O. V. ALAGESAN : He should give an answer to that now.

SHRI VINOD PAREKH : I said that I was guided by the views of the Chairman, PEC in this matter.

SHRI O. V. ALAGESAN : Chairman, STC, Chairman, PEC, Shri Kumar, Chief Personnel Manager, Shri Malhotra and Shri Mishra Executive Director (Personnel) had a discussion for half-an-hour. What was the discussion?

MR. CHAIRMAN : He has answered that.

SHRI O. V. ALAGESAN : Let him say so, or you say that you do not permit this question.

MR. CHAIRMAN : He has answered that, thought it was the feeling of the Members that the answer was not satisfactory.

SHRI VINOD PAREKH : As I said before, the discussion at that time was that the Commerce Minister had received complaints against this officer and he wanted some strong action to be taken against him.

SHRI O. V. ALAGESAN : This was discussed for half-an-hour.

SHRI VINOD PAREKH : Yes, Sir.

SHRI O. V. ALAGESAN : The charge against Mr. Bhatnagar was that he kept

the representatives of a particular firm waiting. In the course of your experience as Chairman, STC, have you kept anybody waiting or not?

SHRI VINOD PAREKH : Sometimes, I had too.

SHRI O. V. ALAGESAN : Applying similar standards, you should have been suspended. Is it a sufficient ground to send an officer home?

MR. CHAIRMAN : It is an assumptive question; please put a pointed question.

The hon. Member says that this was the charge framed against Shri Bhatnagar and Shri Cavale. Such things happen and it was not very serious; it happens in the case of other officers also.

The last sentence of the Minister's note is :

"He would like the chairman, PEC to take suitable disciplinary action against the officer".

SHRI VINOD PAREKH : That is the crucial of his note.

MR. CHAIRMAN : You have to act accordingly.

SHRI VINOD PAREKH : Yes, as per Chairman, PEC's note.

SHRI O. V. ALAGESAN : Has there been any occasion? . . .

MR. CHAIRMAN : He is not before a court. He is not the accused. We are trying to get certain information from him. Don't put yourself in an uncomfortable position and ourselves in an uncomfortable position. Unfortunately things may recoil on you. If you want to avoid things, it may recoil on you. You said that it is a crucial question and you immediately referred to the Chairman, PEC and you, as the Chairman, STC were all there and you jointly took the decision.

SHRI VINOD PAREKH : First of all I am trying to tell you everything I know and everything I remember.

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Secondly, this was essentially a PEC problem and the Minister wrote to the Chairman of PEC.

MR. CHAIRMAN : You had the knowledge.

SHRI VINOD PAREKH : Then it came to me and immediately I associated the people authorised to deal with this particular problem.

MR. CHAIRMAN : The whole thing, according to the evidence of everybody who came before us, had happened only on one single day, everybody concerned going there and also the order issued within 1½ days . . .

SHRI O. V. ALAGESAN : No, on the same day. On the same night. Suspension takes place the same day.

MR. CHAIRMAN : There are questions of first and second and it happened so quickly and the officers came. You called all of them and you took a joint decision according to as you say, the instructions of the Minister. You considered that as binding on you.

SHRI VINOD PAREKH : As I said, I was guided by the views of the Chairman, PEC. It related to him. Something happened in my room. That I told you.

SHRI O. V. ALAGESAN : Something happened in the room. He is not a party to it and the room is a party. You have been taking the stand that this is the responsibility of the PEC, your responsibility was only technical and the entire responsibility was that of PEC and the Minister who ordered the suspension or transfer and because these officers happened to be carried on your cadre, you came into the picture; otherwise you had nothing to do with this question of either suspension or transfer. That is the stand you have been taking.

I am now reminded of the Biblical instance. When Christ was to be crucified, he was taken to the Roman Magistrate, Pilate. He said, 'I do not know anything.

If you want to murder this fellow, all right, I wash my hands off'. Similarly, you mentally washed your hands off this and acquiesced in the suspension and transfer of these two officers. Am I right?

MR. CHAIRMAN : Mr. Alagesan, he cannot say 'Yes' or 'No'.

SHRI O. V. ALAGESAN : Let the reporters record 'No answer'.

PROF. P. G. MAVALANKAR : The Biblical allusion is not part of the question.

SHRI O. V. ALAGESAN : Let him formulate that question. To my mind it is analogous to that of Pilate. I am very serious.

PROF. P. G. MAVALANKAR : Is the Chairman, STC, a party to the decision? Does he share the responsibility of dismissal or transfer? Or is he standing merely on the grounds of technicalities?

MR. CHAIRMAN : He has always used the words that his 'technically responsible'. The word 'technical' is used, you have to refer to the rules.

SHRI O. V. ALAGESAN : Having said that, you have also said that these officers called on you more number of times than perhaps they called on their own superiors like Shri B. D. Kumar. Is that your technical responsibility?

MR. CHAIRMAN : 'Comparatively more' he said.

SHRI O. V. ALAGESAN : I want to know that. He has repeatedly said during his earlier depositions that these people were coming to him. He allowed them to see. Though his responsibility was only technical and he had committed no sin as far as this order of transfer or dismissal was concerned, yet he was entertaining them. He was allowing them to make representations. Why did you not tell that it was not my job? Why did you not tell that that was done by others? Why did you not tell them that you go to hell, because it was not your responsibility?

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**SHRI VINOD PAREKH :** They felt like seeing me. I allowed them.

**SHRI O. V. ALAGESAN :** You had absolutely no say in the matter. You only listened to all that others said. Why did you entertain them? What remedy could you provide for them? What was the purpose in your asking them to see you? You should have told them—"look I was a disinterested man in the whole process. It was others who did it. Why do you bother me?" Why did you not say that? Is there any answer to this question?

**SHRI VINOD PAREKH :** I said, I saw them and listened as much as I could. I was helpless in the matter.

**SHRI O. V. ALAGESAN :** You did not understand why they should be hanged. After they were hanged, only then you could understand why they were being hanged. Am I right?

(NO ANSWER)

**SHRI O. V. ALAGESAN :** Did Mr. Fernandes see you during day time in connection with Mr. Cavale's transfer?

**SHRI VINOD PAREKH :** He may have spoken to me on this subject.

**SHRI O. V. ALAGESAN :** Did he see you at any time?

**SHRI VINOD PAREKH :** You are saying something that happened two or three years ago. Shri Fernandes may have raised this matter, it is possible. I cannot say at which place and at what time and day.

**SHRI O. V. ALAGESAN :** What did you tell him?

**SHRI VINOD PAREKH :** Same thing which I told you.

**SHRI O. V. ALAGESAN :** Please be specific. What did you tell him?

**SHRI VINOD PAREKH :** That Commerce Minister happens to be dissatisfied with these two gentlemen. One is to be suspended, one is to be transferred.

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**SHRI O. V. ALAGESAN :** Have you occasion to see Fernandes about the problem of this officer, Mr. Cavale?

**SHRI VINOD PAREKH :** I don't see why he should discuss Mr. Cavale's problem with me. There was no detailed discussion or anything of the kind.

**SHRI O. V. ALAGESAN :** Did you tell Fernandes, Mr. Cavale is absolutely all right, there is nothing wrong with him? This is to be done on instruction from different level. Did you say that to Mr. Fernandes?

**SHRI VINOD PAREKH :** I do not recollect any detailed discussion with Mr. Fernandes. He used to talk to me sometimes about STC matters. There was no pointed discussion about Mr. Cavale.

**SHRI O. V. ALAGESAN :** You did not inform Fernandes that as far as you are concerned, you have nothing against him, but this was done because of instructions from another level. You did not tell him.

**SHRI VINOD PAREKH :** At this point of time it is very difficult to recollect all the words used. This is what Mr. Cavale might have said to Mr. Fernandes.

**SHRI O. V. ALAGESAN :** Why do you take upon yourself what he might have said. If you do not recollect, say, I don't remember.

**SHRI VINOD PAREKH :** I do not recollect. Cavale soon afterwards left STC/PEC and there was nothing more to be done.

**SHRI O. V. ALAGESAN :** That is all.

**MR. CHAIRMAN :** There is a statement by Mr. Fernandes which contradicts certain statements of yours. We may have to call you again. We have not taken any decision. You said about the note received from Mr. Chattopadhyaya. You said about CBI investigations going on. Who communicated this information to you?

**SHRI VINOD PAREKH :** N. K. Singh and B. D. Kumar came and said this. They



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said, some action is to be taken against these officers. The impression left was that the Commerce Minister had some serious complaints. That is why he wants urgent action to be taken.

**MR. CHAIRMAN :** In the course of the discussion, who mentioned that—because you did not say that—some C.B.I. investigations are also going on against these two officers? This also cropped up.

**SHRI VINOD PAREKH :** It must have been mentioned by either of the two—Shri N. K. Singh or Shri Kumar.

**MR. CHAIRMAN :** You do not remember.

**SHRI VINOD PAREKH :** No, Sir.

**MR. CHAIRMAN :** It is interesting to note that after the discussions were held, Shri D. P. Chattopadhyaya sent a note to the Chairman of the PEC. Shri Kumar's notings mention about the note of Mr. D. P. Chattopadhyaya. But he did not point out the causes of suspension of Shri Bhatnagar. He says that 'at the inter-departmental meeting the performance of Mr. Bhatnagar, Deputy Marketing Officer is unsatisfactory. He should be shifted from the marketing side. As discussed, Chairman, STC is requested to take suitable action against the officer'.

It is very interesting to note that in the note here : there is no nexus between the notes. You said you acted. That is because there is no other alternative. You received the note from the Minister. I can understand this. But, in the note of the Chairman of the PEC the nothing mentioned about the note that you have received from the Minister. That is completely different one as if he habitually misbehaved or something of that sort. It has not been altogether satisfactory. In the inter-departmental meeting note that you received did you see that in it?

**SHRI VINOD PAREKH :** As I said, the two gentlemen spoke to me verbally. And the note from the Minister must have

gone to the PEC Chairman who made his own noting thereon and he then marked it to me. I had immediately passed it over to Mr. Misra who was the Personnel Director.

**MR. CHAIRMAN :** This is a very strange way of replying. You see the noting. It says :

'As discussed, Chairman, STC is requested to take suitable action against the officer.'

According to the discussion held in the meeting, as you mentioned, categorical direction has been given to the Chairman, of the STC to take suitable action against the officer. Naturally, cause of action has arisen. Taking this decision is completely a different thing. As you mentioned you did not see the noting.

**SHRI VINOD PAREKH :** Whether you believe or you do not believe me; I am telling you that I must have seen this noting somehow or other.

**MR. CHAIRMAN :** What do you mean by somehow or other? It was after the discussion. It was Mr. Kumar who has made this noting to you.

**SHRI VINOD PAREKH :** It is not as if at this stage the note was circulated to four individuals and they signed then and there. These two gentlemen came to my room. We had a discussion.

**MR. CHAIRMAN :** The whole thing goes against you, and Mr. Kumar. The date given is 15th April 1975. You cannot give this way or that way. The date is there. It has been seen as it has been given to you on 15th April 1975. You received it also on the 15th April.

**SHRI VINOD PAREKH :** No, Sir.

**SHRI O. V. ALAGESAN :** How did these two behave? Is it not wrong?

**SHRI VINOD PAREKH :** I am trying to explain exactly what happened on that evening. I am saying that two gentlemen came to my room, told me that there

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was this problem. I called the other two people too.

MR. CHAIRMAN : What are you saying ?

SHRI VINOD PAREKH : This has exactly happened.

MR. CHAIRMAN : It is not so simple. After the discussion, a certain decision was taken. But, what you have mentioned has no relevance that is, between the cause of action and the cause given in his note. Finally, whatever may be the cause, that man should be suspended or transferred. That was alright. Here all the time you have said, some other officer is also saying, Mr. Malhotra is also saying, that because the note came from the Minister, it was unavoidable on your part not to act accordingly. But, in the noting of Mr. B. D. Kumar, nothing has been mentioned by the Minister concerned. A completely different reasoning has been given, a different ground has been given. Ground is a better word. And he has directed you—Chairman, STC. Then what you said earlier before this Committee and what the direction given to you according to the noting has no relevance.

SHRI VINOD PAREKH : The Minister had told the Chairman, PEC and the Chairman, PEC had additional reasons built up in his note. He personally came and saw me and then produced his note.

MR. CHAIRMAN : Please be a little frank. I will not make anybody understand what you say. Please be straight-

forward. You are not an accused. No action is going to be taken against you. It is a strange document having no relevance with the grounds that you have so long explained or Mr. Malhotra explained. He has directed you to take action and you directed Mr. Malhotra to take action. Therefore, it was obvious that at least you would have seen. Responsibility is yours. Why did Mr. M. N. Mishra sign it ?

SHRI VINOD PAREKH : Because he was Director incharge of personnel. All this happened at that unexpected meeting in the evening.

MR. CHAIRMAN : It is clear that in unusual circumstances and unusual way an unusual note came and because it came from the highest authority naturally they had to act and they could not use their discretion. Am I right in drawing this conclusion ?

SHRI VINOD PAREKH : As I said, Sir, it all happened in the course of that evening.

MR. CHAIRMAN : Thank you, Mr. Parekh. If we consider that we have to take evidence of Mr. Fernandes, then we may have to call you.

SHRI VINOD PAREKH : Sir, I would like to assure you that I have been as frank and truthful as I can possibly be on this matter. Thank you.

*(The witness then withdrew.)*

*(The Committee then adjourned.)*

Tuesday, the 25th April, 1978

**PRESENT**

Professor Samar Guha—*Chairman.*

**MEMBERS**

2. Shri O. V. Alagesan
3. Shri Ram Jethmalani
4. Shri Krishan Kant
5. Dr. V. A. Seyid Muhammed
6. Shri Narendra P. Nathwani
7. Shri B. Shankaranand

**SECRETARIAT**

Shri J. R. Kapur—*Chief Legislative Committee Officer*

Shri M. P. Gupta—*Senior Legislative Committee Officer*

**WITNESSES**

- (1) Shri M. N. Misra (*Executive Director, State Trading Corporation of India Ltd. former Director, Personnel, Projects and Equipment Corporation of India Ltd.*)
- (2) Shri S. S. Khosla (*Development Officer Directorate General of Technical Development, former Assistant Development Officer, Directorate General of Technical Development.*)

(*The Committee met at 15.00 hours*)

(i) Evidence of Shri M. N. Misra.

MR. CHAIRMAN : Shri Misra :

You have been asked to appear before this Committee to give your evidence in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

*Shri M. N. Misra*

I hope you will state the factual position and your version of the events freely and truthfully.

I may inform you that the evidence that you may give before the Committee is to be treated by you as confidential, till the Report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. The evidence which you will give before the Committee may be reported to the House.

Now, you may please take the oath/affirmation.

(*The witness took the oath*)

MR. CHAIRMAN : Mr. Misra, did you appear before the Shah Commission ?

SHRI M. N. MISRA : No, Sir.

MR. CHAIRMAN : Have you, on your own, to make any statement before this Committee ?

SHRI M. N. MISRA : The only statement that I have to make, I believe, has already been, or should have been given by our Chief Personnel Manager who had appeared before you some time ago ; and that was in connection with the suspension of the Deputy Marketing Manager of PEC, one Mr. P. S. Bhatnagar. I happened to be the Personnel Director, at that time, of the State Trading Corporation, apart from handling many other divisions. In fact, Personnel was only a very small part of my function. All that I have to say is that on 15th April, I was called by the then Chairman of STC, in the company of the then Chairman of the PEC, Mr. B. D. Kumar and the Officer on Special Duty Mr. N. K. Singh. All these three gentlemen came to my room at about 7.45 p.m. when I was still working and they asked me to accompany them to the mini-Board Room. There I was given to understand that hon. the then Minister of Commerce Mr. Chattopadhyaya had received a number of complaints about Mr. P. S. Bhatnagar in terms of behaviour unbecoming of an officer. It was

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also implied that apparently, he was living beyond his means, and that he was not a very straight-forward officer. To this, I replied that I could take or initiate action only if I got a complaint in writing. And it was only when we got the complaint in writing from the Minister of Commerce, and on the basis of that, that we had a meeting—which, I told you, took place and the Chairman of PEC and Chairman of STC and officer on Special Duty Mr. N. K. Singh, Chief Personnel Manager Mr. Mulhotra were present—and it was decided and this was the cause. I do not know if you have seen that note. This is what Mr. Chattopadhyaya wrote :

"For some time I have been receiving persistent complaints about the behaviour of certain officials of the Projects and Equipment Corporation, a subsidiary of the STC, towards their business clients and associates. A specific case was brought to my notice today where Shri P. S. Bhatnagar, Deputy Marketing Manager, PEC, kept the representatives of a firm waiting for an unduly long time and coerced them to part with certain information. The manner in which the information was sought to be obtained was unbecoming of a public servant. I would like the Chairman, PEC, to take suitable disciplinary action against the officer."

Not now, but until about a year and a half ago. PEC had a common cadre with STC and the officers were transferable within the group. So, there was a common Personnel Division and a common Chief Personnel Manager. The Chairman of the PEC recorded a note to the effect :

"I had occasion to point out the other day to Director Shri (L. K. Dhawan) that the performance of Shri Bhatnagar as Deputy Marketing Manager in the Inter-departmental meetings has not been altogether satisfactory and requested him that he should

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be shifted from the present seat. As discussed, Chairman, STC, is requested to take suitable action against the officer."

This was addressed to Chairman, STC, and he sent it to me. On that I recorded :

"This matter was discussed today when Chairman, STC, Chairman, PEC myself and CPM (Malhotra) were present. The consensus of the opinion was that P. S. Bhatnagar, DMM-II (PEC) Engineering, be placed under suspension immediately. CPM should take steps to serve the suspension orders personally today itself. Charge sheet will be issued to him shortly."

On that the Chief Personnel Manager recorded :

"Suspension orders were personally issued by me to P. S. Bhatnagar on 15th April, 1975 and his signature obtained on our copy."

This is the only note that I have got. At that time, we did not realise the implications of this. As the Personnel Director, when I received a complaint from no less a person than the Minister himself, of the Ministry under whose charge we come, of getting written complaints and that we should take immediate action and having heard from the then Chairman of the PEC that his performance has not been satisfactory and having also been told that he has been apparently living beyond his means, it was felt that action should be initiated.

MR. CHAIRMAN : Did you discuss in that meeting anything about Shri Cavale ?

SHRI M. N. MISRA : No, we did not discuss about Shri Cavale at all. As a matter of fact, when Shri Cavale was transferred to Madras, even in the normal course he could have been posted there. I was not consulted at that time. The then Chairman, Shri Parekh told the Chief Personnel Manager—I may have been on tour at that time—to transfer him. Even in the normal course, he could be transferred. It was

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not a demotion. He was transferred to Madras. Of course, at that time, we did not understand the implications of it.

**MR. CHAIRMAN :** Instead of Mr. Parekh, Chairman of the STC, why did you sign it ?

**SHRI M. N. MISRA :** The note went to the Chairman of the STC. He just handed it over to me and asked me to record what was discussed earlier that day. Supposing the Chairman, my boss, comes and hands over a letter to me and asks me to take action . . .

**MR. CHAIRMAN :** But the heading of the note mentions "Chairman, STC".

**SHRI M. N. MISRA :** I was not Chairman, STC. It is well known I was only Executive Director, Personnel.

**MR. CHAIRMAN :** Earlier it is mentioned "Chairman, PEC", and it is signed by the Chairman himself, but here it is not signed by the Chairman, STC but by you.

**SHRI M. N. MISRA :** I have said that this matter was discussed with the Chairman, STC, and Chairman, PEC, and when I signed it myself.

**MR. CHAIRMAN :** Was it not the duty of the Chairman to sign it ?

**SHRI M. N. MISRA :** I agree that normally he should sign, but in a firm like ours, very often it happens that the Chairman is away or even if he is not on tour, he passes on a letter and asks me to record what has been discussed, and then he sees it. That is very common.

**DR. V. A. SEYID MUHAMMED :** It is said here that the performance of Bhatnagar was not altogether satisfactory. Did it have reference to the complaint that he kept the representatives of a firm waiting ? Is that what you are referring to or anything else ?

**SHRI M. N. MISRA :** Also coercion in trying to obtain information. We did not

know what that was. I presume it has reference to both the above. The note also refers to inter-departmental meetings. Since it is also written immediately after the Minister's note, I presume it has reference to both.

**DR. V. A. SEYID MUHAMMED :** You came to the conclusion in the note which you signed that the consensus was that Bhatnagar be placed under suspension immediately, i.e. after assessing the various complaints against him ?

**SHRI M. N. MISRA :** All the four of us were present there. It was based on what Mr. B. D. Kumar, Chairman, PEC, said and on Mr. N. K. Singh's complaint about what the Commerce Minister had felt.

**DR. V. A. SEYID MUHAMMED :** Does it mean that you did not act simply on the letter of Chattopadhyaya ?

**SHRI M. N. MISRA :** Let me clarify one thing. We received this note from the then Commerce Minister. It was verified further or elaborated further by the Special Assistant, Mr. N. K. Singh, who said there were also many other things being investigated, about which we would hear later on. Further, the PEC Chairman said that he had not found his performance satisfactory. Obviously he agreed with the views of the then Commerce Minister.

**DR. V. A. SEYID MUHAMMED :** That is true, but you three or four individuals came to the consensus after weighing the pros and cons of the material before you.

**SHRI M. N. MISRA :** Yes. We went basically by the complaint from the then Commerce Minister and the Chairman, PEC.

**MR. CHAIRMAN :** But you have nowhere mentioned that. From the note it appears that you have taken the decision of your own.

**SHRI M. N. MISRA :** It is on the same note on the same day.

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MR. CHAIRMAN : In your noting, it appears that you came to the conclusion of your own. You have noted your decision in such a way that you have made your own judgment.

SHRI M. N. MISRA : I must clarify that one could have said 'with reference to the above' but since it is in the same continuation on the same note. . .

MR. CHAIRMAN : Please do not say so. That does not make any sense.

SHRI O. V. ALAGESAN : For how long you have been in the Government service ?

MR. M. N. MISRA : Six and a half years.

SHRI O. V. ALAGESAN : It means, at that time you were in Government for three and a half years. Where were you before ?

SHRI M. N. MISRA : I am from the private sector and I was on a five-year assignment on the Board of Directors.

SHRI O. V. ALAGESAN : It is said that Mr. Bhatnagar was under the control of the STC and carried on in the cadre of PEC and that they were responsible for all disciplinary proceedings. Is that correct ?

SHRI M. N. MISRA : No, Sir. There was a common cadre between PEC and STC which had been separated about one year ago and until then all the personnel matters connected with PEC and STC were handled by Personnel Division of STC and disciplinary authority and all such matters were handled by the Chief Personnel Manager of the STC.

SHRI O. V. ALAGESAN : So, it is not as if you just followed what the Chairman, PEC told you. You also came to your own independent judgment.

SHRI M. N. MISRA : The fact of the matter is, until then I had not seen Mr. Bhatnagar. He had been working in PEC which is a subsidiary of STC. I dealt his

case on the basis of complaint by the then Commerce Minister and the Chairman PEC which was corroborated by the Chairman of STC.

SHRI O. V. ALAGESAN : Who was the Special Assistant of the Minister ?

SHRI M. N. MISRA : N. K. Singh.

SHRI O. V. ALAGESAN : Was he present at that meeting ?

SHRI M. N. MISRA : Part of that meeting.

SHRI O. V. ALAGESAN : But you have no record of that.

SHRI M. N. MISRA : He said that his presence should not be recorded because really speaking, he had no business to be present at that meeting.

SHRI O. V. ALAGESAN : But from what you have said, it appears that you went more by what he said than by what you all thought about Mr. Bhatnagar.

SHRI M. N. MISRA : We heard from the Head of the Ministry asking for suitable disciplinary action. It was later on corroborated by the then Chairman of the PEC to the extent that he had not found his performance upto the mark. Then we were given to understand, although it is not on record, we have also heard stories about his integrity. Taking everything into account, we were left virtually with no alternative.

In such circumstances, what could one do if things came in writing from the Commerce Minister and it had come in writing also from the Chairman of PEC, who was the head of the organisation and who was also a party to this decision ?

SHRI O. V. ALAGESAN : You kindly see para II. What did the Commerce Minister put in writing? "The Special Assistant was there to convey what he thought or what his Minister thought." Will it be correct to say that you largely influenced by what his special Assistant said ?

SHRI M. N. MISRA : I am very frank with you. So far as I am concerned, I had

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told you that if the recorded note had not come from the hon. Minister and the Chairman of PEC had not stated this, we had no grounds of taking action. As you know, this was done much before the emergency started. Later on, we found, as transpired, that the CBI raided the premises. They found that all the complaints were correct. Even thereafter because they were minor complaints, he was just censured and reinstated well before the emergency was over.

**SHRI O. V. ALAGESAN** : In your note, you have stated that the charge-sheet will be issued to him shortly. Was the charge-sheet issued ?

**SHRI M. N. MISRA** : It was issued to him. It was actually issued on the same day by Mr. Malhotra, Chief Personnel Manager. I shall read it out. It says :

"With immediate effect, P. S. Bhatnagar, presently Deputy Marketing Manager, Grade II in P.E.C. is hereby suspended under para IV, part 8 of the State Trading Corporation of India Limited Employees (Classification Control and Appeal) Rules 1967 for his misconduct under para 3(iii) of State Trading Corporation of India Limited Employees (Conduct) Rules, 1967 read in conjunction with something else."

The conduct rules, I shall now read out to you. They said as follows :

"Every employee shall at all times maintain absolute integrity, maintain devotion to duty and do nothing which is unbecoming of an employee."

And this was really a basic part of unbecoming of an employee. This was a direct reference to what the Commerce Minister had written that his conduct was unbecoming of an officer of the Corporation. It is on page 2, at the bottom, under general, para III.

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**SHRI O. V. ALAGESAN** : Whatever you had read, that was charge-sheet and nothing else.

**SHRI M. N. MISHRA** : This was the order that was passed on the same day.

**SHRI O. V. ALAGESAN** : You said that the charge-sheet was issued on the . . .

**SHRI M. N. MISHA** No, Sir. The order was passed on that day. The Chief Personnel Manager issued the order on the same day. But the charge-sheet was issued later. This was the order. And then there must be a show-cause notice.

**SHRI O. V. ALAGESAN** : What about the charge-sheet that had been issued ?

**SHRI M. N. MISRA** : In the file here it is not there. I will check up and then give you. I was away abroad. I came back to office only yesterday. Then I got this notice about coming here.

**SHRI KRISHAN KANT** : For your recollection, I am reading this out :

"Shri P. S. Bhatnagar, while functioning as Deputy Marketing Manager in Projects and Equipment Corporation (a subsidiary of STC) committed gross misconduct and misbehaviour inasmuch as he kept the representatives of the firm—Messrs Batliboi and Company—waiting for an unduly long time on 13th April, 1975 and coerced them to part with certain information. The manner in which the information was sought to be obtained by him was unbecoming of an employee of the Corporation as per Rule 3(iii) of the STC of India Limited Employees (Conduct) Rules, 1967."

The second was this :

"For some time persistent complaints have been received about the misbehaviour and misconduct of Shri P. S. Bhatnagar, Deputy Marketing Manager, Projects and Equipment Corporation (a subsidiary of STC) towards the business clients and associates. On 15th April, 1975 he kept the representative of the firm—Messrs Batliboi & Company—waiting for an unduly long time and co-

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coerced them to part with certain information. The manner in which the information was sought to be obtained by him was unbecoming of an employee of the Corporation as per Rule 3(iii) of the STC of India Limited Employees (Conduct) Rules, 1967, and also constitutes misconduct and misbehaviour."

**SHRI O. V. ALAGESAN:** What was the reply?

**SHRI KRISHAN KANT:** I will read out the reply also.

"Allegation No. 1. The Complaint No. 1 of the form is not correct as they were not made to wait even for a minute what to say for an unduly long time. "Normally representatives of the firms are seen with prior appointment, but here M/s. Batliboi had no appointment with me on 15th April, 1975 for their visit. However, they called on the undersigned of their own for furnishing certain information which was asked verbally from them along with the other firm. Despite the fact that I was busy with other persons who were already sitting with me, I promptly attended M/s. B. B. reps. as they told me that they had brought the required information which was only pending from them as the others had already furnished. Hence the question of waiting for an unduly long time does not arise. The moment I collected the information which was asked by my superiors, I was immediately asked by the Director to hand over all the relevant papers pertaining to this information, which I did without any delay.

"Allegation 2: An urgent information that was collected by me as directed by my boss was to be furnished to him on the priority basis positively by 15th April, 1975. As per instructions from my boss, the requisite information was collected from several business associates in the usual official manner. I had no personal interest whatsoever in collecting this information except carrying out my official duties.

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"A few business associates who were also asked to furnish the similar information and regretted verbally for not furnishing this information, were not further persuaded. Similarly, B. B. had also the choice to regret, but instead of this, they preferred to furnish the information. So, the question of coercing them for furnishing the information does not arise."

**SHRI M. N. MISRA:** A lot of files had been sent to the Shah Commission: from there, they have apparently been sent to the Joint Secretary, Home Affairs.

**SHRI KRISHAN KANT:** The action against Mr. Bhatnagar was revoked, according to these papers, on September 1, 1976 ;

"WHEREAS an order placing Shri P. S. Bhatnagar, presently Deputy Marketing Manager Grade-II in P.E.C. under suspension, was made on 15th April, 1975.

Now, the competent disciplinary authority in exercise of the powers conferred by clause (c) of sub-rule (v) of rule 8 of the S.T.C. of India Ltd. (Classification, Control and Appeal) Rules, 1967, has revoked the said order of suspension with immediate effect. The entire period of his suspension shall be treated as on duty...."

This is dated September 1, 1976. It was not before Emergency...

**SHRI M. N. MISRA:** The initiation was before the Emergency. The suspension was revoked during Emergency.

**SHRI O. V. ALAGESAN:** Now, it is on the charges of making the representatives of some firm wait for an unduly long time and then coercing them to part with some information, that suspension was done. Can you recall any other occasion—since you were Director (Personnel)—when such quick action was taken against anybody in regard to placing him under suspension? Somebody says something and somebody else



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says something and everybody sits together and then an order is passed and it is immediately served the same night at 10 o'clock : can you recall any other incident where such action was taken, either by all together or individually ?

SHRI M. N. MISRA : I was surprised and wondered why they wanted to take action immediately, but I was given to understand that the Minister was extremely unhappy about it and wanted action to be taken the same day. To my mind, it appeared to be too fast. I wondered why it could not be done in the normal course but, as I have said, I was given to understand that the Minister was most unhappy and wanted it to be given the same day.

SHRI O. V. ALAGESAN : You were given to understand by the Special Assistant ?

SHRI M. N. MISRA : The Chairman, STC and the Chairman, PEC etc. were all present. I would like to clarify that we would not go by word of mouth. If there were no written complaint, we would not have been a party, but there was a written complaint and we had no choice. And then, we have to give an opportunity to the officer concerned to defend himself and say if the charges were incorrect...

SHRI O. V. ALAGESAN : It shows that at that time you were not quite convinced that these were sufficient to convict the man : later on, did anything come to your notice ?

SHRI M. N. MISRA : About Cavale's case I do not know because I was not in the picture. Mr. Bhatnagar belonged to one of the seven or eight Divisions I was handling. He did come to my house one or two days later. He was in tears and he said that his house was raided by the CBI. I said I did not know about that. He said that injustice was being done and he repeated to me what is now coming to light. When I heard about this I mentioned it to the then Chairman and said 'This is Mr. Bhatnagar's story'. In such circumstances one does not know what to believe. So far as

I was concerned, when he told me these things I had some doubts which, later on, were substantiated to some extent. When the man came to me and said he was being harassed, I reported this to the Chairman and he said 'We are not in a position to understand this' because the CBI had, in the meantime, built up a charge-sheet and raided his house, giving a number of charges. He said it was something beyond our control as we did not initiate the raid. He said that at the time of the meeting he heard from one or two people, although there was no direct proof then, that his integrity was also not beyond reproach. or words to that effect.

SHRI O. V. ALAGESAN : What did Mr. Bhatnagar tell you ?

SHRI M. N. MISRA : He came and said that he was being harassed and that his entire guilt was that he was trying to collect information about Maruti. We had no idea at all that it had even the remotest connection with Maruti till he told us. I think he came two days later to my house. I reported this to my then Chairman and the Chairman's reply was that he did not initiate the raid. He had also heard that the CBI raided his premises as they had received a number of complaints.

SHRI NARENDRA P. NATHWANI : As I understood from you, a meeting was held where Chairman, STC, Chairman, PEC and you were present. The first thing was the specific instance ; were particulars of that specific instance given at that time ?

SHRI M. N. MISRA : Yes, Sir ; we were told that he was coerced.

SHRI NARENDRA P. NATHWANI : Who was coerced ? Was the name of the firm was given ?

SHRI M. N. MISRA : I do not remember now.

SHRI NARENDRA P. NATHWANI : A mention was made in the note about receiving complaints persistently ; that is

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general. It was then followed by a specific instance. Try to refresh your memory and tell us.

**SHRI M. N. MISRA :** I think, they must have mentioned the name of Batliboi, but I must confess that now : three years later, I am not sure.

**SHRI NARENDRA P. NATHWANI :** At that time, information must have been sought as to who was coerced, who was the representative ; all this must have been asked. You have no recollection at this stage.

**SHRI M. N. MISRA :** It was about 8.00 O'clock in the night ; this happened at the end of the day's work. After three years, I cannot tell you definitely, whether it was correct but it must have been mentioned.

**SHRI NARENDRA P. NATHWANI :** The Chairman, PEC, has made an endorsement that he had occasion to point out the other day to Director (Shri L. K. Dhawan) that the performance of Shri Bhatnagar as Dy. Marketing Manager in the inter-departmental meetings has not been altogether satisfactory. This was in addition to that.

**SHRI M. N. MISRA :** Yes, Sir.

**SHRI NARENDRA P. NATHWANI :** Did you consider it as of sufficient importance and as a charge against him ?

**SHRI M. N. MISRA :** This note was by Chairman, PEC.

**SHRI NARENDRA P. NATHWANI :** When you discussed, you discussed this part also. Why did you discuss it if it was not relevant ?

It was, therefore, relevant to your purpose. What was it that was discussed ? Forget what happened before you all met and began to discuss. Let us see your note which start, 'This matter was discussed'. Which matter was discussed ? About PEC Chairman's note ? Everything. It was the entire matter concerning both items, namely, his conduct and behaviour and second-

ly, his behaviour at inter-departmental meetings also. Correct ? It is something separate—behaviour towards people.

**SHRI M. N. MISRA :** Yes, that is right.

**SHRI NARENDRA P. NATHWANI :** Suspension order also was issued in respect of both the matters and the charge-sheet also was in respect of both the matters ?

**SHRI M. N. MISRA :** Yes

**SHRI NARENDRA P. NATHWANI :** Is there any reference in the charge-sheet to this that his behaviour in the inter-departmental meetings is not satisfactory ?

**SHRI M. N. MISRA :** The files which you just now read out are not with me. What you read out does not seem to be mentioned there.

**SHRI KRISHAN KANT :** The charge-sheet refers only to the question of misbehaviour.

**SHRI NARENDRA P. NATHWANI :** I do not try to make a comment. He says the entire matter and I want to show him that the charge-sheet does not at all mention the second item.

**SHRI M. N. MISRA :** It says :

"For some time persistent complaints have been received about the misbehaviour and misconduct of Shri P. S. Bhatnagar, Deputy Marketing Manager, Projects and Equipments Corporation (a subsidiary of STC) towards the business clients and associates."

So, this is not specific.

**SHRI NARENDRA P. NATHWANI :** This reference to his behaviour at the inter-departmental meetings being found unsatisfactory—is there any mention in the charge-sheet ? I am asking you about that.

**SHRI M. N. MISRA :** What Mr. Kumar referred to at that time was that he seemed to have certain favourites and non-favourites so far as business associates are concerned. What he was trying to convey was his lack of integrity.

**SHRI NARENDRA P. NATHWANI :** When you considered both, the suspension

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also is in respect of both and the charge-sheet also, you said, is in respect of both. Therefore, I am asking: is there anything in the charge-sheet that while suspending or framing the charge-sheet this aspect of the conduct, namely, his behaviour at the inter-departmental meetings being unsatisfactory was taken into account?

**SHRI M. N. MISRA :** As I said, the Chief Personnel Manager is directly in charge of the Personnel Division. I was handling seven divisions. This was only one thing.

**SHRI NARENDRA P. NATHWANI :** When you were considering this inter-departmental meeting behaviour, was any specific instance brought to your notice?

**SHRI M. N. MISRA :** What was implied by the Chairman of the PEC was that in the inter-departmental meetings he gave the impression of having certain favourites and certain people whom he did not like. He seemed to be an officer lacking in integrity. This is what he implied. But he did not want to put it in writing without any substantial evidence.

**SHRI NARENDRA P. NATHWANI :** About rules and regulations of service, what is the provision about suspension? When can a person be suspended? You look at the rules.

**SHRI M. N. MISRA :** Under the conduct Rules a person can be suspended if he infringes any of the conduct rules.

**SHRI NARENDRA P. NATHWANI :** Let me see these rules. I want to read myself.

**SHRI M. N. MISRA :** I must point out, we were not at all aware of what transpired. We went by the written complaint.

**SHRI NARENDRA P. NATHWANI :** Therefore, it would be quite exact and correct if you say that 'we did not apply our mind'.

**SHRI M. N. MISRA :** It would have been insubordination on my part if I did not take action.

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**SHRI NARENDRA P. NATHWANI :** It was a most extraordinary situation in which you went by the note made by the hon. Minister.

**SHRI M. N. MISRA :** And Chairman of the PEC.

It would have been very difficult to believe what they were saying was false.

**SHRI NARENDRA P. NATHWANI :** Correct. And now you may not like to say in so many words.

**SHRI M. N. MISRA :** I did not know what transpired. I was absolutely not aware. We just went. We thought that something very serious has happened. Minister of Commerce is so much agitated.

I even remarked, 'What was this great hurry about it?' I was in a meeting with four or five other officers, discussing some other subject and we were asked to come to the Mini Board Room to discuss very important thing.

What transpired later, it was something different. There was no proof.

**SHRI NARENDRA P. NATHWANI :** Which rule did you refer to about suspension?

**MR. CHAIRMAN :** They had only one consideration i.e. the note. He also said—it would have been insubordination on his part.

**SHRI RAM JETHMALANI :** Would you mind telling this, the meeting which took place on 15th April, 1975, why was it necessary before an officer could be suspended?

**SHRI M. N. MISRA :** It was a prelude to suspension. What had happened then—it was elaborated that it was something serious that had necessitated immediate action.

**SHRI RAM JETHMALANI :** Am I right that the meeting of 15th April, 1975 was called because you could not proceed with this work of suspension unless this matter was discussed at a meeting?

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SHRI M. N. MISRA : Until we got information from the Chairman of the PEC.

SHRI RAM JETHMALANI : I shall come to that later.

Just because immediate suspension was being recommended, that was why this meeting became necessary. The importance of this meeting is that a grave matter must be very solemnly enquired into. Do you recall how long did this meeting last ?

SHRI M. N. MISRA : It started around 8 O'clock and must have lasted about one hour.

SHRI RAM JETHMALANI : Were minutes of the meeting kept ?

SHRI M. N. MISRA : This is the note which I have recorded.

SHRI RAM JETHMALANI : No other record ?

SHRI M. N. MISRA : No, Sir.

SHRI RAM JETHMALANI : Where was it held ?

SHRI M. N. MISRA : In the Mini Board Room.

SHRI RAM JETHMALANI : All these gentlemen sat together and discussed ?

SHRI M. N. MISRA : Yes.

SHRI RAM JETHMALANI : All right. Tell me this. You were meeting for discussing some very grave matter. What is it that you really found out ? What is the sum total of your finding ? What was found out at the end of the deliberations ?

SHRI M. N. MISRA : The sum total was, so far as Mr. Bhatnagar was concerned, there was some offence committed by him in trying to coerce the party, to get information out of him, which he should not have done, and it was something which apparently seemed to indicate lack of integrity or trying to harass an associate. It was something over which the Head of the Ministry felt sufficiently agitated and asked

for a meeting to see that suitable disciplinary action was taken.

SHRI RAM JETHMALANI : Nobody stated what was the nature of the information. You did not know about the name of the firm.

SHRI M. N. MISRA : I said this a little while ago in answer to the question put by the hon. Member. I don't know whether the name was mentioned or not, but I think name might have been mentioned. I presume so, Sir. But name as such means very little to me.

SHRI RAM JETHMALANI : Did you ask : What was the nature of the information which he tried to obtain from the firm ?

SHRI M. N. MISRA : What I was given to understand was this.

SHRI RAM JETHMALANI : How did you satisfy yourself ? Did you verify even vaguely that something very wrong was done by him ?

SHRI M. N. MISRA : Minister has himself recorded a note. Chairman of the PEC says that coercion is ...

SHRI RAM JETHMALANI : We will come to the coercion part later. The Minister has not mentioned what was the nature of the information.

SHRI M. N. MISRA : Seeking information is one thing ; coercion is something different.

SHRI RAM JETHMALANI : Did anybody disclose the nature of the information he obtained ?

SHRI M. N. MISRA : No.

SHRI RAM JETHMALANI : Did anybody disclose what was the nature of the coercion ? Did you generally verify what was the sort of coercion.

SHRI M. N. MISRA : Let me clarify this. He was Deputy Marketing Manager working under Chairman B. D. Kumar. Mr. B. D. Kumar is the person most fitted to comment on this.

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**SHRI RAM JETHMALANI :** He may be the most suitable person to answer. That is another thing. But some persons join together in a meeting. Everybody has got some contribution to make in this meeting. Did you even vaguely satisfy yourself where is this question of coercion ?

**SHRI M. N. MISRA :** What I was given to understand was, he was trying to get information which he need not have got.

**SHRI RAM JETHMALANI :** You don't know the nature of the information. Any reasonable person has to be satisfied whether the information was improperly obtained or not. Once you know that information, it is possible to say that. But since you don't know it, it is impossible for you to say, he has no business to obtain it. Now, whatever information is given to you, did you satisfy yourself that in regard to Mr. Bhatnagar there was some element of coercion or not? What was that coercion there ?

**SHRI M. N. MISRA :** Once, again I am sorry to repeat myself that the head of this Ministry...

**SHRI RAM JETHMALANI :** This is a very simple situation which stops all questioning if you tell us that, as a matter of fact, on the 15th this decision had got to be obeyed. There was no other discussion of any kind. Then I can understand that. But if you go on telling me that four of you in that meeting decided to do something really, then all these questions are called for. Kindly tell me frankly whether you have any document, whatsoever, to find out there was any element of coercion involved in this or not. In fact, if you do not know the nature of information, then you can never sit in judgment over the question of coercion.

**SHRI M. N. MISRA :** I would put it this way. If the complaint had been received by the head of the Ministry, it is coordinated by the Chairman of the PEC and Chairman of the S. As a Personnel Director of the holding company I must have written complaint. I am not going on verbal order.

**SHRI RAM JETHMALANI :** It is very easy for you to say something. You did not care to know that yourself at all whether there was an element of coercion or not in the conduct of Mr. Bhatnagar.

**SHRI M. N. MISRA :** We got hold of the Conduct Rules. We wanted to see whether this order could be used as a sufficient ground for the suspension. It was for this purpose that we got hold of the Conduct Rules. It was pointed out that we can...

**SHRI RAM JETHMALANI :** Coercion as defined in the Contract Act is a threat to commit an offence under the I.P.C. There are other kinds of moral coercion. If anybody calls it coercion, it is not coercion at all. Coercion amounts to misconduct. It is really a threat to commit an offence. Did you satisfy yourself that there was an element of coercion in the conduct of Shri Bhatnagar ?

**SHRI M. N. MISRA :** All that I beg to submit is this. A Deputy Marketing Manager is a very junior officer against whom why should a head of the Commerce Ministry or Chairman of the PEC...

**SHRI RAM JETHMALANI :** We are on a different point altogether.

**MR. CHAIRMAN :** You said in the beginning that you had to act because there was a noting from the highest authority in the Ministry. You were very categorical about it. And so you had no other alternative. It was a mere formality. Subsequent steps had to follow. You acted under a compulsion because there was a note sent to you from the highest authority in the Ministry. Is that correct ?

**SHRI M. N. MISRA :** That is correct naturally, otherwise it would be insubordination on my part. I would like to add here that if I found that this was not a sufficient justification to suspend under the Conduct Rules, we would have said 'Look here. We cannot suspend a person under these rules.'

**SHRI RAM JETHMALANI :** Have you ever, by your competent advice, prevented

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your superiors from taking action which they would otherwise have wanted to take? If so, how many times?

**SHRI M. N. MISRA :** Certainly. Many times.

**SHRI RAM JETHMALANI :** I want to know whether on the very 15th April you took up the role of giving advice which might have changed their mind and changed their course of action?

Please tell us very frankly. You can tell that very honestly whether on the 15th of April, 1975 the situation in the country was not such that you could do your duty?

**SHRI M. N. MISRA :** I would like to say one thing. I have come on my own to the public sector. And, I dare say that I can go back and I can get a job on a higher salary. It is not the job which has kept me in this organisation. I would like to say that if I told that there was some hanky-panky, I would not have...

**SHRI RAM JETHMALANI :** That is exactly what I want to know. You know that Mr. Bhatnagar is a senior officer, a responsible officer and a qualified man. He has risen from the ranks. He must have some merit in him. You four met for sometime to discuss what you say was a grave thing. I find that you had no information at all. You have no information about the nature of the information, the coercion exercised. That is the logical conclusion to this question. You met to rubber-stamp the decision which somebody else had taken.

Tell us frankly and honestly that that is the decision.

**SHRI M. N. MISRA :** I have very frankly admitted now as, to what exactly happened. I was not the person directly in charge of that.

**SHRI RAM JETHMALANI :** I am not blaming you at all. I want to know what happened factually at this meeting? Was it or was it not a meeting which substantially was for taking only a rubber-stamp

decision the merits of which nobody cared to find out?

**SHRI M. N. MISRA :** I am saying this with absolute hundred per cent honesty and to the best of my recollection that some serious offence must have been committed in this case.

**SHRI RAM JETHMALANI :** Is that the position that on the 15th of April that you were told by your superior that some serious offence had been committed but you were not trying to find out anything about the allegation?

**SHRI M. N. MISRA :** I have no method directly...

**SHRI RAM JETHMALANI :** I agree. But you did not try to find the truth and the truth was not known to you. Is that a fact?

**SHRI M. N. MISRA :** Certainly truth was not known to me. I have admitted this at the very beginning.

**SHRI B. SHANKARANAND :** Was Mr. Bhatnagar working under you?

**SHRI M. N. MISRA :** No, Sir. I was in the STC, a holding company. Mr. Bhatnagar was in the Project Equipment Corporation which was a subsidiary company of STC. He was not working under me.

**SHRI B. SHANKARANAND :** So, you have only the technical responsibility in passing this order.

**SHRI M. N. MISRA :** That is correct, Sir.

**SHRI B. SHANKARANAND :** Now, on that evening, you had a Mini-Board meeting. When you went to the Mini-Board meeting, whether any person was there earlier? Or you went there first...?

**SHRI M. N. MISRA :** At about 8 O'clock, the then Chairman walked into my room, I was sitting with three or four persons and discussing things. When he found that I was with three or four persons, he asked me to come across to

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the Mini-Board meeting room. I followed him to the Mini-Board room, the then Chairman of STC, the then Chairman of PEC, Shri Malhoira joined us later.

**SHRI B. SHANKARANAND :** So, you all went together to the Mini-Board room. Was there any other person in the meeting prior to your arrival there or was there any discussion after about the matter of Mr. Bhatnagar ?

**SHRI M. N. MISRA :** I was given to understand that the Chairman of the PEC had been summoned to the Ministry of Commerce.

**SHRI B. SHANKARANAND :** About the decision taken, was that the only meeting held ?

**SHRI M. N. MISRA :** This was the only meeting held before the suspension order was issued. After the meeting the suspension order was issued.

**SHRI B. SHANKARANAND :** At the time of the meeting, there was a note regarding the officials. But was it the Minister's note or was it a note by Mr. B. D. Kumar ?

When all the four of you went to discuss this matter in the Mini-Board room, this note of the Minister was already there ?

**SHRI M. N. MISRA :** Yes ; I was given to understand that it was there and after the meeting it was given. So I presume it must have been in the hands of the Chairman. It was read out and I was told that this was the charge the Minister had made ; it was handed over to me later, in the meeting itself.

**SHRI B. SHANKARANAND :** Can you tell me who brought this note of the Minister, D. P. Chattopadhyaya to the meeting ?

**SHRI M. N. MISRA :** I presume it must have been N. K. Singh.

**SHRI B. SHANKARANAND :** Was there any enquiry held against Mr. Bhatnagar about the allegations contained in

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the note of Minister and also of Mr. B. D. Kumar ?

**SHRI M. N. MISRA :** I presume so. It is the Chief Personnel Manager who conducts the enquiry.

**MR. CHAIRMAN :** There is no need to presume ; you can say what is within your actual knowledge.

**SHRI B. SHANKARANAND :** I do not want your vague impressions ; I do not want anything from your memory ; I want your definite knowledge ; if you know say : yes.

**SHRI M. N. MISRA :** I do not know.

**SHRI B. SHANKARANAND :** You do not know whether a detailed enquiry was held against Mr. Bhatnagar after his suspension about the allegations that were mentioned in the note of the Minister ?

**SHRI M. N. MISRA :** I personally do not know.

**SHRI B. SHANKARANAND :** Can you tell it from the records ?

**SHRI M. N. MISRA :** The files here are incomplete. All the detailed files were sent to the Shah Commission.

**SHRI B. SHANKARANAND :** Will you be able to look into the records in the Commission and tell us whether all the allegations were enquired into ?

**SHRI M. N. MISRA :** Certainly. But the Chief Personnel Manager would be able to tell you in detail.

**SHRI B. SHANKARANAND :** I am asking you because you do not know.

**SHRI M. N. MISRA :** From the records I could say.

**SHRI B. SHANKARANAND :** You are concerned with personnel affairs of your company. Is the enquiring authority and the disciplinary authority one and the same under the rules ?

**SHRI M. N. MISRA :** For suspension, appointing authority and disciplining authority is the same. But so far as the CBI thing

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is concerned, of course, it was investigated by CBI.

**SHRI B. SHANKARANAND :** I am asking about the Departmental Enquiry.

**SHRI M. N. MISRA :** In the Departmental Enquiry, the appointing authority and the disciplining authority are the same.

**SHRI B. SHANKARANAND :** Who enquired into the allegations ?

**SHRI M. N. MISRA :** The Chief Personnel Manager issued the letter of suspension and he enquired into the allegations. He was in charge of the division as such.

**SHRI B. SHANKARANAND :** So, to you did not enquire into the allegations.

**SHRI M. N. MISRA :** No. But I used to ask him from time to time whether anything has come out. But I did not personally enquire into the allegations.

**SHRI B. SHANKARANAND :** Except this, you are not in a position to tell anything else.

**SHRI M. N. MISRA :** I am not in a position to say anything except that he came to my house and told me that this was the fact and I went and told the Chairman that this is the thing.

**SHRI KRISHAN KANT :** While giving evidence, you used the words "misbehaviour and integrity". The notice which has been given to him was under Rule 3 (iii) and Rule 3 (i) refers to integrity. But in the charge-sheet that was served on him—you might have discussed later on, I do not know—but while framing the charges and serving a charge-sheet you did not refer at all to the question of integrity. You referred to only Rule 3(iii), which has nothing to do with the unbecoming conduct of an employee or his misbehaviour. As far as the question of integrity is concerned, that did not form part of the charge-sheet.

**SHRI M. N. MISRA :** Because we had no proof at that time.

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**SHRI KRISHAN KANT :** As my friend, Mr. Jethmalani pointed out, performance and misbehaviour are two different things. When you take disciplinary action and you have something to say about his performance, his inefficiency, lethargy and delay, you could have mentioned that. But here you have mentioned only misbehaviour and you have given the example of Batliboi in the charge-sheet. First you have made a general complaint of misbehaviour and then a specific charge, by giving the example of Batliboi. It means, in the charge-sheet you have not referred to lack of performance, though you might have discussed. Shri B. D. Kumar's note is not operative. As far as the disciplinary action is concerned, only Mr. Chattopadhyaya's note is operative.

**SHRI M. N. MISRA :** I agree with you here that the dictionary meaning of the word 'performance' is...

**SHRI KRISHAN KANT :** While chit-chatting it is alright, but when you are giving a charge-sheet, when you are serving a suspension order, correct words should be used and as you know, performance and misbehaviour are two different things. It was all totally guided by the note of Mr. Chattopadhyaya and Mr. Kumar also, just to how that he has sympathy with the Minister, has given a note, which does not in any way mention about performance.

**SHRI M. N. MISRA :** When you say about the dictionary meaning of the term, you are absolutely right. But what he meant in the discussion was taken in a colloquial sense.

**SHRI KRISHAN KANT :** I do not know. I am going by what he has written.

**SHRI M. N. MISRA :** You are right. But during the discussion he did refer to it.

**SHRI KRISHAN KANT :** Then the question of integrity will come. He has not referred to rule 3(i). That hypothetical discussion does not make any difference. This note of Mr. Kumar is irrelevant as



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regards the present action taken. So, can I take it that the charge-sheet is only regarding misbehaviour ?

SHRI M. N. MISRA : Yes.

SHRI KRISHAN KANT : Shri B. D. Kumar's note is not relevant as far as the charge-sheet is concerned.

SHRI M. N. MISRA : I agree that according to the dictionary meaning, 'performance' would mean performance of work. But in colloquialism. . .

SHRI KRISHAN KANT : Colloquialism is while talking. But here it is in writing for disciplinary action.

SHRI M. N. MISRA : I agree with you.

SHRI KRISHAN KANT : The charge-sheet given leads only to Mr. Chattopadhyaya's note. It means Mr. Kumar's note is irrelevant as far as the present action is concerned. Can I take it like that ?

SHRI M. N. MISRA : Yes; I agree with you. But sometime later, the CBI did raid his house.

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SHRI KRISHAN KANT : According to the papers given to the Committee, he was reinstated on 1st September. The CBI raid took place after 3rd September, i.e. after he rejoined. That is not a very important thing on 15th April 1975. The main thing is, he was suspended and he remained suspended for more than one year because of misbehaviour, which was based on the note of Mr. Chattopadhyaya. Can I take it like that ?

SHRI M. N. MISRA : In writing it would appear to be so. But if you take the verbal part . . .

SHRI KRISHAN KANT : I go by what is given in writing.

SHRI M. N. MISRA : It is a fact.

SHRI KRISHAN KANT : You said in reply to the Chairman's question that later on you came to know the implications. Can you briefly tell us what were the implications ?

SHRI M. N. MISRA : He was trying to extract information about Maruti affairs. Probably it was something which was inconvenient. This was the corridor talk. This was after a few weeks.

*(The witness then withdrew)*

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(ii) Evidence of Shri S. S. Khosla

MR. CHAIRMAN : Mr. Khosla, you have been asked to appear before this Committee to give your evidence in connection with the question of privilege against Shrimati Indira Gandhi and others for the alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answer to certain questions in Lok Sabha on Maruti Limited. I hope you will state the factual position, and your version of the events freely and truthfully. I may inform you that the evidence that you may give before this Committee is to be treated by you as confidential till the Report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. The evidence which you will give before the Committee may be reported to the House. Please keep this in mind.

Now, you may please take oath or affirmation as you like, the text of which is before you.

SHRI S. S. KHOSLA : I, S. S. Khosla, swear in the name of God that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false.

MR. CHAIRMAN : You have made a statement before the Investigating Officer of the Shah Commission of Inquiry.

SHRI S. S. KHOSLA : Yes.

MR. CHAIRMAN : Would you read out the statement that you made then ?

SHRI S. S. KHOSLA : I will read it out :

"1. Shri S. M. Ghosh, then Joint Secretary, Deptt. of Heavy Industry, had written a D.O. letter No. 10(57)/75-AEI-I dated 9-4-75 to Secretary of M/s.

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Maruti Ltd., to furnish information on the machinery installed with M/s. Maruti Ltd. He had also directed that this letter may be taken in person by an officer from the DGTD for collecting information as it was required urgently in connection with a Parliament Question. Accordingly, the undersigned (then Assistant Development Officer in Auto Directorate of DGTD) and Shri S. K. Bharij were deputed to collect this information on 10th April, 1975.

2. On reaching the premises of M/s. Maruti Ltd. on 10th April, 1975, the letter was handed over to the Secretary of M/s. Maruti Ltd., Shri Rege. Shri Rege expressed his inability to furnish the required information as the same was not readily available with him. He said this could be compiled and sent within two days. We also requested him to permit us to visit the plant and note down the details of the installed machinery. Shri Rege ruled out this possibility also.

3. Thereupon, on my request Shri Rege explained the position to Shri R. Krishnaswamy, then Director in the Department of Heavy Industry on telephone. I also talked to Shri Krishnaswamy seeking his advice. He instructed us to come back to the office. On reaching office, senior officers were informed about this."

SHRI RAM JETHMALANI : I don't think the witness has to say much. Anyway, I will seek clarification on 1 or 2 things. Mr. Khosla, I take it that when you went to make these enquiries you knew, generally, what kind of material you were supposed to collect ?

SHRI S. S. KHOSLA : That was written in the letter I carried.

SHRI RAM JETHMALANI : Do you recall what was the allegation into which an enquiry had to be made? What was the nature of the material you went to collect ?

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SHRI S. S. KHOSLA : The copy of the letter is with me, i.e. the d.o. letter. I will read it out :

SHRI S. S. KHOSLA : Yes.

"Dear Shri Rege,

SHRI RAM JETHMALANI : You asked for both ?

As mentioned to you on the telephone by Shri Krishnaswamy, we are deputing Shri S. S. Khosla, Assistant Development Officer, Directorate General of Technical Development, to obtain from you the following information, in order to enable us to reply to a Parliament Question :

SHRI S. S. KHOSLA : I showed the letter to him. After going through the letter he said "it is not possible ; it will take some time, two or three days". Then I said "it is required urgently. Will it be possible for us to visit the plant and note down the source of the machinery etc."

- (1) The total value of machinery purchased and installed in Maruti Ltd.
- (2) Particulars of machinery purchased on stock and sale basis, installed in Maruti Ltd. and sources from whom the machinery were obtained.
- (3) Total value and particulars of machinery of indigenous origin, installed in Maruti and sources from whom the machinery were obtained.

SHRI RAM JETHMALANI : Did you ask for the books ?

SHRI S. S. KHOSLA : No.

SHRI RAM JETHMALANI : It is easily discoverable from the books and papers as to how much is the value of the imported machinery.

Shri Khosla will meet you in your factory by 10.30 A.M. on 10-4-1975. I would be grateful to you if all assistance to obtain the above information is rendered to Shri Khosla.

SHRI S. S. KHOSLA : That is also possible. But we did not ask for the books. This information was required for Parliament. So, it is always desirable to see things are authenticated. That is why we thought, if the information is not readily available, we could make physical verification.

With regards,

SHRI RAM JETHMALANI : You wanted them to compile the information and authenticate it for you ?

Yours sincerely,  
Sd. S. M. Ghosh."

SHRI S. S. KHOSLA : Yes. When they said the information is not available, we asked "will it be possible for us to visit the plant" to which they said "no".

SHRI RAM JETHMALANI : Did it ask how much of indigenous machinery was installed there ? I think the last item refers to imported machinery.

SHRI RAM JETHMALANI : Did they tell you that the books are not available ?

SHRI S. S. KHOSLA : The third item relates to machinery of indigenous origin, and the second item relates to imported ones.

SHRI S. S. KHOSLA : We wanted the information in a statement form. They said that they have not compiled it so far. We did not see the books. The idea of sending technical officers was that we should visit the plant and check the plant ourselves.

SHRI RAM JETHMALANI : This information can be obtained only in two ways—either by physical inspection or by going through the books and papers.

SHRI RAM JETHMALANI : What was the nature of the conversation between Mr. Rege and Mr. Krishnaswamy in your presence ?

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**SHRI S. S. KHOSLA :** Mr. Rege told me, in a nut shell, that the information is not readily available, it will take a few days. When I told him that I would like to visit the plant, he said "I will have to talk to the MD of the Company, before I allow you to come inside. He is very busy and I have not been able to contact him".

**SHRI RAM JETHMALANI :** By MD he meant Sanjay Gandhi ?

**SHRI S. S. KHOSLA :** Yes, Sir.

**SHRI RAM JETHMALANI :** Then Mr. Krishnaswamy told you to come back ?

**SHRI S. S. KHOSLA :** There was a conversation between them. Then I asked Mr. Krishnaswamy what I should do. He said "come back".

**SHRI RAM JETHMALANI :** After that you were never sent again ?

**SHRI S. S. KHOSLA :** No, Sir.

**SHRI B. SHANKARANAND :** I want to know before whom you made this statement which you just now read out.

**SHRI S. S. KHOSLA :** This statement I made before the investigating officer of the Shah Commission of Inquiry.

**SHRI B. SHANKARANAND :** Did you appear before the Shah Commission ?

**SHRI S. S. KHOSLA :** No, Sir.

**SHRI B. SHANKARANAND :** You went to the Shah Commission, but you were not examined. Is that correct ?

**SHRI S. S. KHOSLA :** Yes.

**SHRI B. SHANKARANAND :** Was any reason given to you why you were left out from the examination ? Did they give you any reason ?

**SHRI S. S. KHOSLA :** They did not give any reason, but all the people who were called on that day...

**SHRI B. SHANKARANAND :** About you I am asking, I am not asking about

all the people. They did not give you any reason ?

**SHRI S. S. KHOSLA :** No, Sir.

**SHRI B. SHANKARANAND :** They said : "You go away, we are not examining you."

**SHRI S. S. KHOSLA :** Yes.

**SHRI B. SHANKARANAND :** What was the nature of the work that you were doing at that time when you went to Maruti ?

**SHRI S. S. KHOSLA :** I was looking after the development of the automobile industry in the DGTD, where I am still working.

**SHRI B. SHANKARANAND :** Could this information, as is mentioned in the D.O. of the Joint Secretary, be had by any other means than by your going to the factory ?

**SHRI S. S. KHOSLA :** Because I was directed to go there, I went.

**SHRI B. SHANKARANAND :** I am asking you : could this information be had by any other means ?

**SHRI S. S. KHOSLA :** Yes, but only because...

**SHRI B. SHANKARANAND :** That is all right.

Did you tell any other thing to the investigating officer which was not recorded here ?

**SHRI S. S. KHOSLA :** No, Sir.

**SHRI RAM JETHMALANI :** Did you say anything more which was not recorded in the statement ?

**SHRI S. S. KHOSLA :** He had called me with my colleague, Bharij. He had called both of us, together we went to him. We met him and he wanted us to tell him about our visit to the plant. We told him, and then he said : "Please confirm and write down all these things in the form of a statement". We went back to our office, wrote it and submitted it to him.

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**SHRI B. SHANKARANAND :** In the first para you have mentioned in the third person about yourself, and then by the first person. Why this discrepancy? You say : "Accordingly, the undersigned and Shri S. K. Bharij were deputed to get this information."

**MR. CHAIRMAN :** Most of the statements are written in this fashion.

**SHRI B. SHANKARANAND :** Most of the statements are not written in this fashion. Because he said that he wrote it in his hand, this question arose. Otherwise, I would not have asked.

Why did you write like this? You did not say here "Accordingly, I and Shri S. K. Bharij were deputed."

**MR. CHAIRMAN :** Why do not you ask the second question?

**SHRI B. SHANKARANAND :** You ask it.

**MR. CHAIRMAN :** The first two paras of your statement give an impression that you have written it under certain dictation and duress and the last para is your own. Is there anything of that kind? Were you directed or forced to do it in that way?

**SHRI S. S. KHOSLA :** This I have written of my own.

**SHRI RAM JETHMALANI :** Is everything that you have written, voluntary?

**SHRI S. S. KHOSLA :** Yes.

**DR. V. A. SEYID MUHAMMED :** Did you show the letter to contact the MD and ask his permission? Or before reading the letter you were told that this was not possible?

**SHRI S. S. KHOSLA :** When I handed over the letter to him, he went through the letter and after reading the letter he said that it was not possible for them to give the information just then. It was only then we proposed to him : "Will it be possible for us to visit the plant and note down the information on the spot?" He said that it might not be possible. Then

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he said : "Let me check up; I will contact my MD." After some time, he told us that he was very busy. Then he said : "You wait for me for some time; in the meanwhile, I will find out."

So, we were asked to sit in the Reception. Then again, after half-an-hour, he called us back and told us : "He is very busy; I have not been able to contact him." Then I said : you kindly explain the position to Mr. Krishna-swamy. On my request, he talked to Mr. Krishnaswamy and explained the same thing to him also. Then I told him : let me talk to him on the telephone. So, I spoke to him. He said that he had already explained to him. Then I asked him : what should I do now? He said : there is no point in waiting. You come back.

**DR. V. A. SEYID MUHAMMED :** What was the understanding?

**SHRI S. S. KHOSLA :** After that, I came back and informed my officer all that had happened. After that, what has happened, I am not aware of that.

**SHRI O. V. ALAGESAN :** There is a letter produced before the Committee written by Mr. S. M. Ghosh.

**SHRI KRISHAN KANT :** Where was the Managing Director, Mr. Sanjay Gandhi? Was he there inside the factory? Did you get the impression that he was inside the factory?

**SHRI S. S. KHOSLA :** He might be somewhere in the office. That impression we got from him (Mr. Rege).

**SHRI KRISHAN KANT :** He was present but he could not talk to him.

**SHRI O. V. ALAGESAN :** I have seen this letter. Do you know as to how many pieces of machinery were installed there?

**SHRI S. S. KHOSLA :** No, Sir.

**SHRI O. V. ALAGESAN :** You wanted this information. Mr. Ghosh had written saying this and that thing. Did you send any proforma mentioning particulars of the machinery?

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SHRI S. S. KHOSLA : I don't think as far as this letter is concerned.

SHRI O. V. ALAGESAN : You wanted to know the total value of the machinery. Why did you not ask for the total value of particulars of machinery on stock and sale basis ? Why was this lacuna there ?

SHRI S. S. KHOSLA : 'Particulars' include value also.

SHRI O. V. ALAGESAN : There you have not said 'total value'; you have only said 'particulars'. In No. 3, you have said 'total value'. Why this distinction ?

SHRI S. S. KHOSLA : I would not be able to say that. The letter was written by Shri Ghosh.

SHRI O. V. ALAGESAN : Mr. Rege said that he would furnish the information within two or three days. Why then did you want to visit the plant ?

SHRI S. S. KHOSLA : Before I left for this place I was given to understand that, in case the information was not complete or in case the information was not readily available, I should visit the plant and get the information; even if the information was ready, wherever there was any doubt, I could get it sorted out

after seeing the machine or having some discussion. That is why, they wanted a technical officer to be sent; otherwise, they could have sent anybody else.

SHRI O. V. ALAGESAN : All that was told to you orally ? I do not find anything in writing that you should visit the plant.

SHRI S. S. KHOSLA : As far as this letter is concerned, it was written by Shri Ghosh, Joint Secretary in the Ministry. I was working—and I am working now also—in the DGTD. My senior officers are different. They told me about this.

SHRI O. V. ALAGESAN : He promised to send this information in two or three days. Did he send this information ?

SHRI S. S. KHOSLA : I do not know because I was not then concerned with this.

SHRI O. V. ALAGESAN : That is all.

MR. CHAIRMAN : Thank you, Mr. Khosla.

*(The witness withdrew)*

*(The Committee then adjourned).*

*Shri Mantosh Sondhi*

*Wednesday, the 26th April, 1978*

**PRESENT**

Professor Samar Guha—*Chairman*

**MEMBERS**

2. Shri O. V. Alagesan
3. Shri Hitendra Desai
4. Shri Krishan Kant
5. Dr. V. A. Seyid Muhammed
6. Shri Narendra P. Nathwani
7. Shri B. Shankaranand

**SECRETARIAT**

Shri J. R. Kapur—*Chief Legislative Committee Officer*

Shri M. P. Gupta—*Senior Legislative Committee Officer*

**WITNESS**

Shri Mantosh Sondhi [*Secretary, Ministry of Steel & Mines, former Secretary, Ministry of Industry and Civil Supplies (Department of Heavy Industry)*]

*(The Committee met at 09.30 hours)*

**Evidence of Shri Mantosh Sondhi**

MR. CHAIRMAN : Mr. Sondhi, you have been asked to appear before this Committee to give evidence in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in the Lok Sabha on Maruti Ltd. I hope you will state the factual position.

I may inform you that the evidence that you may tender before this committee is to be treated by you as confidential till the report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege.

The evidence that you may give before the Committee may be reported to the House.

Now you may please take the oath or affirmation as you may like.

*(The witness took the oath).*

MR. CHAIRMAN : Were you summoned by the Shah Commission ?

SHRI MANTOSH SONDDHI : No, Sir.

MR. CHAIRMAN : What was your position during 1975 and what is your position at the moment ?

SHRI MANTOSH SONDDHI : In 1975 I was Secretary in the Department of Heavy Industry and now I am Secretary in the Ministry of Steel and Mines.

MR. CHAIRMAN : Will you kindly tell us as to what are your instructions in connection with the collection of information regarding Maruti and who were the officials who were collecting and what did they inform you. That is one aspect.

The other aspect is that Mr. Pai has informed us that you were subjected to harassment for giving licence to the Premier Automobiles. What kind of harassment you had to face and all that experience of yours may be told to the committee.

SHRI MANTOSH SONDDHI : In regard to the first question, we had a set procedure in our department. Whenever questions are sent to the Parliamentary Section—we had a parliamentary section—they used to mark them to the officers concerned and it was expected that practically all the information that was required to enable the Minister to give a reply should be collected. In this particular case I came to know that there was a question like this, when late in the evening of 11th April, Mr. Pai sent for me and he said that it had been reported to him that some of our officers were harassing certain firms for getting necessary information.

I had not seen the question by that time. But I was quite surprised because I fully

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knew that they discharged their duty with a certain amount of decorum and dignity and there could not be any question of harassment.

That night I rang up Krishnaswamy. I asked whether he had taken any steps which would amount to harassment. He said he had done nothing. He was keeping in touch with Maruti Limited and D.G.T.D., and Project Engineering Corporation for getting some information. I left it at that and we agreed to meet in the following morning. It was a second Saturday. He came and told me about what he had been doing and also the problems that he had faced—in the sense that he could not get information from Maruti Limited. He had also not been able to get much information from Project Engineering Corporation and since we were one day late by way of putting up a draft reply, we felt, it was best to give reply on whatever information was available.

MR. CHAIRMAN : What subsequently followed regarding Krishnaswamy and Rajan and what steps were taken ?

SHRI MANTOSH SONDDHI : This draft reply was put up through the Joint Secretary and I do not know whether it came through me or not. In all probability, it would have gone through me as replies to starred questions normally go through Secretary. It was finally approved by the Minister. Soon after that, I think it was 3rd May, I was away from Delhi and I came back from Madras, I was told by my Private Secretary at the Air Port that Shri Krishnaswamy's house had been searched. This came as a great shock to me because he was known to me for the last many years and his integrity was beyond reproach. I was naturally very upset about it. I went to Shri Pai late at night and asked if that was true.

SHRI O. V. ALAGESAN : What was the date ?

SHRI MANTOSH SONDDHI : From my memory I can say it was 3rd or 4th of May.

I was all the more surprised because it was a convention—when there are certain allegations against a senior officer of the Ministry, it is customary for the C.B.I. to first check up with the Secretary or Joint Secretary or with the Minister whether there was any *prima facie* merit in the allegation which had been made. So I asked Mr. Pai whether permission was taken, before the search was carried out. But I found subsequently, the next day, that no permission was taken. But, while the search had started, they had informed the Joint Secretary who informed the Minister. The allegation was that he had assets disproportionate to his known sources of income. In a matter like this it should be possible for the CBI to investigate the matter discreetly without resorting to this extreme step of searching the officer's house.

As you know, Government officers are supposed to give information every year about their assets, about their immovable properties and things like that. If the CBI had contacted us, we could have given them all the information they required before they took this extreme step of searching his house, which is really very demoralising.

In this case, all that was not done. He was also put under police surveillance ; this I knew because he used to come to my house quite often. He was naturally very perturbed. He was being followed even when he came to see me. All this amounted to harassment.

MR. CHAIRMAN : What happened to him finally after the CBI enquiry ?

SHRI MANTOSH SONDDHI : CBI made this enquiry and at that time there was one other case about him regarding possession of liquor. That case was filed in a court of law. But I think finally nothing happened. He was acquitted. There was some complaint about his wife also and the Enforcement Directorate was pursuing the matter. But I know nothing came out of it.

Finally when we got a report from the CBI, we went into it in great detail. We



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found that based on that, there was nothing really which could be said against the officer. So, based on that, we sent a report to the C.V.C. to say that the case may be closed and they accepted our recommendation.

**MR. CHAIRMAN :** The CBI took this unusual step, as you yourself said. You said it was not the convention, but they took this unusual step, of searching the house of Mr. Krishnaswamy. Did you draw the attention of the hon. Minister to it at that time ?

**SHRI MANTOSH SONDDHI :** I went to the Minister. I talked to him. He was very upset. He did write to the Prime Minister about this matter also.

**MR. CHAIRMAN :** Regarding Mr. Rajan, what happened to him ?

**SHRI MANTOSH SONDDHI :** He is in the DGTD ; I was not directly concerned. I was particularly concerned with Mr. Krishnaswamy. He was my officer and I thought it was my duty to give all the assistance that I could.

**MR. CHAIRMAN :** Let us hear the second part of the story.

**SHRI MANTOSH SONDDHI :** The second part of the story is this : I think this happened on 3rd May or may be soon after that. I was told by Mr. Pai. I was told that I was under police surveillance. He said, that was his information. Soon after that I realised that I was under police surveillance. Even when my wife and I went to see a film I was followed in a car. They used to stand outside my house and that continued for quite some time. Then later on I was a little taken aback and this happened one day—it was after the emergency, I think in July, 1975, Mr. Pai told me that the Director, CBI came to him and he wanted to start some investigation against me. Mr. Pai apparently told them, I had quite a good record, a clean record and he was himself in the knowledge of the case and there was nothing which required such a course of action.

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But, now I find—I did not know them—that about the 16th of July 1975 they registered a case ; they decided to carry out what they call 'Preliminary enquiry'. This was apparently carried on.

**SHRI KRISHAN KANT :** When was it carried on ?

**SHRI MANTOSH SONDDHI :** This must have been immediately after the emergency. I got a letter from the C.B.I. authority in August last year after the new Government was formed. If you like, I can read that out to you.

**MR. CHAIRMAN :** Oh, Yes.

**SHRI MANTOSH SONDDHI :** I quote :

1. "(1) Crime and Date of Registration : PE3/75 dated 16-7-1975.
- (2) Name of the suspects :
  - (1) Shri M. Sondhi, Secretary to the Government of India, Ministry of Heavy Industries, New Delhi.
  - (2) Shri P. K. Verma, ex-F.A.C.A.O. Bokaro Steel Ltd. (since retired).
  - (3) Allegations enquired into by the Branch :

In the F.I.R. there were three allegations namely, (1) that Shri M. Sondhi, while working as Chairman and Managing Director, Bokaro Steel Ltd., in collusion with Shri P. K. Verma, then Financial Adviser and C.A.O. and other officials, had shown favour to the firm Messrs. Larsen & Toubro, Bombay, in the matter of purchase of recuperators and distribution board with multi-circuit breaker.

II. That Shri Sondhi and others showed favour to Messrs. Central Engineering Syndicate in the matter of contract awarded to them for erection of equipment and structure of Sintering plant ; and

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III. That Shri Sondhi, while working as Secretary to the Government of India, showed favour to the firm Messrs. Premier Automobiles, Bombay, inasmuch as he was instrumental in arranging the issue of Letter of Intent to the firm for the expansion of their capacity of production of cars.

(4) *Result of the enquiry :*

During the course of enquiry, relevant documents were collected and scrutinised but nothing came to notice lending support to any of the three allegations. Therefore, in the light of the head office orders No. .... dated ..... August 1977, the case was closed."

This letter I got in November last year.

MR. CHAIRMAN : Can you give a copy of it ?

SHRI MANTOSH SONDDHI : I can give it to you.

*(The document was handed over)*

MR. CHAIRMAN : Now, you will please continue.

SHRI MANTOSH SONDDHI : This was a harassment in the sense that they did not even spare me and the sword of Damocles was kept hanging on my head for quite sometime.

MR. CHAIRMAN : In this connection you would have spoken to the then Minister of Industry, Shri T. A. Pai. Would you enlighten us about the discussion that you had with Mr. T. A. Pai in regard to your case.

SHRI MANTOSH SONDDHI : He was fully in the picture and I must say he, as my minister, gave me all the support just as both of us had given all the support to Mr. Krishnaswamy. He said that he was perturbed about the whole thing and, therefore, I am quite sure, he tried to see that nothing was done to me which was not fair and which was unjust. Periodically, we used to talk about these matters which I left it in his hands. As my Minister, I thought it was his res-

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possibility to make sure that all his officers are properly protected.

MR. CHAIRMAN : Did you know in connection with your case exchanges of letters and also of the interviews with the then Prime Minister. And strangely he had decided that he should resign on this question. You tell us whether you know about this or not in that connection.

SHRI MANTOSH SONDDHI : He consulted me about this question whether he should resign or not. He was very much agitated. He asked what I had thought about it. I thought, under the circumstances he was the only person who would give some assistance to his officers and so, I advised him that it would not be in the interest of his officers to resign at that point of time. I think that that was the right decision to take. Otherwise, everybody would have been just left like that and there was nothing very much that could have been done.

SHRI HITENDRA DESAI : I would like to be clear about the procedure followed in your Ministry in respect of the Starred Questions.

SHRI MANTOSH SONDDHI : In the case of Starred Questions the normal practice is that the reply to Starred Questions is shown to the Secretary who marks them to the Minister. The draft is finalised at the level of the Joint Secretary.

SHRI HITENDRA DESAI : In respect of these Questions, who were dealing with Maruti Affairs in your Ministry ?

SHRI MANTOSH SONDDHI : Mr. Ghosh was the Joint Secretary. Mr. Krishnaswamy who was originally the Deputy Secretary was promoted at that time as a Director. Mr. Gupta was the Under Secretary concerned. I have got a note from the Parliament Section of the Ministry that this particular question was marked to Mr. Ghosh, Joint Secretary ; Shri Krishnaswamy, Director and Mr. Gupta, Under Secretary.

SHRI HITENDRA DESAI : All questions relating to Maruti were dealt with by same persons.

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**SHRI MANTOSH SONDDHI :** Normally by the same persons. All questions pertaining to automobile industry were looked after by these three persons.

**SHRI HITENDRA DESAI :** Could you tell the reasons as to why Mr. R. Krishnaswamy was harassed ?

**SHRI MANTOSH SONDDHI :** I have already explained we could only connect it up in the sense all the four officers were taken to task who were dealing with this particular question.

**SHRI HITENDRA DESAI :** What were the reasons for your harassment ?

**SHRI MANTOSH SONDDHI :** There was the question of grant of licence. The Letter of Intent said 50,000 cars. We thought to produce cars at the rate of 50,000 required managerial, organisation, administrative and technical capabilities of a order which probably it would not be possible to provide in this particular case. Also financial outlay would be of a very great magnitude. The ancillary industry will have to be developed which will cost a lot of money. At that time I took the stand that probably the better course would be to give a licence for a much smaller quantity. On that basis with the permission of the Minister, I had an interview with the Prime Minister and put across this point of view. Then, of course, our association with Mr. Krishnaswamy to give him moral support as much as we could. May be these things and a few other things.

**SHRI HITENDRA DESAI :** You said that you were under surveillance. During which period ?

**SHRI MANTOSH SONDDHI :** It was sometime in May; it continued off and on. I think it was soon after Krishnaswamy's things started.

**SHRI HITENDRA DESAI :** A little before the proclamation of emergency ?

**SHRI MANTOSH SONDDHI :** I think so.

**SHRI HITENDRA DESAI :** Surveillance continued? Anybody can notice that.

**SHRI MANTOSH SONDDHI :** To start with it went on quite regularly, may be two months or so. Then it was not there. Then again they started. It is difficult to be precise; I suppose they must have kept some reports.

**SHRI O. V. ALAGESAN :** It is a question of collection of information for parliamentary question with reference to a private sector firm. When it concerns government departments you send queries and collect information. According to you, what is the procedure adopted in government to collect information from private parties when such information becomes necessary for answering a parliamentary question ?

**SHRI MANTOSH SONDDHI :** The only thing we can do is to write to them or send people and try to collect information. We try to pose specific queries and try to get information. Apart from that nothing more can be done.

**SHRI O. V. ALAGESAN :** In this case, you have taken certain steps. Mr. R. Krishnaswamy and some officers were sent to Maruti factory premises to get information and they failed to get information. Are we to take it that you had no information to give on the question asked, or you had to go more by inferences and guesses? Or were you able to be definite in answering that question ?

**SHRI MANTOSH SONDDHI :** The answer that was given under the circumstances was fully justified. If it was imported equipment for which an import licence had been given to the firm, that information would be available with the CCIE or DGTD. Where any firm buys this equipment from any established importers or other suppliers of equipment, it is not possible to have that information. There are a large number of units all over the country. I know that the DGTD had not laid down any proforma. That is why that answer was justified.

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**SHRI O. V. ALAGESAN :** Yesterday I had occasion to ask whether people who went to collect information actually took a proforma because it is a lot of detailed information which may relate to various pieces of machinery. When I asked them whether they took any proforma with them, we were told that no such thing was done. In the absence of that I think it will be difficult to supply that information.

**SHRI MANTOSH SONDHI :** I do not know whether they had really laid down a proforma but the question was fairly clear and if the firm wanted to give that information it should have been possible to collect it. I am quite sure that that could have been done provided they were willing to part with the information because that question was quite specific.

**SHRI KRISHAN KANT :** I would like to know whether the CBI approached the Ministry later on in order to find out the property details of Mr. Krishnaswamy from the records.

**SHRI MANTOSH SONDHI :** I have no direct information. But I believe that they did come to have a look at the records. Normally what is done is, first they see the records and then take further action. I may also add that in this the reputation of the officer concerned counts. It is generally accepted that an officer who is reputed to be honest does not over-night become dishonest. This Officer had all along enjoyed a good reputation. But I believe that they had a look at the records much later on.

**SHRI KRISHAN KANT :** When you prepare for supplementaries, you do not know what supplementary will come from which part of the House and so you try to get as much information as possible, which may be required to answer the supplementaries. Or do you confine yourself to the question ?

**SHRI MANTOSH SONDHI :** We try to anticipate what the supplementaries are likely to be and we try to include it in the note for the Minister so that he is fully equipped.

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**SHRI KRISHAN KANT :** Strictly you may not have to collect information. Because these are the possible supplementaries, you collected the information. Is it right ?

**SHRI MANTOSH SONDHI :** If we had been able to get the information, we would have certainly supplied them. Mr. Krishnaswamy put up the draft reply. Had he got the information on 14th or even 15th, he would have certainly incorporated it in the reply. That is being done in other cases also. The instructions are that we should collect as much information as possible.

**MR. CHAIRMAN :** Mr. Shankaranand, you can ask questions.

**SHRI B. SHANKARANAND :** Mr. Chairman, I think Mr. Sondhi was the Secretary of the Ministry at that particular time and he does not have the papers or the notes prepared for the Minister for enabling him to answer, I do not think that I will be able to put questions unless we have the papers and file before us. It is because the entire question hinges on what note was prepared and whether the information collected was there or not. All those things should be looked into.

**MR. CHAIRMAN :** I want to be a little bit convinced about the point you have raised. Here is the question about Maruti and the information regarding the Parliament Question. That aspect has been very elaborately dealt with.

**SHRI B. SHANKARANAND :** In the absence of the witness, I will be able to convince you. Let Mr. Sondhi withdraw, and then I will tell you.

**MR. CHAIRMAN :** Do you mean to say that if the Committee decides that it may be required Mr. Sondhi may be asked to appear before the Committee again ?

**SHRI B. SHANKARANAND :** He was the Secretary. Officially he knew everything about the file and all those things, and he is a very important witness as far as this case is concerned.

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**MR. CHAIRMAN :** Any member has anything to say on the matter raised by Mr. Shankaranand ? We shall discuss the matter in his absence. Kindly wait a few minutes. Let me ask him some questions.

(To the witness) You mentioned about harassment and said that you were under surveillance even when you and your wife visited any relative's house or anywhere. It appeared to you that you have been shadowed and you have been watched. Was there any other kind of harassment that you had to face ?

**SHRI MANTOSH SONDHI :** That is not the only thing. When the preliminary inquiry was registered, it was a source of great worry.

**MR. CHAIRMAN :** Were you any time interrogated by the CBI ?

**SHRI MANTOSH SONDHI :** No.

**MR. CHAIRMAN :** How long you continued as Secretary of the Ministry of Heavy Industry ?

**SHRI MANTOSH SONDHI :** I came to the Ministry of Steel and Mines on the 14th of May, 1977.

**MR. CHAIRMAN :** While you are discharging your duty as the Secretary of the Ministry of Heavy Industry, did you feel any constraint because your conduct was being investigated and you were under surveillance ? Did you feel any kind of difficulty in discharging your duty as Secretary except the psychological pressure ?

**SHRI MANTOSH SONDHI :** I discharged my duties to the best of my ability. I did not allow that to interfere in my work in any way and I think there was no occasion when I had to take a decision bearing that in mind.

**MR. CHAIRMAN :** You have to take a decision ?

**SHRI MANTOSH SONDHI :** I mean, there was no occasion where my work was influenced by that. I was able to use my best judgment.

**MR. CHAIRMAN :** Had you any occasion to know Mr. R. K. Dhawan ?

**SHRI MANTOSH SONDHI :** I do not know him.

**MR. CHAIRMAN :** He never contacted you ?

**SHRI MANTOSH SONDHI :** He once rang me up in connection with the licence.

**MR. CHAIRMAN :** What did he say ?

**SHRI MANTOSH SONDHI :** He said : "On the Maruti the trials had been carried out. Why don't you issue the licence?" In answer I said : "The whole thing is under consideration and after taking a decision we will issue the licence". Then he said : "Shall I report to the highest?" Then I said that if he wanted to, he could do so.

**MR. CHAIRMAN :** Did you ask whether it was of his own he was talking ?

**SHRI MANTOSH SONDHI :** No, but I gave that reply to him.

**MR. CHAIRMAN :** Did it appear to you as a threat when he said : "I will report to the highest" ? It is some kind of a covert threat, I can say.

**SHRI MANTOSH SONDHI :** Well, Sir, obviously when he said that, at that moment my immediate reaction was to say that he was at liberty to do what he wanted to and we would consider all the aspects of the matter and take decision.

**MR. CHAIRMAN :** When did you take the decision to issue the licence ?

**SHRI MANTOSH SONDHI :** The licence was issued in July, 1974.

**MR. CHAIRMAN :** How long before did Mr. R. K. Dhawan contact you when you issued the licence ? What will be the time gap ?

**SHRI MANTOSH SONDHI :** It is very difficult to say. May be two months. At that time we were considering the question of the number, whether it should be 50,000 or 25,000. That took sometime. In

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the letter of intent, it was stipulated it should be 50,000. We wanted to see whether it could be reduced.

**MR. CHAIRMAN :** At that time was there any discussion in Parliament ?

**SHRI MANTOSH SONDHI :** All along there were questions. I suppose there was some discussion.

**MR. CHAIRMAN :** Did the questions raised in Parliament create a feeling of extra caution in your mind as to the task of issuing licence to Maruti ?

**SHRI MANTOSH SONDHI :** No ; we dealt with it purely objectively as any other question. The instruction of the Minister about all questions—not only Maruti—was that we should try to get all the infor-

mation that we possibly could and deal with them with great care and meticulousness.

**MR. CHAIRMAN :** Would you withdraw for a few minutes ?

**SHRI MANTOSH SONDHI :** Yes, Sir.

*(The witness then withdrew)*

*(The witness was again called in)*

**MR. CHAIRMAN :** Mr. Sondhi, we are asking the Ministry to send us the entire file relating to the question, answers, supplementaries and the draft that was prepared on the Maruti. After that, perhaps, you may be examined again. Thank you, very much.

*(The witness withdrew)*

*(The Committee then adjourned)*

Thursday, the 27th April, 1978

PRESENT

Professor Samar Guha—*Chairman*

MEMBERS

2. Shri Hitendra Desai
3. Shri Krishan Kant
4. Shri Narendra P. Nathwani
5. Shri B. Shankaramand

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer*

Shri M. P. Gupta—*Senior Legislative Committee Officer*

WITNESS

Shri S. M. Rege (*former Secretary, M/s. Maruti Ltd.*)

(*The Committee met at 09.30 hours*)

Evidence of Shri S. M. Rege

MR. CHAIRMAN: Mr. Rege, you have been asked to appear before this Committee to give your evidence in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in the Lok Sabha on Maruti Limited. I hope you will state the factual position and your version of the events freely and truthfully. I may inform you that the evidence that you will give before this Committee is to be treated by you as confidential till the Report of the Committee and its proceedings are presented to the Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. The evidence which you will give before the Committee may be reported to the House.

Now you may take the oath or affirmation, as you like; the text is there.

Shri S. M. Rege

(*The witness took the oath*)

MR. CHAIRMAN: Were you summoned by the Shah Commission?

SHRI S. M. REGE: No sir.

MR. CHAIRMAN: What was your position in April 1975 in Maruti Limited and what are you doing at present?

SHRI S. M. REGE: In 1975 I was the Company Secretary of Maruti Limited and at present I am working in Mohan Meakin Breweries.

MR. CHAIRMAN: Would you give us an account of what exactly happened, chronologically, regarding the matter when you were approached to furnish certain information in regard to a certain Parliamentary question regarding Maruti Limited?

SHRI S. M. REGE: Could you please tell me which question?

MR. CHAIRMAN: Did you receive any letter from S. M. Ghosh, Joint Secretary in the Ministry of Industry.

SHRI S. M. REGE: Regarding the collection of information?

MR. CHAIRMAN: Yes.

SHRI S. M. REGE: I don't remember exactly; it is quite an old matter.

MR. CHAIRMAN: That is the starting point: how do you say that you don't remember? Such an evasive answer will not do. A letter was sent to you by Shri S. M. Ghosh, Joint Secretary, for furnishing certain information, and that letter was carried by an officer by the name of Khosla.

SHRI S. M. REGE: I do not remember exactly whether the letter was received.

MR. CHAIRMAN: Kindly try to refresh your memory and tell us whether you received a letter that was carried by Mr. Khosla to you for furnishing certain information regarding Maruti Ltd.

SHRI S. M. REGE: That must have been received in the Despatch Department. I do not exactly remember which particular letter you are referring to.

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**MR. CHAIRMAN :** Did you receive any other letters in connection with the questions on Maruti Ltd. in the month of April ?

**SHRI S. M. REGE.** Certain letters might have been received. But I do not remember which letters were received in that particular month, unless the records are seen.

**MR. CHAIRMAN :** Why did you not bring the records ?

**SHRI S. M. REGE :** I do not have the records. I am not working there now. The record is with the Liquidator.

**MR. CHAIRMAN :** Do you remember anything about your discussion with Mr. Khosla regarding questions on Maruti Ltd. in the month of April 1975 ?

**SHRI S. M. REGE :** I do not remember because I told you what exactly was the procedure in such matters in the company.

**MR. CHAIRMAN :** You do not remember anything—whether Mr. Khosla came to your office or not.

**SHRI S. M. REGE :** I will tell you exactly what procedure was followed in the company.

**SHRI NARENDRA P. NATHWANI :** The Chairman asked you whether you have any recollection and whether you remember anything about any question put in Parliament.

**SHRI S. M. REGE :** The questions might have been put but I do not remember exactly.

**MR. CHAIRMAN :** Mr. Krishnaswamy sent Mr. Khosla to you with a letter from Mr. Ghosh, the Joint Secretary in the Ministry of Heavy Industry, for furnishing certain information regarding Maruti Ltd. in connection with an answer to a question that had been put before the Lok Sabha.

**SHRI S. M. REGE :** If I can see the record I can very well clarify each and every matter. This is a very old matter and I do not remember...

(After seeing some papers shown to him)

**MR. CHAIRMAN :** Do you now recollect ?

**SHRI S. M. REGE :** Yes.

**MR. CHAIRMAN :** You received this letter sent through Mr. Khosla. Mr. Krishnaswamy also telephoned to you several times. Give us all the information that you have. You are not an accused but do not get involved and please do not try to create an impression that you are not coming out with the truth. Remember the oath you have taken.

**SHRI S. M. REGE :** The normal procedure of the Company was like this. If a letter pertaining to a Parliamentary Question came, it used to be passed on to me and that letter was then sent to the concerned Department for collecting information.

When anybody used to come personally to see the machinery and the workshop, then he was sent to the workshop. If any team came, the team was sent to the concerned technical person with the direction to show the workshop to the team.

According to the normal procedure I might have sent Mr. Khosla along with some person in the workshop to see the machinery. That is what I remember.

**MR. CHAIRMAN :** Will you repeat ?

**SHRI S. M. REGE :** If Mr. Khosla came and saw me, he was allowed to see the machinery and then collect whatever information he wanted. In the mean while this letter must have been passed on to the concerned Department to collect information about the machinery, etc.

**MR. CHAIRMAN :** Did you permit Mr. Khosla to go inside the factory and inspect the machinery ?

**SHRI S. M. REGE :** Yes, he was allowed. That is what I told was the normal procedure.



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**MR. CHAIRMAN :** It is the evidence of everybody—Mr. Khosla, Mr. Krishnaswamy, the then hon. Minister, Mr. Pai, when Mr. Khosla requested you to furnish the list of machinery, and allow him to inspect the machinery, you told him that you had to get permission from the Managing Director, Shri Sanjay Gandhi. Later on you told Mr. Khosla that Mr. Sanjay Gandhi is busy in some work. For that reason you did not allow him to inspect the machinery, to make a physical verification of the machinery. You did not allow Mr. Khosla to enter the factory. Then Mr. Krishnaswamy gave you a ring several times. Even then you repeated the same thing—that the Managing Director was not available. Without his permission you could not allow Mr. Khosla to make a physical verification or inspect the machine.

Please account for your version and the version of other persons.

**SHRI S. M. REGE :** I do not think that it is a fact. 'Normally, whenever anybody came to...

**MR. CHAIRMAN :** Please do not use the word 'normally'. Please tell us about that particular occasion—did you allow Mr. Khosla? Or Mr. Krishnaswamy, the then hon. Minister of Heavy Industries, Shri Pai...

**SHRI S. M. REGE :** They were permitted with the permission of the Managing Director. For such matters the permission of the Managing Director was necessary. With his consent they were permitted, so far as I remember.

**MR. CHAIRMAN :** Do you mean to suggest that the then hon. Minister, Shri Pai, Mr. Krishnaswamy, Mr. Khosla, all gave wrong information to this Committee that Mr. Khosla was not permitted to make a physical inspection of the machinery?

**SHRI S. M. REGE :** So far as my part was concerned, I had directed them to see the workshop with the permission of the Managing Director. I played that part. I

do not know what happened subsequently in the workshop.

So far as my part as a Company Secretary was concerned, I had directed them with the permission of the Managing Director to see the workshop and whatever machinery they wanted to see.

**SHRI KRISHAN KANT :** Mr. Rege, in that letter of Mr. Ghosh he wanted you to furnish the information. Was the information furnished to Mr. Khosla with the permission of the Managing Director?

**SHRI S. M. REGE :** After the receipt of this letter the concerned departments who were looking after this machinery and purchase were asked to collect the information. But when and whether this information was sent can be verified from the record.

**SHRI KRISHAN KANT :** Even if the concerned Department was to collect the information the information had to be submitted to the government under your signature because you are the Secretary. Maruti Ltd. No Department can give the information independently. So, I would like to know whether that information was sent to Mr. Ghosh through Mr. Khosla.

**SHRI S. M. REGE :** It must not have been sent immediately as collection of this information required some time. It involved making the list of the machinery and taking out the total value.

**SHRI KRISHAN KANT :** First let me know did Mr. Krishnaswamy ring you up?

**SHRI S. M. REGE :** Yes. He rang me up.

**SHRI KRISHAN KANT :** What did he ask you on the telephone?

**SHRI S. M. REGE :** He said that he was sending Mr. Khosla and certain information was to be supplied to the Government.

**SHRI KRISHAN KANT :** Did you tell him to let Mr. Khosla come? If you wanted time to collect the information you could have told him that on the telephone

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itself. What did Mr. Krishnaswamy tell you on the telephone?

**SHRI S. M. REGE :** I do not remember the wording.

**SHRI KRISHAN KANT :** If the collection of information were to take time then certainly there was no use of sending the officer.

**SHRI S. M. REGE :** Probably they might have sent this letter by hand to avoid postal delay.

**SHRI KRISHAN KANT :** The position is that you must have given him some interim reply when Khosla came to that place. After that information was not given. Khosla asked you to ring back Mr. Krishnaswamy that you have to take the permission of the Managing Director and the Managing Director was busy at that time. After you talked to Mr. Krishnaswamy then Mr. Khosla was sent back. Do you remember a telephone call was put back to Mr. Krishnaswamy?

**SHRI S. M. REGE :** Some reply on this letter must have gone. Unless I see what letters were received and what replies had gone it is difficult for me to say what reply had gone on a particular letter. Once I see the record I will be able to exactly say what I have written and what action was taken on that letter. If this letter was received some action must have been taken.

**SHRI KRISHAN KANT :** Were you getting letters from the Government regarding Parliamentary Questions quite often?

**SHRI S. M. REGE :** Not very often.

**SHRI KRISHAN KANT :** How many you would have received since you were there as Secretary?

**SHRI S. M. REGE :** Two or three times.

**MR. CHAIRMAN :** Mr. Rege, you are giving an impression to the Committee that you are not coming out with facts. You do not even remember the basic

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things as to whether you allowed those gentlemen to enter the factory or not.

**SHRI S. M. REGE :** I have said they were allowed so far as I am concerned.

**SHRI KRISHAN KANT :** Supposing the record shows that they were not allowed.

**MR. CHAIRMAN :** Mr. Rege, may I remind you that you have made a solemn commitment before the Committee that you will state the factual position and your version of the events will be free and truthful. So, do not involve yourself in difficulty.

**SHRI S. M. REGE :** I am telling you everything from memory.

**MR. CHAIRMAN :** You are giving an impression that you are trying to conceal facts deliberately.

**SHRI S. M. REGE :** I have no reason to conceal the things. Whatever I remember I will tell the Committee and whatever I do not remember it is difficult to say. I have no intention to conceal the facts.

**SHRI HITENDRA DESAI :** Mr. Rege, I invite your attention to last sentence of the letter. Did Mr. Khosla meet you on 10th April, 1975?

**SHRI S. M. REGE :** Yes, Mr. Khosla had come.

**SHRI HITENDRA DESAI :** What was the conversation between you and Mr. Khosla on that day?

**SHRI S. M. REGE :** I have to recollect all this; it is a very old matter.

**SHRI HITENDRA DESAI :** You remember at least this much that it was relating to a Parliament Question?

**SHRI S. M. REGE :** I remember that.

**SHRI HITENDRA DESAI :** What was the conversation between you and Mr. Khosla on that day? Did you supply information on that day?

**SHRI S. M. REGE :** No; information was not supplied immediately.

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**SHRI HITENDRA DESAI :** Did you say that you would require permission of the Managing Director?

**SHRI S. M. REGÉ :** Yes.

**SHRI NARENDRA P. NATHWANI :** When did you join this company, Maruti Ltd.?

**SHRI S. M. REGE :** April, 1972.

**SHRI NARENDRA P. NATHWANI :** When was it incorporated?

**SHRI S. M. REGE :** 1971.

**SHRI NARENDRA P. NATHWANI :** Soon after its incorporation you got in as Secretary. Till what time were you there?

**SHRI S. M. REGE :** September 1977.

**SHRI NARENDRA P. NATHWANI :** You know a letter of intent was issued to the company? You know that fact or not?

**SHRI S. M. REGE :** Yes; it was prior to my joining the company.

**SHRI NARENDRA P. NATHWANI :** According to that letter of intent the machinery that is to be installed was to be indigenous; no foreign or imported machinery was to be installed?

**SHRI S. M. REGE :** So far as I remember the company was not permitted to import any foreign machinery.

**SHRI NARENDRA P. NATHWANI :** Kindly understand it correctly. It was that no machinery was to be imported. What was the intention? What did you understand by that?

**SHRI S. M. REGE :** The company will not be permitted to import any machinery.

**SHRI NARENDRA P. NATHWANI :** Was it not the intention and spirit that the company should not use foreign machinery? I am asking you about the intention and spirit.

**SHRI S. M. REGE :** So far as I could read the letter of intent, the company was not supposed to import machinery.

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**SHRI NARENDRA P. NATHWANI :** Therefore, the intention was not to allow any foreign imported machinery; that was the intention. There may be loophole; there may be gap; that is a different thing. But did you not understand it as secretary of the company? The intention was very clear, not to use imported machinery.

**SHRI S. M. REGE :** So far as I can see it was not to import any foreign machinery; the company was not permitted to import any foreign machinery.

**SHRI NARENDRA P. NATHWANI :** Let it be recorded that the witness refuses to answer the question about the intention. Kindly see the copy of the letter that is with you, items 1, 2, 3, three particulars: the price of machinery purchased on stock and sale basis installed in Maruti Ltd., the total value or price of machinery of indigenous origin, etc. One refers to imported machinery; then the other refers to indigenous machinery. It is correct that Maruti had installed both indigenous machinery as well as one machinery that was imported; it may not have been imported directly by you, but foreign machinery was installed?

**SHRI S. M. REGE :** Yes.

**SHRI NARENDRA P. NATHWANI :** I ask you one question. It was not in the interest of Maruti Ltd. to let this fact be known to the public, that foreign manufactured machinery was used by Maruti in the manufacture of cars? That was a fact. But you were interested in seeing that it did not come to the notice of the public through Parliament, is it so or not?

**SHRI S. M. REGE :** No; at least so far as I was concerned, as company secretary on my part there was no such intention.

**SHRI NARENDRA P. NATHWANI :** Did you or did you not consider at that stage when this information was being collected that the fact that you were using foreign machinery in your company's workshop should not be known to the

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public through Parliament questions and that it would harm the interests of the company if this fact came to be known to the public? In short you were interested in suppressing this fact.

**SHRI S. M. REGE :** I never thought like that. I do not know the intention of the management.

**SHRI NARENDRA P. NATHWANI :** I am suggesting it to you that you are not willing to part with the facts as you know them.

**SHRI S. M. REGE :** I am giving the facts.

**SHRI NARENDRA P. NATHWANI :** It is for the first time I have to say this. We have heard several witnesses. It gives no pleasure to me, but I am getting the impression that you are trying to withhold some information.

**SHRI S. M. REGE :** Absolutely not. I have no intention to conceal any facts.

Whatever facts I know, I am ready to reveal them.

**MR. CHAIRMAN :** Just now in reply to a question by Mr. Krishan Kant you said that the information that was sought was not supplied. You also admitted that information could be supplied only with the permission of the Managing Director. In reply to my question, you boldly said that Mr. Khosla was permitted to enter inside the factory to make a physical inspection of the machinery or machineries. If one is allowed to make a physical inspection of the machineries, does it not amount to furnishing information in a more effective manner than sending a letter?

**SHRI S. M. REGE :** I cannot say anything on that.

**MR. CHAIRMAN :** That is all.

*(The witness then withdrew.)*

*(The Committee then adjourned.)*

Wednesday, the 14th June, 1978

PRESENT

Professor Sama Guha—*Chairman*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Krishan Kant
6. Professor P. G. Mavalankar
7. Shri R. Mohanarngam
8. Dr. V. A. Seyid Muhammed
9. Shri Narsingh
10. Shri Narendra P. Nathwani
11. Shri Meetha Lal Patel
12. Shri B. Shankaranand

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer.*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

WITNESS

Shri N. K. Singh, (*Secretary, Irrigation and Electricity Department, Government of Bihar, former Special Assistant to the then Minister of Commerce.*)

(*The Committee met at 15.00 hours*)

Evidence of Shri N. K. Singh

MR. CHAIRMAN : Mr. N. K. Singh, you have been asked to appear before this Committee to give evidence in connection with the question of Privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited. I hope you will state the factual position and your version of the events

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truly and faithfully. I may inform you that the evidence that you may give before this Committee is to be treated by you as confidential till the Report of the Committee and the proceedings are presented to Lok Sabha. Any premature disclosure or publication of proceedings of the Committee would constitute a breach of privilege. The evidence which you may give before this Committee may be reported to the House.

You may take the oath or affirmation as you like.

SHRI N. K. SINGH : I, Nand Kishore Singh, swear in the name of God that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false.

MR. CHAIRMAN : You have submitted any written statement ?

SHRI N. K. SINGH : I was not called before the Shah Commission of Inquiry and therefore, I had not submitted any written statement before any body.

MR. CHAIRMAN : I am not concerned about the Shah Commission. You have to make a statement in connection with the steps that were taken against the two officers. If you have a statement on your own you can make a statement.

SHRI N. K. SINGH : I shall try to very briefly submit before you whatever I know of the incident. Of course, in this particular case in view of a large number of disclosures which have been made subsequently, I will try to isolate this part of my subsequent knowledge with the knowledge of events I had before these disclosures.

Some time in April 1975—I do not recollect the exact date, but perhaps it was some time in the middle of April 1975—Prof. D. P. Chattopadhyaya, whose Special Assistant I was at that point of time, gave me a ring at my office at around 7 p.m. and asked me to come to his residence.

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His house is only a stone's throw from Udyog Bhavan and I reached there shortly after 7 p.m. Professor Chattopadhyaya then told me that he had received serious complaints of harassment of STC clients by one Mr. Bhatnagar, a Deputy Marketing Manager in the STC, and that he had decided to place the officer under suspension, pending the initiation of departmental action against the officer, and that while he had himself tried to get in touch with Mr. Parekh, Chairman of the STC, and Mr. Kumar, who was at that time Chairman of the Projects and Equipments Corporation, a subsidiary of the STC, he had been unable to get them on the telephone. He, therefore wanted me to immediately go and convey this instruction both to Mr. Parekh and to Mr. Kumar. Professor Chattopadhyaya also told me that I should ring up a senior officer, Mr. Cavale, who was superior to Mr. Bhatnagar, and ask him whether he had received any complaints regarding Mr. Bhatnagar harassing STC clients. I left professor Chattopadhyaya's residence at 7.30 p.m. after about 15 minutes stay there. I came back to my office and tried to ascertain Mr. Cavale's number. Most of my personal staff had left office by then but I had a copy of the STC Directory with me. I contacted Mr. Cavale and asked him whether there had been any incident in the office in which one of the officers, Mr. Bhatnagar, was supposed to have harassed any STC client. Mr. Cavale replied in the negative, but he said that some representative of one Messrs. Batliboi had met Mr. Bhatnagar during the day. My conversation with Mr. Cavale was very brief, because my main instruction was to convey Minister's order to Mr. Kumar and Mr. Parekh. I then tried to ring up Mr. Kumar but, unfortunately, could not get him. Then I went to Mr. Kumar's office and informed him of the instruction of the Minister. Thereafter Mr. Kumar and I went to Mr. Parekh's office in STC, where Shri Parekh was still working. I had already informed Mr. Kumar that the Minister wanted to contact him or Mr. Parekh to convey his instructions personally but he could not get them

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over the phone and that was why he had sent me. Mr. Parekh said that he would like to ascertain the rules and regulations in this regard. He contacted Mr. Misra, Director in charge of personnel, and Mr. Malhotra, who was next to Mr. Misra in the STC handling personnel matters. They had a discussion on how they would go about suspending Mr. Bhatnagar. After I had returned to my office from the Minister's residence, and before I went to the STC Office, the Minister was apparently able to contact Mr. Kumar directly and so Mr. Kumar was already aware of the Minister's views on the subject. Mr. Kumar was reinforced about the Minister's view because he had also received a note from Minister by the time I reached him. Mr. Parekh began a discussion on the mode of suspension and the rules and regulations. Now that I have conveyed the message, it was entirely up to them to decide the manner in which they would carry out the orders of the Minister. So, I went home straight at about 8.30 p.m. from S.T.C. Next morning I informed the Minister that in accordance with his instructions the previous evening, I had conveyed his orders to Mr. Kumar and Mr. Parekh. He told me that in the mean time he had spoken to Mr. Kumar himself and given him the instructions. I have recounted the facts, as far as I could recollect. If any further information is required, I leave it to the questions and answers.

MR. CHAIRMAN : The Minister told you that there were serious complaints against an officer and you contacted Mr. Cavale and he informed you that no such complaint was there. Did you communicate this to the Minister immediately ?

SHRI N. K. SINGH : No, Sir. I have worked with Prof. Chattopadhyaya for a sufficiently long time. He was not a man normally to get excited or exercised. But when I went to him, he seemed to be fairly exercised over the matter. When he mentioned about his decision about Mr. Bhatnagar's suspension, my first reaction was that this was something which was *prima facie* arbitrary. Normally, if I may say so, it would have been possible for me to

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bring to the notice of the Minister the manner in which suspension can be done and the procedure to be followed. But this was one of those cases where I found him unusually glum and he used pompous language. So, it was very clear that he had made up his mind and he had taken the decision. Even if I had conveyed to him what Mr. Cavale had told me, it would not have...

MR. CHAIRMAN : I am not asking whether it would have altered the decision or not. The next day when you went to the Minister, you informed him that you had contacted Mr. Kumar and Mr. Parekh. You also came to know that the Minister had direct communication with Mr. Kumar. But did you tell him about your conversation with Mr. Cavale ?

SHRI N. K. SINGH : The next day I informed the Minister that in pursuance of his order, I had met Mr. Kumar and Mr. Parekh. I also gave him the substance of my conversation.

MR. CHAIRMAN : You just now said that the Minister was glum and pompous. You also said that he was excited and exercised over the issue. Is that the reason why the next day morning you did not inform him of your telephonic conversation with Mr. Cavale ?

SHRI N. K. SINGH : I did inform the Minister about it the next day, but I did not inform him the previous evening.

SHRI HITENDRA DESAI : On the day of the incident, your Minister told you about this at about what time ?

SHRI N. K. SINGH : He told me about this around 7 o' clock or 7.15.

SHRI HITENDRA DESAI : Did he tell you about his meeting the ex-Prime Minister ?

SHRI N. K. SINGH : No, Sir.

SHRI HITENDRA DESAI : Did you know that he had met the ex-Prime Minister ?

SHRI N. K. SINGH : The factual position is that when I went to his house, I found that his car was parked in a particular place, where it used to be parked only when he has been somewhere or is to go somewhere. As I drove my car, I found his car in that position. It was quite unusual for me to find his car in that place at that time. So, I enquired in colloquial Hindi from his Private secretary. I asked : *भाई क्या बात है ? साहब बुलाये हैं ।* And he told me : *प्राइम मिनिस्टर हाउस से साहब आये हैं ।* After that, the Minister did not tell me what he discussed with the Prime Minister. I thought it was quite audacious on my part really to ask him anything about it.

SHRI HITENDRA DESAI : You knew in any case that he had met the Prime Minister.

SHRI N. K. SINGH : That is what I learnt about it.

SHRI HITENDRA DESAI : Did he dictate the note to you about the order of suspension of Mr. Bhatnagar ?

SHRI N. K. SINGH : No, Sir. What really happened was this. He told me this orally, and apparently subsequently, after my leaving his house, he must have dictated this note and also sent it to Mr. Kumar, because when I went to see Mr. Kumar, he had been able to speak to Mr. Kumar or Mr. Parekh. So, after I left, apparently Mr. Kumar must have come back to his room from whichever meeting there was. His Private Secretary must have connected him to the Minister and they must have also spoken to each other and also the Minister must have dictated the note and sent it down to Mr. Kumar.

SHRI HITENDRA DESAI : That you knew subsequently ?

SHRI N. K. SINGH : Mr. Kumar had this note when he entered Mr.

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**Parekh's room.** There was a piece of paper which he said was the note which he had received from the Minister.

**SHRI HITENDRA DESAI :** Did you see that note ?

**SHRI N. K. SINGH :** I did not see.

**SHRI HITENDRA DESAI :** You must have come to know about its contents subsequently ?

**SHRI N. K. SINGH :** Subsequently, before the Shah Commission it was produced and it came out in all the papers and so on, and I also saw the note.

I forgot to mention one thing. Some ten days or perhaps a fortnight after this order on Mr. Bhatnagar was carried out, Mr. Bhatnagar sought an interview which I readily granted. He came and broke down and he told me that the suspension was wholly unjustified, that he had done nothing to warrant this very harsh step. He also told me that in the meantime the CBI had raided his premises and had apparently registered a case or something like that. I had the fullest sympathy with Mr. Bhatnagar. I do not know whether he has appeared before this Committee, but in case this question was put to him, my attitude towards him was that I tried to help him, and this will be borne out by him. I brought my conversation with Bhatnagar to the notice of the Minister subsequently and that Mr. Bhatnagar had come and seen me and that he was mentally in a bad state, that there was a CBI raid on his premises, etc.

Once a CBI raid takes place, I think everybody seems to be drawn in, and the view seems to be : since one does not know under what circumstances the CBI raid took place, what the CBI had found, how can he take any remedial action unless the outcome of the CBI enquiry was known ?

In all fairness to Mr. Parekh, I must say that he also mentioned Mr. Bhatnagar's matter to me once or twice and he mentioned about it to the Minister also.

The second time Mr. Bhatnagar met me, he submitted a memorial to the Minister for the early revocation of the suspension order. This memorial was itself marked by the Minister or perhaps it was marked down by some officer in the Minister's section for examination and comment to our Director of Vigilance because the CBI was involved, and I personally spoke to the Director of vigilance several times that he should try to get in touch with the CBI to see that a view was taken one way or the other very early because otherwise it was not very fair to Mr. Bhatnagar. I also recall that subsequently Mr. Bhatnagar's case was examined and put up to Minister and the suspension order was revoked.

**SHRI HITENDRA DESAI :** What exactly was the fault of Mr. Bhatnagar to receive this treatment ?

**SHRI N. K. SINGH :** I have already said that I did not know any fault. His fault was only what was told to me by the Minister, and I had the very limited function of carrying out his order.

**SHRI HITENDRA DESAI :** Who actually passed the order of suspension ?

**SHRI N. K. SINGH :** The Minister.

**PROF. P. G. MAVALANKAR :** You were special Assistant to Mr. Chattopadhyaya. How long had you been with him ?

**SHRI N. K. SINGH :** I was Officer on Special Duty attached to his personal staff from the day he became Minister. Then I was promoted as a substantive Deputy Secretary to the Government of India and then I think it was on 23rd October, 1972 that I was appointed Special Assistant. There were two Special Assistants.

**PROF. P. G. MAVALANKAR :** You had been continuously working as one of the two special assistants ?

**SHRI N. K. SINGH :** Yes.

**PROF. P. G. MAVALANKAR :** Who was the other ?



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**SHRI N. K. SINGH :** Mr. D. Rudra.

**PROF. P. G. MAVALANKAR :** You were on a par with each other ?

**SHRI N. K. SINGH :** He belonged to the West Bengal cadre and I belonged to the Bihar cadre.

**PROF. P. G. MAVALANKAR :** As far as work and other details were concerned, both of you were on a par ?

**SHRI N. K. SINGH :** We were quite independent of each other. The subjects to be dealt with by each one of us had been divided formally by an order which had been issued as an Office Memorandum, we each had roughly 50 per cent of the work.

**PROF. P. G. MAVALANKAR :** Before you became Special Assistant to Mr. Chhattopadhyaya, were you also previously Special Assistant to other Ministers ?

**SHRI N. K. SINGH :** No. Not Special Assistant to any Minister, but I was working as Under Secretary, International Trade Policy Division, and for some time I was working with the late Mr. L. N. Mishra. I was handling his international speeches, parliamentary questions and matters of that kind. I was however not borne on his strength, and I was not Special Assistant to anybody else.

**PROF. P. G. MAVALANKAR :** But in that capacity which you have spelt out, how long were you working with Mr. Mishra ?

**SHRI N. K. SINGH :** A year and a half.

**PROF. P. G. MAVALANKAR :** In your experience of Mr. Chattopadhyaya, would you say that this was the first time that you saw him in a most unusual mood ?

**SHRI N. K. SINGH :** I have made a categorical mention of that. Having worked with him, I had known him for his remarkable coolness and equanimity of mind. He did not usually get ruffled, and also he was very humane when it came to dealing with officers.

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**PROF. P. G. MAVALANKAR :** When you asked you to carry out his order of suspension, did you just take down his orders or did you try to find out more facts from him through a discussion ?

**SHRI N. K. SINGH :** I will not be able to give a fair reply to that question till I describe the situation. I was rushed into his room by his Private Secretary. Whenever he called me late in the evening, he was rather polite about it. The minimum that I got was a cup of tea or coffee as compensation for late evening work but this time there was nothing. He was glum and as I have mentioned he was also pompous. It was almost like a pronouncement which he made. He said that he had received various allegations and complaints regarding one Bhatnagar of S.T.C.

It looked rather odd to me how in the case of a petty officer like Mr. Bhatnagar working in a public sector organisation, the highest authority in the Ministry could take it upon himself to take such a severe action. The Minister told me that he wanted this action to be taken. I do not think he wanted to brook much discussion on this. So, it was not for me to enter into any kind of argument with him.

**PROF. P. G. MAVALANKAR :** While entering the Minister's house, you also enquired from one of the attendants and found out that he had come back from the Prime Minister. Is it true ?

**SHRI N. K. SINGH :** Yes.

**PROF. P. G. MAVALANKAR :** In view of the state of his mind which you have described, don't you think, this was also an additional reason to find out or discuss with him about this ?

**SHRI N. K. SINGH :** I learnt that he had come from the Prime Minister's house. But I did not think it appropriate to ask anything from him.

**PROF. P. G. MAVALANKAR :** Supposing, you had not known this fact that he had just come from the Prime Minister's house, would you not have talked with

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him and found out by way of argument as to what exactly led the Minister to pass this order.

SHRI N. K. SINGH : Perhaps not. To my mind, I felt that he would almost have said to me; "Shut up and carry out the orders".

PROF. P. G. MAVALANKAR : Later on Mr. Bhatnagar saw you and he broke down. Did you have any occasion to tell the Minister about the facts of the case as you saw them ?

SHRI N. K. SINGH : Next day I informed the Minister about what I had done the previous evening to carry out his orders. He just told me that he had spoken to Mr. Kumar in the meantime and sent a note to him, which also seemed quite extraordinary. I felt a bit hurt, because I was doing the same job which he had assigned to me the previous day but by taking such an action, it appeared that he had no satisfaction in my doing the duty in regard to this matter. When Mr. Bhatnagar came and saw me, I did certainly bring this fact to his notice and also about the fact that not only was Mr. Bhatnagar suspended but his problems had been further complicated by the fact of CBI having stepped into action. At that time, CBI was known to be a rather sanctimonious organisation. So, I also got the impression that Mr. Bhatnagar might have done something wrong. But by the demeanour and helplessness on the face of Mr. Bhatnagar, he did not look like a man of that sort. I was wondering that he was a rather petty officer and why should the harsh action of the Minister fall on him ?

MR. CHAIRMAN : About your experience of Mr. Bhatnagar, did you indicate it to the Minister ?

SHRI N. K. SINGH : I had informed the Minister about that and also about the CBI raid.

MR. CHAIRMAN : What reaction did you find when you indicated your experience about Mr. Bhatnagar to the Minister ?

SHRI N. K. SINGH : He told me that I should speak to the Director, Vigilance. STC also had a Vigilance Officer. Besides, he said that I should ascertain from the Director, Vigilance what was the stage of the CBI's investigation.

PROF. P. G. MAVALANKAR : Since you had worked with other Ministers also, were you not at any time, convinced that all these cases of suspension were either baseless or mala fide ?

SHRI N. K. SINGH : When the CBI report finally came to the Ministry and the memorial submitted by Mr. Bhatnagar was examined at our instance by Director, Vigilance in consultation with the CBI and the CBI closed this case, the file came up to the Minister for authorising the STC to finally revoke the suspension order, well, it was an eye-opener to me. I did realise that it was arbitrary and unjust action.

PROF. P. G. MAVALANKAR : Had you any occasion for opening this issue in terms of discussion with him ?

SHRI N. K. SINGH : No, Sir. I would say that this issue was one of those where my opinion would have cut no ice.

PROF. P. G. MAVALANKAR : As the Special Assistant to Prof. Chattopadhyaya, did you also had an opportunity of assisting him with regard to at least parliamentary duties, particularly, his answers to Parliamentary questions ?

SHRI N. K. SINGH : Our parliamentary responsibility was like house-keeping type of work. Most Ministers get finally if the parliamentary pads are not received in time. Usually, five copies of the Starred and Unstarred Questions come. One copy straightway goes to the Parliament Section, one copy to the Minister, one copy to the Minister of State or the Deputy Minister, one copy to the Secretary to the Department and one copy to the concerned Joint Secretary. The answers are prepared in accordance with the prescribed time-schedule. It is our job to see that the Minister gets the parliamentary pads in time. The briefing is done by the officers 24 hours

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before and the answer is finalised accordingly. It is cyclostyled and the parliamentary pad is ready.

**PROF. P. G. MAVALANKAR :** Whether you had anything to deal with a Parliament Question on Maruti affairs.

**SHRI N. K. SINGH :** I had no occasion to deal with that.

**SHRI KRISHAN KANT :** You have been in the administration for so long. Has a suspension order ever been served at an unearthly hour, at 10 O' clock in the night, to a person without giving any reason and any notice to him? Has it ever happened? Is it according to rules?

**SHRI N. K. SINGH :** I have not had an experience of that kind before except in the case of one or two Chief Ministers in Bihar, prior coming to the Government of India, for having suspended a person without adequate reason. In the Government of India, this was my first experience and the last one.

**SHRI KRISHAN KANT :** Later on, Mr. Bhatnagar met you twice and you had a chance to look into the papers. What was your assessment of the case?

**SHRI N. K. SINGH :** My assessment of the case was varied in three stages. At the first stage, I felt that the suspension order was arbitrary. At the second stage, when Mr. Bhatnagar told me that his house had been raided by the CBI, I revised my earlier assessment and I said, "I do not know; let me wait and see." At the third stage, after the CBI submitted the report to the Ministry, closing the case, I relapsed to the first stage assessment, that is, the order was arbitrary and unjust.

**SHRI KRISHAN KANT :** Were you convinced that it was only because of the collection of information about Maruti that readily led him into trouble?

**SHRI N. K. SINGH :** About the collection of information about Maruti, I did not know because the Minister did not tell me that. I learnt about it only subsequently. While Mr. Bhatnagar told me about his suspension order, he broke down. I

asked him, what had really happened. He gave me his version. That is how, for the first time, I got to know about this thing having any connection with Maruti. The Minister did not tell me about it.

**SHRI KRISHAN KANT :** By the time the whole inquiry was completed, were you convinced that the whole episode took place because the poor man had to collect information about Maruti?

**SHRI N. K. SINGH :** I was convinced that the Minister's action—Maruti or no Maruti—without giving any show-cause or any opportunity of explanation was rather arbitrary and unjust.

**SHRI KRISHAN KANT :** What did Mr. Cavale tell you about Mr. Bhatnagar?

**SHRI N. K. SINGH :** I asked him if there had been any instance where Mr. Bhatnagar had harassed any client, while on duty and in a manner that this matter would have been blown up to such a proportion that it was brought up to the Minister and that made the Minister angry, he said, no. Mr. Bhatnagar had asked for some information from the firm by name Batliboi. About the name of the firm Batliboi. I am able to know or pronounce better now than at that time. I thanked Mr. Cavale. That was the end of it.

**SHRI KRISHAN KANT :** When you went to the STC to meet Mr. Parekh, Mr. Kumar and Mr. Malhotra, at the time of the discussion in that room, did the collection of information on Maruti crop up?

**SHRI N. K. SINGH :** No, Sir.

**SHRI KRISHAN KANT :** When Mr. Bhatnagar met you, he told you that he was collecting information on Maruti and, after the inquiry was completed, you were convinced that Mr. Bhatnagar was penalised only for collection of information on Maruti. Is that correct?

**SHRI N. K. SINGH :** As I said, after the CBI investigation, I felt that the action taken against Mr. Bhatnagar was unjust and arbitrary.

**SHRI NARENDRA P. NATHWANI :** You went to Mr. Kumar's office; you tried to speak to Mr. Cavale. You did not

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find him there. I am trying to recapitulate what you said in the beginning. You said, "The Minister rang up Mr. Kumar; he was not there and he was not able to speak to Mr. Kumar. He had rung up Mr. Parekh; he was not able to speak to Mr. Parekh also. Therefore, he had called me to try and find out where Mr. Parekh and Mr. Kumar were so that he could convey his instructions." Then, you said, "I rang up Mr. Cavale and shortly thereafter, I rang up Mr. Kumar.

SHRI N. K. SINGH : And I did find Mr. Kumar in the office. That was how I went to his office and met him.

SHRI NARENDRA P. NATHWANI : When you went to Mr. Kumar's room, you found him there.

SHRI N. K. SINGH : Yes.

SHRI NARENDRA P. NATHWANI : Did you have any talk ?

SHRI N. K. SINGH : I told him what the Minister had told me.

SHRI NARENDRA P. NATHWANI : Then you proceeded to Mr. Parikh's room.

SHRI N. K. SINGH : Yes.

SHRI NARENDRA P. NATHWANI : How long were you there in Parikh's room ?

SHRI N. K. SINGH : About twenty minutes.

SHRI NARENDRA P. NATHWANI : What did they discuss in your presence ?

SHRI N. K. SINGH : Kumar had received something in writing by then. Kumar did not share that with me. The Minister had managed to speak to Kumar in the mean time. He must have personally communicated. So, it was not a surprise to Mr. Kumar what I told him. When we went to Mr. Parikh's room I informed Mr. Parikh.

SHRI NARENDRA P. NATHWANI : When you were in Mr. Parikh's room did they discuss the merits of the case ?

SHRI N. K. SINGH : No, Sir.

SHRI NARENDRA P. NATHWANI : They were concerned with the implementation only.

SHRI N. K. SINGH : Yes. They were concerned with the implementation of the Minister's orders.

SHRI NARENDRA P. NATHWANI : You have said that the whole thing struck as quite unusual to you right from the stage order was passed by the hon'ble Minister in respect of Mr. Bhatnagar.

SHRI N. K. SINGH : Yes. It did.

SHRI NARENDRA P. NATHWANI : You were only able to gather information to the extent that Batliboi's representative had met and something had happened.

SHRI N. K. SINGH : Yes, Sir.

SHRI NARENDRA P. NATHWANI : Till Mr. Bhatnagar met you after about 15 days did you try to find anything further about this incident ?

SHRI N. K. SINGH : I think I should not be nosing about a matter which was not my business.

SHRI NARSINGH YADAV : Did you realise that the Commerce Minister was very much disturbed ?

SHRI N. K. SINGH : I have said so.

SHRI NARSINGH YADAV : Did you try to find out the reasons ?

SHRI N. K. SINGH : No, Sir.

SHRI NARSINGH YADAV : Why not ?

SHRI N. K. SINGH : It would have been quite audacious on my part to find out. He called me for a piece of work. He gave me certain orders. I carried them out.

SHRI NARSINGH YADAV : You said that you did not see the note. In what capacity you were present in Mr. Parikh's room.

SHRI N. K. SINGH : In the capacity of conveying to Mr. Parikh what the Minister had asked me to convey to Mr. Parikh.

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**SHRI O. V. ALAGESAN** : You did not carry any written instructions from the Minister but you found the written instructions of the Minister in Mr. Kumar's hand.

**SHRI N. K. SINGH** : Mr. Kumar was carrying a piece of paper. He did not show it to me. Mr. Kumar told Mr. Parikh that he has received written orders.

**SHRI O. V. ALAGESAN** : How these instructions reached the hands of Mr. Kumar ?

**SHRI N. K. SINGH** : I do not know. There is lot of personal staff in the Minister's office. He would have sent it through anyone of them.

**SHRI O. V. ALAGESAN** : You said you did not get Mr. Parikh and Mr. Kumar and also that you were sent for in an unusual manner. You were only given oral instructions.

**SHRI N. K. SINGH** : Correct, Sir.

**SHRI O. V. ALAGESAN** : When the decision was taken about the suspension of Mr. Bhatnagar you were not in the room.

**SHRI N. K. SINGH** : The decision has been taken by the Minister. I got that impression when for a short while I had tea at Mr. Parikh's room. In Mr. Parikh's room they were only discussing as to how to implement the decision.

**SHRI NARSINGH YADAV** : When did you come to know of the suspension and transfer of the officers due to collection of information to a Parliament Question ?

**SHRI N. K. SINGH** : When Mr. Bhatnagar came and informed me of this.

**SHRI O. V. ALAGESAN** : I would like you to brush up your memory. You were there in the room when all the people dispersed. . .

**SHRI N. K. SINGH** : That is not correct.

**SHRI O. V. ALAGESAN** : Were you not in the room ?

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**SHRI N. K. SINGH** : I was in the room for 10 or 15 minutes. The discussion went on. Afterwards I left the room.

**SHRI O. V. ALAGESAN** : In answer to a question from Prof. Mavalankar, you said that the officers were discussing only how to carry out the order of the Minister and that they were not themselves taking any decision.

**SHRI N. K. SINGH** : That is correct.

**SHRI O. V. ALAGESAN** : If that is your impression, what we have here is something different because as per the written note of the Minister he has simply said :

"I would like the Chairman, PEC, to take suitable disciplinary action against the officer."

As a result of discussion among them, the officers themselves took this particular decision :

"The consensus of the opinion was that Bhatnagar be placed under suspension immediately. The CPM should take steps to serve the suspension orders personally today itself. The charge-sheet will be issued to him shortly."

This was the decision taken by the officers. They were not simply carrying out the orders of the Minister. When that is so, how is it that you got the impression that the orders had already been passed by the Minister and that the officers were only trying to see how the orders should be carried out. The officers, in their collective meeting or wisdom, decided like this.

**SHRI N. K. SINGH** : Do you want me to be very frank ? There are two reasons here. Firstly, the Minister told me—I do not know what he has told the Committee—that 'this officer has to be placed under suspension pending initiation of departmental or other inquiries against him'. Secondly, many of these things are done to make the records look neat and proper. No officer worth his salt goes about recording. "The Minister has

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ordered suspension; please issue the suspension orders". When the order comes to us, we try to put an element of rationality in whatever we put down on a piece of paper or file. We try to make the file look rational. That is our job. The entire onus is not thrown on the Minister. I would say frankly that the officers had no role to play; it was merely a question of discussing the implementation and not going into the merits; they went into the modalities and not into the merits.

SHRI O. V. ALAGESAN : What you conveyed to the officers was that 'the Minister wants a particular officer to be suspended'. That was your oral evidence.

SHRI N. K. SINGH : That is right. This is apparently what the Minister personally conveyed on the telephone to Mr. Kumar. Mr. Kumar was already aware of this when I reached. When I told him that this was the Minister's instruction, that Mr. Bhatnagar has to be placed under suspension, he said, 'Yes; I know about it'. It was not that Mr. Kumar was taken aback. The Minister had conveyed this not only to me but to Mr. Kumar also. He did not write the word 'suspend' because he realised that he was not competent to write the word 'suspend'. He did not want the written order to look *ex facie* illegal. He was not authorised to pass a suspension order on employees of a public sector corporation. Therefore, the Committee, in order that they may be able to arrive at the truth of this, must distinguish to some extent between the motivation, the real intention and purpose and what this Committee finds on the basis of mere notes on the file about this case. Records will not give you the correct answer which oral depositions like ours will give because we try to bring before you, as best as we can, the psychology and the motivation which was prevalent at that time.

SHRI O. V. ALAGESAN : Did you happen to see the various notings later on ?

SHRI N. K. SINGH : I saw the notings on this when the file of the Ministry travel-

led to the Minister and that also in a passage. The file came and it went up to him.

SHRI O. V. ALAGESAN : Do you remember to have seen these notings later on ?

SHRI N. K. SINGH : Yes, Sir, very vaguely.

SHRI O. V. ALAGESAN : As you yourself have said, the Minister was unusually agitated; in your words, he was 'glum and pompous'. Something extraordinary was happening, the like of you were never confronted with before.

SHRI N. K. SINGH : I had heard about it in the States but not in the Government of India. In the States if sometimes happens.

SHRI O. V. ALAGESAN : I am only recapitulating what you have said. After this decision was taken as to how to implement it immediately and that too 'today itself', that is, that day itself, you went straight to the Minister and reported the matter. . .

SHRI N. K. SINGH : No, Sir; I went home.

SHRI O. V. ALAGESAN : When you saw the Minister so much agitated, naturally you should have inferred that he would have liked to be informed as to the action taken.—You say that you went home—by 8 O' clock or so. You could have dropped into the Minister's house and informed him. How is it that you did not choose to inform him but went home straight ?

SHRI N. K. SINGH : I should have. But I did not. I thought that I had done the substantial part of my duties and that I might inform him first thing next morning. It was past 8 O' clock; I was also tired. The responsibility which had been assigned to me had been carried out.

SHRI O. V. ALAGESAN : If you had informed him immediately, all his agitation would have subsided and he would have come to know of the result of the action initiated by him.

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SHRI N. K. SINGH : I agree with you; I should have been more sensitive about his health and state of agitation.

SHRI O. V. ALAGESAN : M: Bhatnagar came and saw you. How many days later ?

SHRI N. K. SINGH : I cannot exactly recall how many days later. It was not before two to three weeks. In the meantime Mr. Bhatnagar must have gone about finding out; he must have met his own senior officers, his own Director and so on. It was not before about three weeks.

SHRI O. V. ALAGESAN : This is not usually done; it is such an extraordinary thing; you have not come across any such case; so, you should have tried to find out what was behind the Minister's agitation and the Minister's peremptory orders. Mere curiosity would have driven you to do so.

SHRI N. K. SINGH : In all humility, it is not my business to be a curiosity nose-box. It was none of my business to be a curiosity noser and try to find out what was behind this.

SHRI O. V. ALAGESAN : So you did not bother about it ?

SHRI N. K. SINGH : No Sir.

SHRI O. V. ALAGESAN : Were you aware that even before you reported the result of the officers' meeting, this man had been suspended and did you report this fact to the Minister the next morning when you saw him ?

SHRI N. K. SINGH : No Sir; one of the STC officers must have told him that the order was carried out.

SHRI O. V. ALAGESAN : So, when you reported the result of the meeting to the Minister, he was already aware that the officer was suspended.

SHRI N. K. SINGH : Yes Sir.

MR. CHAIRMAN : Did the date strike you as something peculiar—that is, the date on which you were asked by the Minister to convey to the concerned

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officer the suspension order ? Did you mark the date of the instructions that were communicated to you ? Do you remember the date ?

SHRI N. K. SINGH : I came to know about it subsequently.

MR. CHAIRMAN : What was the date on which you were asked to see the Minister again.

SHRI N. K. SINGH : It was sometime in the middle of April.

MR. CHAIRMAN : Was it before the question was asked in the Lok Sabha ?

SHRI N. K. SINGH : I have no idea.

SHRI RAGHAVULU MOHANARANGAM : It is a well-known fact that in all Government Departments, whether the Central or the State Government, even to terminate the services of a Peon they have to follow so many regulations and rules. In this case, were there no such rules prescribed ?

SHRI N. K. SINGH : The area of the Executive discretion is very wide and the sooner the Parliament circumscribes it the better.

SHRI NARENDRA P. NATHWANI : I would like to understand what exactly you meant when you said that you found the Minister 'pompous and glum'.

SHRI N. K. SINGH : Well, when I saw him sitting there, it really reminded me of a Mickey Spillane cartoon. When I went there, he was sitting in the chair tense and did not even offer me a cup of tea. He glumly sat there and pompously told me that he had decided to suspend the officer. His demeanour was glum and his manner of speech was pompous.

PROF. P. G. MAVALANKAR : Are you still with the Government ?

SHRI N. K. SINGH : Yes, I am Secretary in the Department of Irrigation and Electricity in the Government of Bihar.

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PROF. P. G. MAVALANKAR : Mr. Chairman, a little while ago, in reply to one of Mr. Alagesan's questions he had asked 'Do you want me to be fully frank? If so, I will tell you'. Thereafter he told us two things. I would therefore like to ask him whether he was less than 'fully frank' in regard to other questions. When he took the oath he said that he would tell us everything he knew about the case. So, was it only at that particular point of time that he was totally frank and was he keeping some facts away from us? Was he having any reservations or was he telling us what he knew fully? If there are any gaps, would he like to fill them up now? The record will show that at one point of time the witness asked in so many words "Do you want me to be totally frank? If the answer is 'yes', then I will answer this" or something to this effect. What does it mean? Does it mean that he has not answered our other questions with total frankness?

MR. CHAIRMAN : That is only a way of expressing oneself.

PROF. P. G. MAVALANKAR : Let him tell us what he meant.

SHRI N. K. SINGH : This is just a manner of speech, as you know. Perhaps I was myself a bit pompous when I said so. When I used the expression 'do you want me to be fully frank', it was a sort of preface to add punch to what I had to say. That is all that it means.

SHRI KRISHAN KANT : Here, it is said in the note sent to the Chairman, PEC :

"I would like to the Chairman, PEC to take suitable disciplinary action. . .". . .

Now, when the discussion was taking place, were you present?

SHRI N. K. SINGH : I was present, as I have said, for some time. This does not represent the consensus at the meeting because there was no discussion on this and there can be a consensus only after a discussion on the merits of a matter. There can be a consensus on issues where the facts are conflicting, but on a decision which is pre-ordained, there cannot be a consensus. 'Consensus' is a wrong word used there. The decision was pre-ordained and there cannot be a consensus on a pre-ordained decision.

SHRI NARENDRA P. NATHWANI :

There was no discussion while you were present?

SHRI N. K. SINGH : During the time I was present the discussion related to the manner and modality of the implementation of the order.

MR. CHAIRMAN : Thank you. Mr. Singh.

(The witness then withdrew)

(The Committee then adjourned)



Thursday, the 15th June, 1978

**PRESENT**

Professor Samar Guba—*Chairman*

**MEMBERS**

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Krishan Kant
6. Professor P. G. Mavalankar
7. Dr. V. A. Seyid Muhammed
8. Shri Narsingh
9. Shri Narendra P. Nathwani
10. Shri B. Shankaranand

**SECRETARIAT**

Shri I. Pershad—*Chief Legislative Committee Officer*

Shri M. P. Gupta—*Senior Legislative Committee Officer*

**WITNESSES**

- (1) Shri B. C. Malhotra (*Group Executive, State Trading Corporation of India Ltd., former Chief Personnel Manager, Projects and Equipment Corporation of India Ltd.*)
- (2) Shri R. Krishnaswamy, (*Director, Department of Heavy Industry, Ministry of Industry.*)
- (3) Shri Mantosh Sondhi [*Secretary, Ministry of Steel and Mines, former Secretary, Ministry of Industry and Civil Supplies (Department of Heavy Industry).*]

(*The Committee met at 10.30 hours and again at 15.00 hours*)

(i) Evidence of Shri B. C. Malhotra

MR. CHAIRMAN: Let us begin the meeting. Mr. Malhotra will have to appear today before the Committee on Public Undertakings. He was also to

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appear before this Committee after Mr. Krishnaswamy. Now he wants to appear before Mr. Krishnaswamy because he has to go and appear before the Committee on Public Undertakings. You have to take an oath again.

SHRI B. SHANKARANAND: I have a request to make. I have been lying in bed due to illness, weakness and exertion for the last few weeks. Since I have received a notice of this meeting, I have come here. I got myself admitted in the Willingdon Hospital (now Dr. Ram Manohar Lohia Hospital) as an indoor patient and the doctor has advised me complete rest. In spite of this, I am risking my health and cooperating with you on this meeting. I request you to cut short the sitting hours. Doctors were not allowing me to go out of the hospital.

MR. CHAIRMAN: Other friends will not ask questions. It is only you who have to ask questions from Mr. Malhotra.

Mr. Malhotra, I have to remind you that you have been asked to appear before the Committee to give evidence in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answer to certain questions in Lok Sabha on Maruti Ltd.

I hope you will state the factual position and your version of the events freely and truthfully.

I may inform you that the evidence that you may give before the Committee is to be treated by you as confidential till the Report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. The evidence which you will give before the Committee may be reported to the House.

Now, you may please take the oath/affirmation.

(*Shri B. C. Malhotra took the oath*)

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**SHRI B. SHANKARANAND :** Did you appear before the Shah Commission ?

**SHRI B. C. MALHOTRA :** I was called as a witness. I went there for three days. But I was not called in.

**SHRI B. SHANKARANAND :** But you did file some statement before the Shah Commission.

**SHRI B. C. MALHOTRA :** Yes, Sir.

**SHRI B. SHANKARANAND :** Have you got the statement with you now ?

**SHRI B. C. MALHOTRA :** Last time I read out that statement here.

**SHRI B. SHANKARANAND :** When you went to the Shah Commission for three days, were you examined ?

**SHRI B. C. MALHOTRA :** I was not examined.

**SHRI B. SHANKARANAND :** Can you tell us why you were not examined ?

**SHRI B. C. MALHOTRA :** I have no idea. I was waiting there for three days. Then I asked the officer concerned, who had taken my statement in this regard and he said "you be waiting here; if needed you will be called". So, I was in attendance from 10.00 A.M.

**SHRI B. SHANKARANAND :** Who was the officer who contacted you in the Shah Commission ?

**SHRI B. C. MALHOTRA :** Mr. Sharma, DSP, was there.

**SHRI B. SHANKARANAND :** Is it a fact that you did not support the story of the other officers and so you were not examined ?

**SHRI B. C. MALHOTRA :** I was asked to go there and I was asked to make a statement, which I have given. But I was not called as a witness.

**SHRI B. SHANKARANAND :** You do not know why you were not examined ?

**SHRI B. C. MALHOTRA :** It is not for me to say. I was called. I went there.

Shri B. C. Malhotra

**SHRI B. SHANKARANAND :** It is just possible that you did not support the story of the officers who were telling that they were harassed and so you were not examined. It is just possible.

**SHRI B. C. MALHOTRA :** I have no idea.

**MR. CHAIRMAN :** We are not concerned with what was said before the Shah Commission. It is not within our domain. We can go by what is stated before this Committee.

**SHRI B. SHANKARANAND :** He says that he was called to appear as a witness but he was not examined.

**MR. CHAIRMAN :** We should not take cognizance of any document produced before the Shah Commission unless it has been produced before us.

**SHRI B. SHANKARANAND :** He has read that statement here and so it forms part of our records.

In this statement you have stated :

"I personally went to the residence of Shri P. S. Bhatnagar at about 10.30 P.M. and handed over the suspension order to him."

Why did you go personally ?

**SHRI MALHOTRA :** I was asked to go personally.

**B. SHANKARANAND :** By whom ?

**SHRI B. C. MALHOTRA :** By the Chairman, Mr. Vinod Parekh.

**SHRI B. SHANKARANAND :** Why did he send an officer like you to hand over the order and not a lower official ?

**SHRI B. C. MALHOTRA :** I have no idea. I joined this office on the 7th April, 1975. On the 15th I was called to the office of Mr. Vinod Parekh. Besides him, Mr. B. D. Kumar, Chairman of PEC, our Director (Personnel) Mr. Mishra and Mr. N. K. Singh were present. I was told that I have to go and hand over this

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suspension order personally the same night. So, I had to follow this instruction.

**SHRI B. SHANKARANAND :** So, what you did on that night was on the advice and order of your Chairman? Is that correct?

**SHRI B. C. MALHOTRA :** Yes.

**SHRI B. SHANKARANAND :** Besides, you were a new man and you did not know anything?

**SHRI B. C. MALHOTRA :** On the 15th I did not know any of the details or the circumstances under which this was being done.

**SHRI O. V. ALAGESAN :** You said that Mr. N. K. Singh was present there. Did he give you the note of the Minister?

**SHRI B. C. MALHOTRA :** No, Sir.

**SHRI O. V. ALAGESAN :** What did he do?

**SHRI B. C. MALHOTRA :** He was just sitting there. I was there for ten minutes or so and at that time he did not speak.

**SHRI O. V. ALAGESAN :** Who took the decision to place Mr. Bhatnagar under suspension?

**SHRI B. C. MALHOTRA :** The Chairman, Mr. Vinod Parekh, Mr. B. D. Kumar, Chairman, PEC and Mr. Misra,

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Director of Personnel. As I have mentioned in my statement, the decision has been taken. I was told that I should issue the suspension order and deliver it personally the same night, which I did. The next morning Mr. Misra had given me the note of the Minister, on which I had recorded that as per the instructions, the suspension order was delivered by me personally.

**SHRI O. V. ALAGESAN :** So, it was a collective decision of the officers concerned, namely Mr. Parekh Mr. Kumar and Mr. Misra.

**SHRI B. C. MALHOTRA :** That is right.

**SHRI O. V. ALAGESAN :** Was there any indication that the Minister wanted this particular officer to be suspended?

**SHRI B. C. MALHOTRA :** This was not there at that time. There was no mention at all. I saw this note only next morning.

**SHRI O. V. ALAGESAN :** So, you saw the whole thing only the next morning?

**SHRI B. C. MALHOTRA :** Yes, that is right.

**MR. CHAIRMAN :** Thank you. Mr. Malhotra.

*(The witness then withdrew)*

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(ii) Evidence of Shri R. Krishnaswamy

**MR. CHAIRMAN :** Mr. Krishnaswamy, you have been asked to appear before this Committee to give evidence in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited. I hope you will state the factual position and your version of the events truly and faithfully. I may inform you that the evidence that you may give before this Committee is to be treated by you as confidential till the Report of the Committee and the proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. The evidence which you may give before this Committee may be reported to the House. You may take oath or affirmation.

*(Shri R. Krishnaswamy took the oath)*

**SHRI B. SHANKARANAND :** When you gave evidence last time before this Committee, you promised to check up certain things and then come again and tell me. I will remind you that one of my questions last time was about the collection of information from private companies. I was asking whether there was any legal sanction behind your collection of information from private companies. My question was :

"I am talking about the legal sanction. Not your opinion."

And you said :

"That is a matter to be checked up. I am not sure."

Have you checked up this aspect now that you have come before this Committee again, and what have you to say ?

**SHRI R. KRISHNASWAMY :** There were three points on which I understood I had to report back to the Committee.

*Shri R. Krishnaswamy*

**SHRI B. SHANKARANAND :** First I am asking about the legal sanction. Tell me about this. The rest I will ask later.

**SHRI R. KRISHNASWAMY :** I have not checked up that because I do not think it was left to me to check it up. It was not my understanding that I should check it up and report.

**SHRI B. SHANKARANAND :** I will read out your answer again.

Mr. Chairman, I request you to kindly see page 52 of the evidence. My first question on that page is :

"Is there any rule or law whereby DGTD can enter into a private party's factory and do inspection ?

**"SHRI R. KRISHNASWAMY :** I am not aware whether there is any sanction.

**"SHRI B. SHANKARANAND :** I am talking about the legal sanction. Not your opinion.

**"SHRI R. KRISHNASWAMY :** That is a matter to be checked up. I am not sure."

Now, I am putting the same question because he is appearing after so many days, whether he has checked it up. What is his reply ?

**SHRI R. KRISHNASWAMY :** When the proceedings came to me, my understanding was that on three points I had to reply to the Committee.

**SHRI B. SHANKARANAND :** I will put it to you again.

**MR. CHAIRMAN :** You made a categorical statement that it had to be checked up.

**SHRI R. KRISHNASWAMY :** I did not say I will check it up and report back. On three other points I have said so, and I have reported back to the Committee. If the Committee wants me to check it up against, I can do it, but I have not done so so far.

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MR. CHAIRMAN : You have categorically replied, "I will have to check up because I do not have the information with me". Why did you not check it up ? You have yourself said it that you will check it up. Why did you not check it up ?

SHRI R. KRISHNASWAMY : As I have explained, there were three points which I thought I had to check up and reply to the Committee, and on those points I had written to the Committee. On this particular point it was not my understanding that I had to check up and report. If the Committee still so feels, I can check it up and report back.

MR. CHAIRMAN : We shall discuss what is to be done in this matter. You can pass on to the next question.

SHRI B. SHANKARANAND : I am sorry the witness is a little argumentative on this aspect. He should have checked it up and come before this Committee. I do not know how you will take this.

MR. CHAIRMAN : I told you we shall discuss this aspect.

SHRI B. SHANKARANAND : I take this as a disrespect to this Committee, and the witness shall have to be hauled up for contempt.

MR. CHAIRMAN : We shall discuss the matter among ourselves. You may pass on to the next question.

SHRI B. SHANKARANAND : Will you check up again and come and tell the Committee ?

SHRI R. KRISHNASWAMY : I will do so.

MR. CHAIRMAN : How much time would you take for checking up ? Can you appear before this Committee this evening after checking up ?

SHRI R. KRISHNASWAMY : That will be too short a time.

MR. CHAIRMAN : We cannot give you more time. At the most tomorrow evening.

SHRI R. KRISHNASWAMY : Tomorrow evening is all right.

MR. CHAIRMAN : Our time schedule may be a little changed because I tried to enquire if Mr. Ghosh has come. If he has come, we may sit in the morning.

Can you bring it in the morning ?

SHRI R. KRISHNASWAMY : I can, but one request. I do not have the transcript before me. That particular section can be extracted and given to me so that I will precisely check it up in the form it is required.

MR. CHAIRMAN : Just before you leave, you can get it.

SHRI B. SHANKARANAND : I am reading from page 53 of the evidence :

"Shri B. Shankaranand : During your regime what happened, I am asking. You have said this. You were handling the questions regarding collection of information about Maruti. You said 6 or 7 or 8 or 10. Which was the last question you handled ?

"Shri R. Krishnaswamy : I will have to check up and then tell you. I don't have the information now with me."

Is that correct ?

SHRI R. KRISHNASWAMY : Yes.

SHRI B. SHANKARANAND : Now you have sent the information with regard to this ?

SHRI R. KRISHNASWAMY : I have replied by saying how many questions I have handled after April 15th. The question I thought was that.

SHRI B. SHANKARANAND : I have not asked you about after 15th April.

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SHRI B. SHANKARANAND : I do not think I have asked this.

SHRI R. KRISHNASWAMY : Further on you have asked that. I do not have the transcript with me.

SHRI B. SHANKARANAND : I am just quoting :

"Shri B. Shankaranand : How many questions regarding Maruti you handled in the Ministry ?

Shri R. Krishnaswamy : Approximately during that period of one year and a half it would have been 6 or 7 or 8 or 10.

Shri B. Shankaranand : What was the last question of Maruti you handled ?

Shri R. Krishnaswamy : Mr. Limaye's.

Shri B. Shankaranand : Date ?

Shri R. Krishnaswamy : That was put down for answer sometime in March, may be 7th or 8th.

Shri B. Shankaranand : Did you not handle Mr. Jyotirmoy Bosu's question ?

Shri R. Krishnaswamy : I handled.

Shri B. Shankaranand : Which was the last in sequence of date—Mr. Limaye's or Mr. Jyotirmoy Bosu's ?

Shri R. Krishnaswamy : Prior to Mr. Bosu's question as far as I am aware, there was a question from Mr. Madhu Limaye. There could have been something in between. I don't have the entire list with me.

Shri B. Shankaranand : Which was the last question ? On what date was it answered ?

Shri R. Krishnaswamy : I will not be able to say unless I have the full details of the questions."

So, I never asked you about 16th or 17th. But you said that you will check up and give the details to the Committee.

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SHRI R. KRISHNASWAMY : I have sent two statements. One is about the particulars of questions on Maruti during the period March, 1974 to April, 1975. That was the period during which I was incharge of the section. The other statement I had given...

SHRI B. SHANKARANAND : No, I am not interested in that. I wanted questions on Maruti.

SHRI R. KRISHNASWAMY : That is the statement I made in Note No. 3 in reply to the question 'after Mr. Jyotirmoy Bosu's questions, how many questions I had handled on Maruti'. I had handled three in Lok Sabha and one in Rajya Sabha. This is contained in Note No. 3 of my letter subsequently.

SHRI B. SHANKARANAND : Did you find the same difficulty ?

SHRI R. KRISHNASWAMY : In those questions, we did not have to refer to Maruti at all for information. We had the information in the Ministry.

SHRI B. SHANKARANAND : That means you want to say that to reply Mr. Jyotirmoy Bosu's questions, you had no other go but to refer to Maruti.

SHRI R. KRISHNASWAMY : That is right.

SHRI B. SHANKARANAND : You mean to say that you would not have collected the information to reply to Parliament's questions if no information could be made available from Maruti ?

SHRI R. KRISHNASWAMY : That is right. We were depending on information coming from Maruti.

SHRI B. SHANKARASWAMY : But no information from Maruti came.

SHRI R. KRISHNASWAMY : No.

SHRI B. SHANKARANAND : Yet, you finalised the reply.

SHRI R. KRISHNASWAMY : We made it clear in the reply that no information was received from Maruti.

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**MR. CHAIRMAN:** The hon. Member, Shri Shankaranand has asked you a pointed question i.e. even without getting any information did you complete the answer to the question and in completing the answer of the question, did you not write it in the file?

**SHRI R. KRISHNASWAMY:** I have not seen the file lately. My superiors knew what was happening and how much information was coming. I do not know whether there was any record in the file.

**SHRI B. SHANKARANAND:** Mr. Chairman, with your permission, I want to show this file to the witness. Let him look into it. There is no mention at all—because Maruti has not supplied any information the question cannot be answered properly.

**MR. CHAIRMAN:** Will you kindly show this file to him?

**SHRI B. SHANKARANAND:** Let him see the whole file.

**SHRI R. KRISHNASWAMY:** I have seen the file. This is correct. In this file, there is no mention to the effect.

**SHRI B. SHANKARANAND:** On the other hand, there is a note by V. P. Gupta, Under Secretary to the Government of India, who was incharge of this started question and the note which was finally approved by your Secretary and the Minister reads like this:

"The undersigned is directed to refer to the Lok Sabha notice of provisional starred question D. No. 11785 proposed to be asked by Shri Jyotirmoy Bosa on 16th April, 1975 on the above subject and to say that as per condition of the industrial licence granted to M/s. Maruti Ltd. on 25th July, 1974, for the manufacture of passenger cars no imports of capital goods have been allowed to them. As regards indigenous equipment, the company are free to procure such equipments from within the country on such terms as may be found mutually acceptable. This is a matter primarily between

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M/s. Maruti and the indigenous manufacturers/suppliers of machinery with which Government are not concerned at all. Government have, therefore, no information in regard to various sources from which machines and equipments have been purchased by M/s. Maruti Ltd. for undertaking manufacture of passenger cars. In this connection, it may also be stated that the Government has not provided any import assistance at all for the import of capital goods to M/s. Maruti as per the condition stipulated in the industrial licence granted to them. The details sought for in the above question relate to a matter which is not the concern of the Government of India. It is therefore submitted that it will attract the provision of rule 41(2)(vii) of Rules of Procedure and Conduct of Business in Lok Sabha. The above facts may kindly be brought to the notice of the Speaker, Lok Sabha, while considering the admissibility or otherwise of the above question. This issues with the approval of M.I.&C.S."

I do not know what is M.I.&C.S. This is dated 7th April, 1975. Was this note approved by you?

**SHRI R. KRISHNASWAMY:** It was drafted in consultation with me; it had my full approval.

**SHRI B. SHANKARANAND:** It was approved also by the Joint Secretary, Secretary and the Minister.

**SHRI R. KRISHNASWAMY:** It must have gone through the channel, because it says: the Minister approved.

**SHRI B. SHANKARANAND:** Will you please look into the file and let me know about the supplementaries?

**SHRI R. KRISHNASWAMY:** I have seen the file. I do not follow the question.

**SHRI B. SHANKARANAND:** I want to know about the note prepared by the secretariat on supplementaries that were likely to be asked in the Lok Sabha on this question.

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**SHRI R. KRISHNASWAMY :** Behind the question, there is a note. It is flagged: note for supplementaries. That is there on the file. It is on pages 13 to 21.

**SHRI B. SHANKARANAND :** In this note you have given whatever information the Minister would need to reply to supplementaries as could be anticipated at the secretariat level, and in that note, para 6 is relevant. I will read out para 6. Was this Note prepared by you or not?

**SHRI R. KRISHNASWAMY :** It is a co-operative effort. The draft is put up. All of us are involved in the making of the note.

**SHRI B. SHANKARANAND :** Who are the persons involved in the preparation of the note?

**SHRI R. KRISHNASWAMY :** The initial note comes from the Section Officer; thereafter, the Under Secretary has a look at it; then I have a look at it; then the Joint Secretary has a look at it; then it goes to the Secretary and then to the Minister.

**SHRI B. SHANKARANAND :** Para 6 reads like this: The rest of the note is not relevant for our purposes; only para 6 is relevant; it reads:

"Information regarding machinery purchased by companies locally is not required to be given either in respect of their value or the names of the agents from whom they were procured. No return of the DGTD prescribes such details to be given by the firms on their own volition. Such information is not normally required for any purpose of Government and is, therefore, not asked for. It would, in fact, be impossible to collect such information from hundreds of firms looked after by Government, and as has been mentioned, since such detailed lists are not required, they are not called for from the parties. In the case of

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Maruti, as has been categorically stated, no relaxation of the conditions of the licence in respect of import of machinery has either been asked for or been given. The question, therefore, of obtaining machines from any other source other than the local one did not arise and, therefore, a categorical answer to Unstarred Question No. 2980 had been given. Since Maruti Ltd. had not been shown any concession in regard to import of machines, it was not considered necessary to ask them to furnish a list of machines, and the need would have arisen only had there been any concession shown to Maruti Limited."

The last sentence is very important.

Para 7 reads as follows:

"In view of these facts, at the time of notice of admission of the present Question, the attention of the Lok Sabha was drawn to rule 41(2)(vii) which clearly lays down that Questions should not be asked on a matter which is not primarily the concern of the Government of India. It was envisaged then that it would not be possible to secure such information and provide it to the Lok Sabha. It may be submitted that, if such information is given in the case of one Question, there will be demands for securing similar information from other firms and it would be difficult to handle such requests, particularly since the information is not furnished by the firms in the course of ordinary filing of returns."

The note does not at all say that because Maruti did not supply any information, no proper reply could be framed. On the other hand, diametrically opposite views have been expressed here that it is impossible to ask for information from private firms and asking information



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on private firms is inadmissible; a reference was made to Lok Sabha also that such questions should not be admitted. Even the Note for Supplementaries does not give any inkling of what you are now putting before us, namely, that, without getting information from Maruti, no proper reply could be given. Is that a figment of your imagination that you are now telling us this or did you misguide the Minister, the Government of India and Lok Sabha? You were a party to the preparation of Note for Supplementaries. You have said something in this Note. Did you deliberately put that in the Note to misguide the Minister and the Parliament?

**SHRI R. KRISHNASWAMY:** I am not able to understand the question...

**SHRI B. SHANKARANAND:** Did you prepare this Note to misguide the Minister and the Parliament?

**SHRI R. KRISHNASWAMY:** There can be no such question at all. There was no intention at all to misguide either the Minister or the Parliament.

**SHRI B. SHANKARANAND:** Are you responsible to Parliament or to the Minister in your functioning as Secretary or Joint Secretary, whatever it is?

**MR. CHAIRMAN:** He is responsible to the Minister. The Minister is responsible to Parliament. This question does not arise. It is a technical matter known to all of us.

**SHRI B. SHANKARANAND:** Not to all of us. I do not know myself. I am asking him to whom he is accountable.

**MR. CHAIRMAN:** You know. You were a Minister. You know that only Ministers are accountable to Parliament, not officers.

**SHRI B. SHANKARANAND:** Let him say that.

**MR. CHAIRMAN:** This is a known fact. You were a Minister. You know it very well.

**SHRI B. SHANKARANAND:** This supplementary note was prepared and was

finalised on 15-4-75, and the next day the Minister replied to the question?

**SHRI R. KRISHNASWAMY:** That is right.

**SHRI B. SHANKARANAND:** After this note, no additional supplementary note was prepared on the 16th before the Minister replied to the question in the Lok Sabha?

**SHRI R. KRISHNASWAMY:** Not to my knowledge, but there might have been a briefing session. Generally there is a briefing session prior to answering a question. So, on the 16th, if there was any briefing session, any further information forthcoming would have been passed on orally.

**SHRI B. SHANKARANAND:** There was no briefing on the 15th?

**SHRI R. KRISHNASWAMY:** I would not know because the briefing session used to be attended by officers up to the level of Joint Secretary.

**SHRI B. SHANKARANAND:** In this case, who attended the briefing session?

**SHRI R. KRISHNASWAMY:** If there was a briefing session Mr. Ghosh might have attended it.

**SHRI B. SHANKARANAND:** I am not asking about 'ifs' and 'buts'. Was there a briefing session or not?

**SHRI R. KRISHNASWAMY:** I would not know because I would not have been invited.

**MR. CHAIRMAN:** He has asked you a simple question: if it is not within your knowledge you can say categorically that you cannot answer it.

**SHRI R. KRISHNASWAMY:** I said in the beginning itself that, to the best of my knowledge, there was no further information passed on to the Minister.

**SHRI B. SHANKARANAND:** Now, can you say whether this is the only file pertaining to the question and reply on this subject?

**MR. CHAIRMAN:** He cannot answer that. According to the desire of the Committee, it was communicated to the Minis-

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try concerned that all relevant files relating to the matter may be sent to the Committee. This is the file that has been sent and, therefore, it is assumed that this is the only file.

**SHRI B. SHANKARANAND** : Did you receive any direct instructions or orders from the Minister about collection of the information ?

**SHRI R. KRISHNASWAMY** : No, not from the Minister.

**SHRI B. SHANKARANAND** : When a question was put to you by my colleague Shri Krishan Kant, as to whether Mr. Dhawan had talked to you, you said that he did not speak to you directly. Further, you said that another Mr. Dhawan stepped into your room to find out what was the information you were collecting and you told him what you were collecting. Who was this Dhawan ?

**SHRI R. KRISHNASWAMY** : He was R. K. Dhawan who was either Assistant Private Secretary or Additional Private Secretary to Mr. T. A. Pai.

**SHRI B. SHANKARANAND** : He is also R. K. Dhawan, who enquired from you ?

**SHRI R. KRISHNASWAMY** : Yes.

**SHRI B. SHANKARANAND** : Now, you have been handling all questions relating to Maruti for quite sometime and you have handled more than one question : is that correct ?

**SHRI R. KRISHNASWAMY** : Yes.

**SHRI B. SHANKARANAND** : You have been handling them since 1974 ?

**SHRI R. KRISHNASWAMY** : Since March or May 1974.

**SHRI B. SHANKARANAND** : Were you harassed by anybody during that period also ?

**SHRI R. KRISHNASWAMY** : In what sense ?

**SHRI B. SHANKARANAND** : In the sense that you have said you were harassed.

**SHRI R. KRISHNASWAMY** : No sir.

**DR. V. A. SEYID MUHAMMED** : We are not concerned with the opinion

or the interpretation of the legal position given by you or anybody else including the Minister. We are concerned with the elucidation of facts. In order to do so, will you refresh your memory and our memory as to what exact information was required to be covered in reply to the parliamentary question ?

**SHRI R. KRISHNASWAMY** : Part (a) of the question was : The names, addresses, full particulars of the dealers in the country from whom Maruti had purchased machinery and full details of such purchases including the value of each category of purchase, (b) the main line of business of dealers from whom such purchases have been made and (c) whether some of the dealers were also importers of the machinery. I would say that information for parts (a) and (b) were required from Maruti.

**DR. V. A. SEYID MUHAMMED** : Apart from Maruti, was there any other source from which you could have got the information ?

**SHRI R. KRISHNASWAMY** : It was possible to get some information from PEC; that is why, we referred to them also. They were supposed to get returns of sales made by the machinery dealers about the machinery they stocked and sold.

**DR. V. A. SEYID MUHAMMED** : Was there any information which could be given only by Maruti exclusively ?

**SHRI R. KRISHNASWAMY** : The full and accurate information about machinery could only have come from Maruti, because there could be gaps in the information of PEC. As far the sources from where the machinery was got and installed they would have an inventory.

**SHRI HITENDRA DESAI** : You sent a communication on 7th April to Lok Sabha. Was any reply received from the Lok Sabha Secretariat ?

**SHRI R. KRISHNASWAMY** : No reply was received; the question was, however, admitted.

*(The witness then withdrew)*

*(The Committee then adjourned)*

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(The Committee re-assembled at 15.00 hours)

(iii) Evidence of Shri Mantosh Sondhi.

MR. CHAIRMAN : Mr. Sondhi, you have been asked to appear before this Committee again to give evidence in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd. I hope, you will state the factual position and your version of the events freely and truthfully. I may inform you that the evidence that you may give before the Committee is to be treated as confidential till the Report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. The evidence which you will give before the Committee may be reported to the House.

Now, you may please take the oath or affirmation as you like.

(The witness then took oath)

MR. CHAIRMAN : Mr. Shankaranand, you may please ask the questions.

SHRI B. SHANKARANAND : You may recollect what you have said last time before the Committee. Do you recollect how you have been called again ?

SHRI MANTOSH SONDDHI : I have no idea why I have been called again.

SHRI B. SHANKARANAND : I quote page 15 of his evidence :

"Mr. Chairman : Mr. Shankaranand, you can ask questions. Shri Shankaranand : Mr. Chairman, I think Mr. Sondhi was the Secretary of the Ministry at that particular time and he does not have the papers or the notes

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prepared for the Minister for enabling him to answer. I do not think that I will be able to put questions unless we have the papers and file before us. It is because the entire question hinges on what note was prepared and whether the information collected was there or not. All those things should be looked into."

That is how, the present witness has come before us again.

MR. CHAIRMAN : Nobody disputes that.

SHRI B. SHANKARANAND : Does that note bear your signature for the final approval of the Minister ?

SHRI MANTOSH SONDDHI : They are not on the draft reply; but they are there on the minute sheet.

SHRI B. SHANKARANAND : On what date ?

SHRI MANTOSH SONDDHI : 14/4.

SHRI B. SHANKARANAND : Then it went on to the Minister.

SHRI MANTOSH SONDDHI : Yes.

SHRI B. SHANKARANAND : On what date ?

SHRI MANTOSH SONDDHI : 15/4.

SHRI B. SHANKARANAND : Does it bear the Minister's signatures ?

SHRI MANTOSH SONDDHI : Yes; the date is not very clear I think it is 15.4...

SHRI B. SHANKARANAND : Now you look into the note prepared for the supplementaries. Mr. Pai had changed the reply or anything else that was submitted.

SHRI MANTOSH SONDDHI : I don't think. There is no mention in the file.

SHRI B. SHANKARANAND : The note that had been put up by the Under Secretary was approved finally by the Minister. I am not asking for the reply.

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**SHRI MANTOSH SONDDHI :** Well, in this case, a note had been put up by Mr. Krishnaswamy. He says : they are drafted on the lines discussed and he sends them to the Joint Secretary and the Joint Secretary. . . .

**SHRI B. SHANKARANAND :** What is that note which was approved by the Minister? Please read out that note. You please see the file and tell us what note the Minister had approved. You had sent it to the Minister for approval.

**MR. CHAIRMAN :** Reply means the final reply that was to be given to the House in regard to the question that was asked. That is perhaps in the mind of the questioner. Secondly, you tell about the supplementaries.

**SHRI B. SHANKARANAND :** What is the final reply that the Minister had approved?

**SHRI MANTOSH SONDDHI :** It is written in this file.

**SHRI B. SHANKARANAND :** This reply was approved by the Minister as per your note.

**SHRI MANTOSH SONDDHI :** This was approved by Mr. Krishnaswamy, by the Joint Secretary and myself.

**SHRI B. SHANKARANAND :** Now there is a draft for supplementaries. Was it also looked into by you or you did not know about it?

**SHRI MANTOSH SONDDHI :** Whenever a draft reply to a question is put up, there is a note for the supplementaries also which is usually discussed either at the meeting which the Minister holds or if it is satisfactory, then it is not discussed.

**SHRI B. SHANKARANAND :** It bears so many signatures. As far as that draft reply for supplementaries is concerned, does it bear your signature?

**SHRI MANTOSH SONDDHI :** There is no signature on that.

**SHRI B. SHANKARANAND :** Please see the draft reply. Do not say that.

**SHRI MANTOSH SONDDHI :** I don't think it bears my signature.

**SHRI B. SHANKARANAND :** He says : the draft reply has no signatures. I want to see the file.

**MR. CHAIRMAN :** You say that somewhere in the file, may be initially, there are signatures of yours and others I do not know what is the procedure and all that.

**SHRI MANTOSH SONDDHI :** This does not contain any signature.

**MR. CHAIRMAN :** Is it necessary that there should be signatures on each and every page and on every aspect?

**SHRI MANTOSH SONDDHI :** Whenever a draft reply is put up, the note does bear the signature of the officer who prepares the draft reply. He says : I am submitting the draft reply. Then it goes to the Minister along with the signature of the officer who has seen it.

**SHRI B. SHANKARANAND :** Mr. Chairman, I want to see the file.

**MR. CHAIRMAN :** Would you kindly look at page 13 of the reply. So many signatures are there. I will show it to him. You see the file.

**SHRI MANTOSH SONDDHI :** My signatures are not on this.

**SHRI B. SHANKARANAND :** Whose signatures are there?

**SHRI MANTOSH SONDDHI :** I do not have any idea. It seems to me that some officer. . . .

**SHRI B. SHANKARANAND :** There is nothing wrong in identifying the signatures. They were all working under you. Can you identify them?

**SHRI MANTOSH SONDDHI :** May be the Under Secretary or the Section Officer. But I have no idea.

**SHRI B. SHANKARANAND :** Let it go on record.

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MR. CHAIRMAN : There are 29 copies—moderated, sent up. Whose signature is this ?

SHRI MANTOSH SONDHI : This may have been done by the Under Secretary who deals with despatch of these copies and things like that. At this time, I cannot make out whose signatures are these.

MR. CHAIRMAN : You do not recollect whose signatures are these ?

SHRI MANTOSH SONDHI : There is a Parliament Section, there is an Under Secretary and there is a Director. It is about three years. I cannot recollect who has initialled at this point of time. Once the draft is approved, further action is taken by the Section concerned.

SHRI B. SHANKARANAND : We are only interested in knowing whether you were directly concerned with the finalisation of the Draft Note for Supplementaries and the Draft for final reply.

SHRI MANTOSH SONDHI : The draft reply, together with the note for supplementaries has gone through me to the Minister. I have clarified that in the beginning itself.

SHRI B. SHANKARANAND : You were in the know of the draft note for supplementaries. Is it correct ?

SHRI MANTOSH SONDHI : Yes.

SHRI B. SHANKARANAND : What do you mean by AEI (I) ?

SHRI MANTOSH SONDHI : I think, that is the Section dealing with it.

SHRI B. SHANKARANAND : You were a party to the preparation of this draft note for supplementaries and also the draft for final reply.

SHRI MANTOSH SONDHI : Yes, they were sent through me to the Minister. They were prepared by the Director and the Joint Secretary concerned.

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SHRI B. SHANKARANAND : Was there any briefing session either on the 15th or on the 16th morning ?

SHRI MANTOSH SONDHI : I cannot recollect. The Minister used to have briefing session sometimes, not every time—that was not an accepted practice.

SHRI B. SHANKARANAND : I am asking whether there was any briefing session on this case.

SHRI MANTOSH SONDHI : I cannot remember.

SHRI B. SHANKARANAND : Were you directly dealing with the Question under reference ?

SHRI MANTOSH SONDHI : Normally the practice was for the file to be put up to the Minister through the Secretary, but sometimes when there was not enough time, the Joint Secretary was entitled to send it directly to the Minister.

SHRI B. SHANKARANAND : Were you dealing with it directly ? I am asking about this particular case.

SHRI MANTOSH SONDHI : I have signed on the file.

SHRI B. SHANKARANAND : You have said before this Committee that this was marked to Mr. Ghosh. That is why I am asking again and again. In the evidence given before us, you have said this—this is on page 10—in reply to a question put by my hon. friend, Mr. Hitendra Desai. This is what you have said :

“Mr. Ghosh was the Joint Secretary. Mr. Krishnaswamy who was originally Deputy Secretary was promoted at that time as Director. Mr. Gupta was the Under Secretary concerned. I have got a note from the Parliament Section of the Ministry that this particular Question was marked to Mr. Ghosh, Joint Secretary, Mr. Krishnaswamy, Director, and Mr. Gupta, Under Secretary.”

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**SHRI MANTOSH SONDDHI :** When Questions come, these are sent to different officers for preparation of replies. This was marked to those three officers.

**SHRI B. SHANKARANAND :** How many officers under you were dealing with this Question ?

**SHRI MANTOSH SONDDHI :** Three officers—whose names you have just mentioned, namely, the Joint Secretary, the Director and the Under Secretary.

**SHRI B. SHANKARANAND :** The Under Secretary was also dealing with that Question ?

**SHRI MANTOSH SONDDHI :** Must have been dealing. As far as I can make out, the final reply was drafted by Mr. Krishnaswamy in consultation with Mr. Ghosh, and it was put up to me.

**SHRI B. SHANKARANAND :** It seems, one Mr. Gupta, Under Secretary, was also involved. Was this Under Secretary also involved in this Question ?

**SHRI MANTOSH SONDDHI :** Yes.

**SHRI B. SHANKARANAND :** Regarding collection of information for the purpose of replying to Mr. Jyotirmov Bose's Question in Parliament by the Minister, could the Minister have replied the Question without getting the information from Maruti ?

**SHRI MANTOSH SONDDHI :** I am afraid, it was necessary to get from Maruti information such as value of the equipment, from whom they purchased, when they purchased, etc. Otherwise, the reply would have been incomplete.

**SHRI B. SHANKARANAND :** Could the Minister have replied without getting the information from Maruti ?

**SHRI MANTOSH SONDDHI :** He could not have replied.

**SHRI B. SHANKARANAND :** In this case did you get the information ? Because, he has replied in the House.

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**SHRI MANTOSH SONDDHI :** That information was not available.

**SHRI B. SHANKARANAND :** You said that, without getting information from Maruti, he could not have replied. Now the facts are that he has replied without getting the information.

**MR. CHAIRMAN :** This is a theoretical question. Would you make it specific by asking whether he could get information from Maruti ?

**SHRI B. SHANKARANAND :** The reply is prepared by the officers and is finally approved by the Minister. That very reply is given in the Lok Sabha. That is why I am asking. If there was no information from Maruti, how could he prepare the reply ? That is my straight question. Does he want to say that he misled the Minister and the Lok Sabha ?

**SHRI MANTOSH SONDDHI :** We did not mislead the Minister or the Lok Sabha. Full details of such purchase, including the value of each category of purchase, the main line of business of the party from whom such purchases have been made etc. could only have been obtained from Maruti and may be, to some extent from Project Engineering Corporation. Since this was not available, the reply given was that "this information is not normally collected by the Ministry and, therefore, cannot be given".

**SHRI B. SHANKARANAND :** About what you have said in reply to my question is there any noting to that effect in the file ? The file is before you : please point it out.

**SHRI MANTOSH SONDDHI :** All these matters are not recorded in the file. This was known to me ; it was known to Mr. Ghosh ; it was known to the Minister ; it was known to everybody.

**SHRI B. SHANKARANAND :** Is it recorded in the file ?

**SHRI MANTOSH SONDDHI :** No. it is not recorded here. But the Minister was fully aware of it.

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**SHRI B. SHANKARANAND :** Now, do you agree with the Minister when he said that some questions originated from the Ministry itself? He has said before this Committee that some questions originated from the Ministry itself: do you agree with him?

**MR. CHAIRMAN :** I don't remember his having said that.

**SHRI B. SHANKARANAND :** Yes, he has. I am always definite about what I say. Please see p. 26 of Shri Pai's evidence on 23-3-1978. The last para says.

**MR. CHAIRMAN :** That is his guess-work.

**SHRI B. SHANKARANAND :** Perhaps the Secretary may not be knowing it, and that is why I asked him. Let not the Members of the Committee think that I am casting aspersions on anybody.

**PROF. P. G. MAVALANKAR :** He is asking the witness today whether he agrees with what the Minister had said on that day. I think a witness can be asked whether he also has any such information, but he cannot be asked whether he agrees with what the Minister knows.

**MR. CHAIRMAN :** All our documents are secret documents. You can say that the Minister had said...

**SHRI B. SHANKARANAND :** The Minister had said so many things before us. I only wanted to ask whether he agrees with this particular observation of his; nothing else.

Now, about the collection of information, the replies were prepared after all efforts were made to collect information either from Maruti or PEC: is that correct?

**SHRI MANTOSH SONDHI :** Yes.

**SHRI B. SHANKARANAND :** It is only after all efforts were made that the replies were formulated?

**SHRI MANTOSH SONDHI :** That's right.

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**SHRI B. SHANKARANAND :** There is a noting in the file saying—

"The question has reference..."

Was any letter addressed to the Secretary, Lok Sabha?

**SHRI MANTOSH SONDHI :** There is a note which sent on 7th April 1975.

**SHRI B. SHANKARANAND :** But your Ministry received no reply from the Lok Sabha?

**SHRI MANTOSH SONDHI :** There is nothing on the file, but the question was admitted.

**SHRI B. SHANKARANAND :** Can I take it that this file contains all the papers concerning this question?

**SHRI MANTOSH SONDHI :** Normally, it should.

**SHRI B. SHANKARANAND :** Something abnormal has happened; that is why we are sitting here.

**SHRI MANTOSH SONDHI :** I can say that if a reply was sent, it should have been on the file.

**SHRI B. SHANKARANAND :** Was a reply received?

**SHRI MANTOSH SONDHI :** There is no record to show that the reply was received. Secondly, the normal practice in the Government is that all the papers pertaining to a particular subject are kept on one relevant file.

**SHRI B. SHANKARANAND :** Do not mention as to what the normal practice is. Does the file contain all the papers?

**SHRI MANTOSH SONDHI :** I do not know; normally, it should contain.

**MR. CHAIRMAN :** As Secretary, he was responsible for all these files. He would say what the normal practice is, i.e. it is expected that it should contain all the papers.

If you have any suspicion that any paper is missing from the file or it does not con-

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tain all the papers and it is within your knowledge, we would take a different step.

**SHRI NARENDRA P. NATHWANI :** Have you any personal knowledge of the reply having been received and not being there ?

**SHRI MANTOSH SONDDHI :** None whatsoever.

**SHRI B. SHANKARANAND :** In order to save the time of this Committee, I would like to know whether this entire note will be cyclostyled and supplied to us.

**MR. CHAIRMAN :** You may ask the relevant question. This note cannot form a part of the record.

**SHRI B. SHANKARANAND :** Mr. Sondhi, please look into the supplementary note prepared by the Minister for the benefit of the Minister for answering the supplementaries. May we know what that note is ?

**MR. CHAIRMAN :** There is no need to read it unless you want that it should become part of the record.

**SHRI B. SHANKARANAND :** If you promise that it will become part of the proceedings, let him not read it.

**SHRI HITENDRA DESAI :** It should form part of the record.

**MR. CHAIRMAN :** I understand that only that portion which is read out here will form part of the proceedings. Para 6 and 7 are relevant; those can be read.

**PROF. P. G. MAVALANKAR :** You may permit us to ask questions individually on the basis of the documents or file that we have and to that extent, it will become part of the proceedings, or let it be a part of the record.

**MR. CHAIRMAN :** The note on supplementaries can form part of the proceedings.

**SHRI B. SHANKARANAND :** Sir, I would like to say that since I am asking the question and in reply to that question

that thing should go on record. To save time it may be taken as having been read out.

**MR. CHAIRMAN :** It will be deemed as read out and it will form part of the proceedings.\*\*

**SHRI B. SHANKARANAND :** Mr. Sondhi, does the note on the supplementaries contain anything to show that full information could not be had and in the absence of that information replies cannot be given. Is there any such mention ?

**SHRI MANTOSH SONDDHI :** I have already said that there is no mention.

**SHRI B. SHANKARANAND :** I draw your attention to your earlier evidence—page 12 where in reply to a question put by Mr. Alagesan you said that the only thing is that we can write and try to get information. Apart from that nothing more can be done. Now, my question is, beyond this writing were these officers doing anything ?

**SHRI MANTOSH SONDDHI :** Not that I am aware of.

**SHRI B. SHANKARANAND :** Since how long were you the Secretary of Ministry at that particular point of time ?

**SHRI MANTOSH SONDDHI :** I was there since March 1973 to May 1977.

**SHRI B. SHANKARANAND :** Did during your regime many questions asked in Parliament about Maruti affairs ?

**SHRI MANTOSH SONDDHI :** Yes.

**SHRI B. SHANKARANAND :** The licence to Maruti was issued during your time.

**SHRI MANTOSH SONDDHI :** Yes.

**SHRI B. SHANKARANAND :** Did you do them any undue favour ?

**SHRI MANTOSH SONDDHI :** Certainly not.

\*\* The note is reproduced at Appendix at cols. 555—559



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**SHRI B. SHANKARANAND** : Did you obstruct them from getting the licence ?

**SHRI MANTOSH SONDHI** : I did not obstruct.

**SHRI B. SHANKARANAND** : When the licence was issued in 1974 there were no parliamentary question at that time.

**SHRI MANTOSH SONDHI** : I do not remember.

**SHRI B. SHANKARANAND** : How do you remember about this particular question ?

**SHRI MANTOSH SONDHI** : This particular thing I remember because there were lots of complications.

**SHRI B. SHANKARANAND** : Did you try to mislead the Minister and thus Parliament by preparing these replies and supplementary notes ?

**SHRI MANTOSH SONDHI** : Certainly not.

**SHRI B. SHANKARANAND** : Did the Minister, Mr. Pai, direct any other officer to collect specific information to make the final reply or the supplementaries in the Lok Sabha ?

**SHRI MANTOSH SONDHI** : Not to my knowledge.

**SHRI P. G. MAVALANKAR** : I would like to know from the witness with regard to the questions, particularly questions concerning his Ministry, coming up in the Lok Sabha and Rajya Sabha, whether he and the officials working in his Ministry took every possible care to get all possible information available.

**SHRI MANTOSH SONDHI** : We always try to do that.

**SHRI P. G. MAVALANKAR** : Did you also do this in the matter of Maruti question ?

**SHRI MANTOSH SONDHI** : In respect of every question.

**SHRI P. G. MAVALANKAR** : All questions about Maruti . . . . ?

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**SHRI MANTOSH SONDHI** : All questions of Maruti and for all other questions also, we tried to get as much information as we possibly could so that we could give a comprehensive reply.

**SHRI P. G. MAVALANKAR** : A little while ago, in reply to a question, put by Mr. Shankaranand, you said that there were some complications. What were those complications ?

**SHRI MANTOSH SONDHI** : That means we were not able to get any information in this regard. Normally, this sort of thing does not happen. But in this particular case, no information was coming from Maruti or from P.E.C.

**SHRI P. G. MAVALANKAR** : Are you satisfied yourself that whatever was within your power and capabilities you did everything to get the fullest possible information on this question ?

**SHRI MANTOSH SONDHI** : As a matter of fact, we wrote a letter. Later, we sent officers. Normally this sort of necessity does not arise. Perhaps in one or two cases, we sent officers to collect information.

**SHRI P. G. MAVALANKAR** : Did you adopt any other means or methods other than writing or calling on people to get information ?

**SHRI MANTOSH SONDHI** : No, as far as I know. But we should have put up this draft reply—talking from the memory—on 11th April. At that time when it was brought to my notice not much information was forthcoming. We had to put up a draft reply based on whatever information was available.

**SHRI P. G. MAVALANKAR** : You said in your evidence on April 26, that you were also under surveillance and also Mr. Krishnaswamy was harassed. The Minister was also upset. Why were you also harassed ?

**SHRI MANTOSH SONDHI** : It is difficult for me to answer this question. Sir, I must have incurred their wrath for some

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reason. We had dealt with these things very objectively and also we tried to give all the support that we could to Mr. Krishnaswamy and pursued on a few other connected matters.

**SHRI P. G. MAVALANKAR :** Regarding the thought of the resignation by the Minister, you prevented him from resigning.

**SHRI MANTOSH SONDHI :** Well, I gave him that advice. I asked him whether resignation would be end of the matter. But we thought we would be thrown to the wolves.

**SHRI P. G. MAVALANKAR :** But did the Minister discuss with you why and how he was prompted to take this extreme step?

**SHRI MANTOSH SONDHI :** Because these things happened, he was very much upset on these matters.

**SHRI O. V. ALAGESAN :** From the reply it is clear that for want of full information on the subject and in the circumstances you tried to be as fair to Parliament as possible and answered the question. May I take it like that?

**SHRI MANTOSH SONDHI :** That is what we tried to do.

**SHRI O. V. ALAGESAN :** Now, when the question of licence for Maruti was under consideration, is it a fact that the

request was for licence to make 50,000 cars per year and you, as Secretary, took a view that this would be too much considering the facilities available and so to begin with they may be given licence to make 25,000 cars ?

**SHRI MANTOSH SONDHI :** Yes, Sir. That is quite right. It was my firm view that cars could be produced in much smaller number. If cars had to be produced in greater number, that is, 50,000, financial inputs, managerial inputs, organisational inputs and also the development of the ancillary industries to a much longer extent would be necessary. In my opinion, it was quite difficult to set up a capacity of that magnitude although the letter of intent clearly specified that the capacity will be 50,000.

**SHRI O. V. ALAGESAN :** Was there any suspicion in your mind that because of not favouring them in this respect, it might be due to misunderstanding of your attitude as one of obstruction?

**SHRI MANTOSH SONDHI :** In this particular case, I spoke to my Minister and ultimately, I had an interview with the Prime Minister at that time to place my point of view. Whether it was taken as an obstruction, I do not know. But taking the totality of circumstances, it would appear like that.

*(The witness then withdrew)*

*(The Committee then adjourned)*

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## APPENDIX

(See footnote at Col. 550 of verbatim proceedings dated 15th June, 1978)

**NOTE FOR POSSIBLE SUPPLEMENTARIES TO LOK SABHA STARRED QUESTION NO. 656 BY SHRI JYOTIRMAY BOSU FOR ANSWER ON THE 16TH APRIL 1975 REGARDING PURCHASE OF MACHINERY BY MESSRS MARUTI LIMITED.**

Unstarred Question No. 2980 and reply given thereto are reproduced below :

- "2980. (a) Whether part of the machinery installed or in the process of installation in the Maruti Car Factory in Gurgaon District of Haryana has been fabricated in and imported from foreign countries ;
- (b) if so, the details of this imported machinery ;
- (c) the total value of such imported machinery ;
- (d) whether any import licences were sought by the Maruti Limited and given by the Government for importing this machinery ; and
- (e) if so, whether use of imported machinery is consistent with the conditions attached to the Letter of Intent and/or industrial licence issued to Maruti Limited ?

*Answer :*

- (a) to (c) : Messrs Maruti Limited did not seek any import licence for importing machinery nor were they given any such permission. Some of the machinery installed in Messrs. Maruti Limited have been purchased by the firm from within the country from the dealers in machine tools who are allowed to sell them on 'stock and sale' basis.
- (d) No, Sir.
- (e) The industrial licence stipulated that no import of capital goods

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would be allowed. No imports have been asked for or given."

2. It would be seen that part (a) of the question requested information on whether part of the machinery installed in Maruti Limited has been fabricated in and imported from foreign countries. Part (b) of the question asked for details of the imported machinery. In reply, we had categorically stated that Maruti Limited were not permitted to report machinery in fulfilment of the condition of the letter of intent and they did not seek any import licence.

3. We had mentioned that in our reply to parts (a) to (c) that some of the machinery installed in Maruti Limited were bought from dealers in machine tools who were allowed to 'stock and sell' machinery obtained under the Trade Plan from East European countries. This answer was based on a report furnished by a team of DGTD officers who had inspected the factory sometime in February. The DGTD inspection was a routine one carried out with a view to assessing the progress made by the firm in implementing the licence. The purpose of the inspection was not to assess or categorise the machinery installed. However, during the course of this inspection it was noticed by the officers of the DGTD that some of the machines were installed which originated from East European countries. In the course of the discussions that followed between the officers of the DGTD and the management of Maruti Limited, the officers of DGTD ascertained that these machines were bought locally from the agents who are authorised to stock and sell such machines. Based on this report, a categorical reply was given in answer to Unstarred question No. 2980 on 12th March 1975 that Maruti Limited did not seek any import licence for importing machinery nor were they given any such permission.

4. The conditions under which the Projects Equipment Corporation imports machinery including machine tools under the Trade Plans are detailed below. PEC themselves do not directly sell these machines, but they appoint agents who are permitted to stock and sell these machines.

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Every year in terms of the general licensing instructions, the import of various items available from Trade and Payment Agreements with East European countries has been regulated. Import licences are issued to the STC, PEC and MMTC to the extent of 50 per cent for certain items including machine tools for stock and sale. The PEC normally prepares a list of machine tools for import under these regulations which is sent to the DGTD for their clearance from indigenous angle. Once such a clearance is available then the import licences are issued by the CCI&E. The PEC then issues a letter of authority in favour of their nominated agents for stock and sale. These agents are free to sell such machinery to any party who purchase them without any other stipulation or clearance. A list of authorised Business Associates for the import of machine tools from East European countries, namely, GDR, Czechoslovakia and USSR is enclosed. (Annexure—I). Machine tools and Metal working machinery from East European countries for which a firm commitment for import on 'stock and sale' basis and for actual users made in 1974 are as under :

GDR	—	Rs. 550 lakhs.
Bulgaria	—	Rs. 20 lakhs.
Poland	—	Rs. 150 lakhs.
Czechoslovakia	—	Rs. 500 lakhs.
Rumania	—	Rs. 110 lakhs.
USSR	—	Rs. 300 lakhs.

(Note.—For these provisions, 50 per cent will be utilised by PEC for stock and sale and the rest will be open for actual users licences.)

As no clearance of any kind is sought or required to be taken by individual private firms to buy a machinery from such agents it is possible that Messrs Maruti Limited might have acquired machines of imported origins through these agents. As mentioned details in this regard are not furnished by the firms and are not available in the Department.

5. Government's policy in regard to the manufacture of cars based on completely

indigenous design and without requiring import of capital goods or allocation of foreign exchange for components or raw materials was announced on the floor of the Parliament on 10th August 1970 by the then Minister of Industrial Development. The applications pending at that time were reviewed and among others, who were given letters of intent, one was Shri Sanjay Gandhi of New Delhi (now M/s. Maruti Limited) for a capacity of 50,000 cars per annum. In addition to Shri Sanjay Gandhi, one other letter of intent was given to Shri Madan Mohan Rao, Madras, for a capacity of 25,000 Nos. of cars per annum and 4 letters of intent for industrial licence and eight for registration certificates were issued under the same terms and conditions to other private entrepreneurs. M/s. Maruti Limited had submitted a proto-type for testing by the VRDE, Ahmednagar. The report of the VRDE was received at the end of roadworthiness test reporting that certain improvements were necessary which were carried out by the party. After the VRDE report confirmed the roadworthiness of the test, an industrial licence was issued to M/s. Maruti Limited on 25th July, 1974.

6. Information regarding machinery purchased by companies locally is not required to be given either in respect of their value or the names of the agents from whom they were procured. No return of the DGTD prescribes such details to be given by the firm on their own volition. Such information is not normally required for any purpose of Government and is, therefore, not asked for. It would in fact be impossible to collect such information from hundreds of firms looked after by Government and as has been mentioned since such detailed list are not required they are not called for from the parties. In the case of Maruti as has been categorically stated, no relaxation of the conditions of the licence in respect of import of machinery has either been asked for or been given. The question, therefore, of obtaining machines from any other source other than the local one did not arise and therefore, a categorical answer to Unstarred question No. 2980 had been given. Since

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Maruti Limited had not been shown any concession in regard to import of machines, it was not considered necessary to ask them to furnish a list of machines and the need would have arisen only had there been any concession shown to Maruti Limited.

7. In view of these facts at the time of notice of admission of the present question, the attention of the Lok Sabha was drawn to Rule No. 41(2) (vii) which clearly lays down that questions should not be asked on a matter which is not primarily the concern of the Government of India. It was envisaged then that it would not be possible to secure such information and provide it to the Lok Sabha. It may be submitted that if such information is given in the case of one question, there will be demands for securing similar information from other firms and it would be difficult to handle such requests particularly since the information is not furnished by the firms in the course of ordinary filing of returns.

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ANNEXURE—I

LIST OF BUSINESS ASSOCIATES FOR  
THE IMPORT MACHINE TOOLS,  
CZECHOSLOVAKIA

M/s. Battiboi & Co. Pvt. Ltd., Forbes Street, Fort, Bombay—1.

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M/s. Machine Techno (Bombay) Pvt. Ltd., Jindal House, 8-A, Alipore Road, Calcutta—700027.

M/s. J. B. Advani & Co. (P) Ltd., Advani Chambers, Sir P. M. Road, Bombay—400001.

*G.D.R.*

M/s. Easun Engineering Co. Ltd., 5-7, Second Line Beach, Madras—600001.

M/s. Blue Star Ltd., Blue Star House, 34, Ring Road, Lajpat Nagar, New Delhi.

M/s. Kanubhai Engineers (P) Ltd., 3, Mangoe Lane, Calcutta.

M/s. Reliable Machine Tools Co., Flat No. 5-A, 5th Floor, Prem Kanka Apartments, Narroji Cross Lane, Ghatkopar, (West), Bombay—400058.

*U.S.S.R.*

M/s. Metal Specialities Pvt. Ltd., 6/1, Saklat Place, Calcutta—13.

M/s. Power Tools & Appliances Co., 2, Dalhousie Square East, Calcutta—1.

M/s. Mathur Exports Pvt. Ltd., A-189, Defence Colony, New Delhi.

M/s. Pradman Engineering Agencies Pvt. Ltd., 3-India House, 2nd Floor, Opp. G.P.O., Bombay—1.

Friday, the 16th June, 1978

**PRESENT**

Professor Samar Guha—*Chairman*

**MEMBERS**

2. Shri Halimuddin Ahmed.
3. Shri Hitendra Desai.
4. Shri Krishan Kant.
5. Dr. V. A. Seyid Muhammed.
6. Shri Narsingh.
7. Shri Narendra P. Nathwani.
8. Shri B. Shankaranand.

**SECRETARIAT**

Shri I. Pershad—*Chief Legislative Committee Officer.*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

**WITNESSES**

- (1) Shri S. M. Ghosh (Secretary, Energy and G.A.D. Industries, Mines and Power Department, Government of Gujarat former Joint Secretary, Ministry of Industry).
- (2) Shri R. Krishnaswamy (Director, Department of Heavy Industry, Ministry of Industry).

(*The Committee met at 15.00 hours*)

(i) **Evidence of Shri S. M. Ghosh**

MR. CHAIRMAN : Mr. Ghosh, you have been asked to appear before this Committee to give evidence in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Limited. I hope you will state the factual position and your version of the events freely and truthfully. I may inform you that the evidence

*Shri S. M. Ghosh*

that you may give before the Committee is to be treated by you as confidential till the report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. The evidence which you will give before the Committee may be reported to the House.

Now, you may take oath or affirmation as you like.

(*The witness took the oath.*)

MR. CHAIRMAN : What were you doing in the month of April 1975 ?

SHRI S. M. GHOSH : In April 1975 I was Joint Secretary in the Department of Heavy Industry.

MR. CHAIRMAN : What are you doing now ?

SHRI S. M. GHOSH : I am at the moment Secretary, Industries, Mines and Power, Government of Gujarat.

MR. CHAIRMAN : Did you write a letter to Shri S. M. Rege, Secretary, Maruti Ltd., Gurgaon, on 9th April 1975 ? Did you write any letter to him seeking certain information about Maruti Ltd. ?

SHRI S. M. GHOSH : Yes.

MR. CHAIRMAN : Would you read out that letter ?

SHRI S. M. GHOSH : The letter is as follows :

"Dear Shri Rege,

As mentioned to you on the telephone by Krishnaswamy, we are deputing Shri S. S. Khosla, Assistant Development Officer, Directorate General of Technical Development, to obtain from you the following information in order to enable us to reply to a Parliament question :

- (1) Total value of machinery purchased and installed in Maruti Ltd.
- (2) Particulars of machinery purchased on stock and sale basis installed

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in Maruti Ltd. and source from whom the machinery were obtained.

- (3) Total value and particulars of machinery of indigenous origin installed in Maruti Ltd. and sources from whom the machinery were obtained.

Shri Khosla will meet you in your factory by 11.30 a.m. on 10th April, 1975. I would be grateful if all assistance to obtain the above information is rendered to Shri Khosla."

The date of this letter is April 9, 1975.

MR. CHAIRMAN : Was your letter acknowledged by Mr. Rege ?

SHRI S. M. GHOSH : I do not exactly remember because this letter was written by me while deputing an officer. Following a discussion with my Director, Mr. Krishnaswamy, I had directed him to collect certain information which we considered relevant for answering a Parliament question and wanted to get this information from this concern. Therefore, before the Development Officer visited, I saw that it was important and so I wrote to the Company to render the information which was needed, in our view, to answer the Parliament question.

MR. CHAIRMAN : Did Mr. S. S. Khosla, whom you deputed for collecting information from the Maruti Ltd., visit the Maruti Ltd. ?

SHRI S. M. GHOSH : As far as I remember, he did because afterwards this information was being collected from different sources.

MR. CHAIRMAN : After collecting the information, did he make any report to you ?

SHRI S. M. GHOSH : He did not make any report to me directly, but he did make a report to Mr. Krishnaswamy.

MR. CHAIRMAN : Did Mr. Krishnaswamy report to you ?

Shri S. M. Ghosh

SHRI S. M. GHOSH : Mr. Krishnaswamy discussed with me the developments with regard to this question several times and he was keeping me informed as to what sort of information was gathered.

MR. CHAIRMAN : In your letter to Mr. Rege you had informed him that you were sending Mr. S. S. Khosla for collecting information. Mr. S. S. Khosla reported back to Mr. Krishnaswamy whether he could collect information or not. What did Krishnaswamy report to you in regard to the collection of information from the Maruti Ltd. ?

SHRI S. M. GHOSH : I do not exactly recollect what he reported to me, but I have a recollection that he told me that the complete information was not being made available. That is what I recollect because I am speaking from memory.

MR. CHAIRMAN : Was not made available ?

SHRI S. M. GHOSH : Was not being made available.

MR. CHAIRMAN : And then you asked Mr. Krishnaswamy to collect information from other sources ?

SHRI S. M. GHOSH : I did ask. As a matter of fact, when this question came, I had a discussion with Mr. Krishnaswamy. I told him that to answer this question we had to have this information. I told him that on one side he could write to the Company and try to get as much information as he could get and on the other, as it is a matter of stock and sale and was operated by the Ministry of Commerce through the STC, he should also try to get information from them.

MR. CHAIRMAN : Have you anything to say about this matter of collection of information and the information that was given to you ?

SHRI S. M. GHOSH : Krishnaswamy did report to me at what stage the collection of information was. I told

15 th June, 1978

him that the question had to be answered by a particular date and he must try to collect all the relevant information by a particular date so that our answer could go back in time. He did report to me that he was getting in touch with STC to know the names of some associates of the STC who were also engaged in stocking machines under licence. I told him to collect whatever information he could get.

**MR. CHAIRMAN :** On the basis of the information available on your hands you prepared the answer to the question ?

**SHRI S. M. GHOSH :** The information was being collected and we had not completely collected the information. As a matter of fact, I do not think that we did get complete information of the stock and sale of equipment which was made available to Maruti Limited. I went to the Minister's house and I was told by the Minister that no further information need be collected, apart from what we had already collected, for answering that question. I rang up Mr. Krishnaswamy, and he told me that he had instructions from Mr. Sondhi, the Secretary, that no further information need be collected.

**SHRI HITENDRA DESAI :** Normally for parliamentary questions who used to put up the first draft ?

**SHRI S. M. GHOSH :** The first draft is put up by the Director to me. If I consider any modifications are necessary, it will be done and the revised draft will be taken to the Secretary personally. Then I will sit down with the Secretary and discuss it and then the final draft would emerge, which would be submitted to the Minister.

**SHRI HITENDRA DESAI :** In this case the first draft was not found satisfactory ?

**SHRI S. M. GHOSH :** To my mind, the first draft did not appear to be satisfactory. So, we sat down and prepared

*Shri S. M. Ghosh*

another draft which we took up to the Secretary for his approval, whereupon it went further.

**SHRI HITENDRA DESAI :** So, the first draft was never taken to the Secretary ?

**SHRI S. M. GHOSH :** No, It was not taken to the Secretary. We worked on the first draft and the amended draft was taken to the Secretary.

**SHRI HITENDRA DESAI :** Was the first draft destroyed ?

**SHRI S. M. GHOSH :** I do not remember.

**SHRI HITENDRA DESAI :** You may see the file and inform us. See your own noting.

**SHRI S. M. GHOSH :** According to my own noting, the first draft was not found satisfactory. I had discussions with Mr. Krishnaswamy. I gave the draft back to Mr. Krishnaswamy. He re-drafted it himself and the second draft, which was put up by Mr. Krishnaswamy, was approved by me and submitted to the Secretary.

**SHRI HITENDRA DESAI :** So the first draft remained with Mr. Krishnaswamy ?

**SHRI S. M. GHOSH :** I do not see it in the papers here.

**SHRI HITENDRA DESAI :** Normally it should have been in the file ?

**SHRI S. M. GHOSH :** Normally the drafts which are rejected are kept in a separate bundle in the file. I do not see that draft here. After discussion with Mr. Krishnaswamy, the second draft put up by Mr. Krishnaswamy was put up to Secretary. The first draft is not in the file.

**SHRI HITENDRA DESAI :** Did you brief the Minister in the normal briefing session ?

**SHRI S. M. GHOSH :** I do not remember whether it was a Starred question or



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Unstarred. If it is a Starred question, the briefing must have been there, because in the briefing session we used to discuss only the Starred questions. Some of the questions which are provisional as Starred are later converted into unstarred.

**SHRI HITENDRA DESAI** : Did you appear before the Shah Commission ?

**SHRI S. M. GHOSH** : No, Sir.

**DR. V. A. SEYID MUHAMMED** : If you recollect correctly, in all material aspects the first draft was unsatisfactory, according to you ?

**SHRI S. M. GHOSH** : The note for the supplementaries did not bring out fully the methods and procedures of the stock and sale. Therefore, there were certain material details which should be there in order that the Minister can have an appreciation of the stock and sale procedure. They were not there. An answer to a Parliament question has to be to the point, explicit and specific. In this particular case, the answer which was framed was to my mind not quite explicit or to the point.

**DR. V. A. SEYID MUHAMMED** : Was it in the form or in the sufficiency of contents ?

**SHRI S. M. GHOSH** : It was more in presentation than in contents. As far as the answer is concerned, it was deficiency in presentation ; but, as far as the note for supplementaries was concerned, there were certain aspects of facts which I wanted to be presented in the proper manner so that the Minister could have a proper appreciation of the stock and sale position. In the final draft it was rectified.

**DR. V. A. SEYID MUHAMMED** : What were the possible sources from which you could have collected the information for a reply to a question ?

**SHRI S. M. GHOSH** : As a matter of fact, we were collecting information only from those sources from which we could

*Shri S. M. Ghosh*

collect information ; that is to say, if it was stock and sale, it would be operated by the STC. So, we got in touch with the STC. We wanted to know the names of their associates from whom we could obtain the information. We got in touch with the Company and got the information. We did not issue any import licence at all. So, there was no other source from which any other information could be obtained.

**DR. V. A. SEYID MUHAMMED** : Was there any information which was exclusively available with Maruti ?

**SHRI S. M. GHOSH** : We wanted to have information on a particular point. Though there are so many questions and answers on this particular file, this question referred to the position about imported equipment. Therefore, as far as that was concerned, there was DGTD inspection in terms of which certain imported equipments of East European origin were found. So, we wanted to have the information from them, and as they were of East European origin and they had not been issued any import licence, they can only be from stock and sale. Therefore, we wanted to have information from the STC.

**SHRI B. SHANKARANAND** : Look at the file and let me know on what date the file started on collecting information and who were the officers who noted on the file. On 7th it started on the file ?

**SHRI S. M. GHOSH** : As you are fully aware, first we have to communicate the facts before the questions are admitted. So, the facts were communicated starting with a note by the Under Secretary on 7th April, 1975. It was approved by Krishnaswamy.

**SHRI B. SHANKARANAND** : Please read that note of the 7th.

**SHRI S. M. GHOSH** : The Under Secretary's note merely says :

"We may communicate the facts in respect of the above question of the Lok Sabha as per draft 0/1."

16th June, 1978

The draft 0/1 was approved by the Director, approved by me, approved by the Secretary and the Minister and then sent.

**SHRI B. SHANKARANAND** : Then the question comes, and then what is the note ?

**SHRI S. M. GHOSH**: The note started with the section officer on 12th April 1975, in which he says :

“The Question has been admitted as a Starred Question and is due for answer in the Lok Sabha, and the draft replies to the question and for possible supplementaries are placed for approval.”

**SHRI B. SHANKARANAND** : This was approved by Krishnaswamy ?

**SHRI S. M. GHOSH** : This was approved by Krishnaswamy.

**SHRI B. SHANKARANAND** : On the 12th ?

**SHRI S. M. GHOSH** : On the 12th. After that, Krishnaswamy re-drafted it and submitted it to me. Then, the second draft was approved by me and my Secretary.

*Shri S. M. Ghosh*

**SHRI B. SHANKARANAND** : And then by the Minister ?

**SHRI S. M. GHOSH** : Yes.

**SHRI B. SHANKARANAND** : On what date did it go to the Minister as per note ?

**SHRI S. M. GHOSH** : On 15th April, 1975. Actually, the draft came to me on 12th April, it was re-drafted on 14th April, approved by me on 14th April, went to Secretary on 14th April, approved by him on 14th April, went to and approved by the Minister on 15th April.

**SHRI B. SHANKARANAND** : So, this approval is also approval of the draft note on supplementaries ?

**SHRI S. M. GHOSH** : Yes, Sir. As a matter of fact, as you are aware, whenever there is a Starred Question, anticipating likely supplementaries, we submit what we call a note for the pad or a note for supplementaries. So, when the Minister approves of the draft, he approves of the note for supplementaries also.

**MR. CHAIRMAN** : Thank you.

*(The witness then withdrew.)*

16th June, 1978

(ii) Evidence of Shri R. Krishnaswamy

MR. CHAIRMAN : Mr. Krishnaswamy, you have been asked to appear before this Committee again to give evidence in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd. I hope, you will state the factual position and your version of the events freely and truthfully. I may inform you that the evidence that you may give before the Committee is to be treated by you as confidential till the Report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. The evidence which you will give before the Committee may be reported to the House.

Now, you may please take the oath or affirmation as you like.

*(The witness took the oath)*

MR. CHAIRMAN : Did you check up that ?

SHRI R. KRISHNASWAMY : I checked up. As far as I have been able to find, there is no statutory or legal provision whereby DGTD can enter a factory and check. But under the provisions of the Industries Development Regulation Act, Section 19, the Central Government can authorise any person on their behalf to enter and inspect any premises and order production of any document and can examine any person having the control of or employed in connection with any industrial undertaking. I have prepared a note and I have handed it over to the Sectt.

MR. CHAIRMAN : I think, you please read it out.

SHRI R. KRISHNASWAMY : "On 15th June, 1978 in the course of the pro-

Shri R. Krishnaswamy

ceedings of the Privileges Committee of the Lok Sabha, the Chairman referred to the following passage appearing on page 52 of the transcription of my evidence before the Committee earlier on 11th February, 1978 :—

"SHRI B. SHANKARANAND : Is there any rule or law whereby DGTD can enter into private party's factory and do inspection ?

SHRI R. KRISHNASWAMY : I am not aware whether there is any sanction.

SHRI B. SHANKARANAND : I am talking about the legal sanction. Not your opinion.

SHRI R. KRISHNASWAMY : That is a matter to be checked up I am not sure."

2. The Chairman desired that the legal position in regard to whether the DGTD can enter a private party's factory and inspect it, be checked up and reported back to the Committee.

3. I have had the position checked up. In terms of provision 19 of the Industries (Development and Regulation) Act, 1951, powers of inspection have been given to the Central Government for ascertaining the position or working of any industrial undertaking or for any other purpose mentioned in the Industries (Development and Regulation) Act or the rules made thereunder. The person authorised by the Central Government shall have the right to enter and inspect any premises and order production of any document, book, register or record in the possession or power of any person having the control of, or employed in connection with, any industrial undertaking and can also examine any person having the control of or employed in connection with, any industrial undertaking. The relevant provision is quoted below :—

"Industries (Development and Regulation) Act 1951—Chapter IV—Miscellaneous : Page 25.

16th June, 1978

Shri R. Krishnaswamy

19(1) For the purpose of ascertaining the position or working of any industrial undertaking or for any other purpose mentioned in this Act or the rules made thereunder, any person authorised by the Central Government in this behalf shall have the right—

- (a) to enter and inspect any premises ;
- (b) to order the production of any document, book, register or record in the possession of power of any person having the control of, or employed in connection with, any industrial undertaking ; and
- (c) to examine any person having the control of, or employed in connection, any industrial undertaking.

(2) Any person authorised by the Central Government under subsection (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code."

4. Under the above provision the Central Government can nominate DGTD or any other person as authorised person."

SHRI B. SHANKARANAND : You had sent the officer, to Maruti to collect the information. Do you mean to say that the information was to be collected as per provisions of the Section which you have just now mentioned ?

SHRI R. KRISHNASWAMY : We did not specifically invoke this provision.

SHRI B. SHANKARANAND : The purpose for which the officers were sent to the factory, was that purpose to be served as per the provisions of this law that you are quoting ?

SHRI R. KRISHNASWAMY : The purpose was to collect the information which we needed for answering the Par-

liament question and for that purpose, they had gone to take the inventory of the machinery available in the Maruti. It was for this purpose that we sent these two officers.

SHRI B. SHANKARANAND : Whether the officers were legally competent to collect the information ?

SHRI R. KRISHNASWAMY : They were legally competent but we did not invoke this particular Act at that time. We could have authorised them under this Act.

SHRI B. SHANKARANAND : Why did you not invoke the law ?

SHRI R. KRISHNASWAMY : Our experience has been that no factory normally turns out any officer. It has never happened.

SHRI B. SHANKARANAND : You were very enthusiastic about collecting information. Before your evidence before this Committee on various days, you were very keen to collect information and you were prepared to do anything to collect information. Why its provision was not invoked ?

MR. CHAIRMAN : I want to give a little protection to the witness.

SHRI B. SHANKARANAND : Mr. Chairman, this provision of law will not help legally.

MR. CHAIRMAN : I appreciate your point.

SHRI B. SHANKARANAND : The purpose of this provision is entirely different—for the purpose for which the officer went to this factory. That is why this law did not apply.

MR. CHAIRMAN : I could not follow.

SHRI NARENDRA P. NATHWANI : It is a question for argument.

MR. CHAIRMAN : I have not followed your question. Would you kindly do me a favour just to repeat it again ?

16th June, 1978

**SHRI B. SHANKARANAND :** The officers who were sent by Mr. Krishnaswamy to the factory could not be empowered under this provision to enter the factory and inspect machinery. That is why this provision was not invoked

**SHRI NARENDRA P. NATHWANI :** In the beginning, he did not know what the provision was. Whether it is right or not, we will consider it.

**SHRI B. SHANKARANAND :** How can he say ? He has given his opinion. I have a right to ask questions when he has given his opinion.

**MR. CHAIRMAN :** Let me ask the questions. Immediately he was not empowered. He had to report it back to the Ministry. The Ministry had to take a decision. On the basis of that decision, certain instructions should be given. There are certain legal procedures and all that. The legal procedure had to be followed. Then he was to be empowered to enter the factory accompanied by the police and all that. That is not the position; that should not be the position and cannot be the position.

**SHRI B. SHANKARANAND :** Let the witness say that. He is an intelligent officer. Let him say that.

**MR. CHAIRMAN :** I would not expect you to ask this question being an ex-Minister.

**SHRI B. SHANKARANAND :** Now that you have quoted the law and the legal sanction, whatever the interpretation is, it is a matter of opinion. I do not want to ask any question on that.

**MR. CHAIRMAN :** Now, I would ask a question. Did you bring this matter to the notice of your superiors saying that under these circumstances whether this provision of the law should be invoked by taking necessary action ? Actually, this question was in my mind when he was

*Shri R. Krishnaswamy*

asking questions—why did you not try to get information directly by invoking this provision of the law ?

**SHRI R. KRISHNASWAMY :** As soon as we got a notice about the admission of the question, we sent our officer because in our experience we have never met with any resistance in supplying information at any time. By the time, we found that no information was forthcoming and there was already some delay in submitting information to the Minister ; we had to prepare an answer. We did not go into the other question whether we could compel them within the meaning of this law. Then the question was answered.

**MR. CHAIRMAN :** Did you draw the attention of your superiors to this matter ?

**SHRI R. KRISHNASWAMY :** It was not within my notice then. Therefore, I did not draw the attention of my superiors.

**SHRI NARENDRA P. NATHWANI :** Whether you had consulted the Companies Act to find out whether Government had any such power for asking for information on this line ; whether you had looked into this aspect or not; whether under the Companies Act, you tried to see into it or not. Did you try to see the Indian Companies Act ?

**SHRI R. KRISHNASWAMY :** No, Sir.

**DR. V. A. SEYID MUHAMMED :** Under Section 19, certain powers are given to the officer to inspect books and take into custody certain things, etc. Whatever may be the powers, those powers are there for discharging the functions under the Act for the purpose of the Act.

**SHRI R. KRISHNASWAMY :** The wording is : for any other purpose : for the purpose of ascertaining the position of working of an industrial undertaking or any other purpose mentioned in this Act. The first part says : for the purpose of ascertaining the position. We were asked : What was the machinery which was placed there ?

16th June, 1978

Shri R. Krishnaswamy

**DR. V. A. SEYID MUHAMMED :** My first question is whether those powers for the purpose and function under that Act for collecting information to be supplied for the parliamentary question is a function under that Act.

**SHRI R. KRISHNASWAMY :** But if the information asked for by Parliament is

part of the function of that particular unit, then I personally could invoke the section.

**MR. CHAIRMAN :** Thank you very much.

*(The witness then withdrew.)*

*(The Committee then adjourned.)*

Monday, the 19th June, 1978

PRESENT

Professor Samar Guha—*Chairman*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Ram Jethmalani
6. Shri Krishan Kant
7. Shri Narendra P. Nathwani
8. Shri B. Shankaranand
9. Shri Madhav Prasad Tripathi
10. Shri Ravindra Varma

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer*

Shri M. P. Gupta—*Senior Legislative Committee Officer*

WITNESS

Shri D. Sen, (*former Director of Central Bureau of Investigation*).

(*The Committee met at 10.00 hours and again at 15.15 hours*)

Evidence of Shri D. Sen

MR. CHAIRMAN : Mr. D. Sen, you have been asked to appear before this Committee to give evidence in connection with the question of privilege against Shrimati Indira Gandhi and others for their alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answer to certain questions in Lok Sabha on Maruti Limited. I hope you will state the factual position and the version of the events freely and truthfully.

I may inform you that the evidence that you may give before the Committee is to be treated by you as confidential till the Report of the Committee and its proceedings are presented to the Lok Sabha. Any premature disclosure or publication of the

Shri D. Sen

proceedings of the Committee would constitute a breach of privilege. The evidence which you will give before the Committee may be reported to the House. Now you take oath or allegiance as you like.

(*The Witness took the oath*)

MR. CHAIRMAN : You have stated in your statement to the Committee and also included in the annexure whatever you have to say. I would like to ask you to read out the whole statement and the annexure as well.

SHRI D. SEN : Much of the suspicion and misunderstanding...

MR. CHAIRMAN : No ; you may start from the letter addressed to Shri J. R. Kapur.

SHRI D. SEN : I have not brought that today.

SHRI O. V. ALAGESAN : It can be taken as read.

MR. CHAIRMAN : It is the opinion of the Members that he should read it out.

SHRI O. V. ALAGESAN : It is a very long statement.

MR. CHAIRMAN : But I have to go by the opinion of the Members.

We will give you a copy of it, Mr. Sen. and you can read it.

SHRI D. SEN : It reads .

SECRET  
URGENT

From : Shri D. Sen,  
A-1/152, Safdarjung Enclave  
New Delhi.

To : Shri J. R. Kapur,  
Chief Legislative Committee  
Officer.

Sir,

Kindly refer to your most immediate letter No. 18/3/CI/77 dated 7th January, 1978 on the subject of the question of

19th June, 1978

privilege against Smt. Indira Gandhi and others. I have been asked to say what I can about this matter and as I feel that all the points relating to this matter, as far as I am concerned, have already been submitted by me in writing to the Shah Commission, who are also seized of this very matter, I am enclosing herewith a copy of my statement to the Shah Commission for the consideration of the Hon'ble Committee. The first two paragraphs of this statement only refer to matters concerning the proceedings before the Shah Commission and so these may not be relevant for the Hon'ble Committee.

In the end, I may also be permitted to add that lot of evidence has been recorded concerning this matter by the Shah Commission and so it would be desirable, both to save me from double jeopardy and for a proper consideration of this matter if the Hon'ble Committee which, being a Committee of the Parliament is Supreme, could withdraw this matter from the Commission and get from them all the evidence recorded in this matter concerning these four officers. I might also most respectfully submit that as stated by me in para 39 of the enclosed statement I was at no time aware that these four officers were collecting any information regarding Maruti affairs in order to prepare a reply for a Parliament question. In view of this fact, I humbly submit that there was never any intention at all on my part to exercise any power or authority in order to deter them from doing their duty in connection with collection of material for answering the Parliament question or to victimise them for having done such duty.

Thanking you,

Yours faithfully,  
Sd/-

Dated : 20-1-78

(D. Sen)

PS : If any further clarification is needed after going through the

S/26 LSS/78—20

Shri D. Sen

enclosed statement, I shall only be too happy to give it personally.

Sd/- D. Sen  
20-1-78

Statement of the case relating to alleged misuse of power and institution of false cases against four senior officials by the C.B.I. at the instance of Smt. Indira Gandhi, the then Prime Minister.

1. Much of the suspicion and the misunderstanding could have been clarified if I were able to bring home certain procedures which have obtained in the C.B.I. for long. I have already covered most of the procedural points in my statement before the Commission but for the purposes of this statement it is necessary to mention some of the most important points relating to procedure. These are given in Annexure I\*. I must, however, hasten to add that the procedure only supplements and does not supplant legal provisions which have to be adhered to.

*Receipt of complaints against 4 officials*

2. When I gave my statement before the Commission, it was mostly on the basis of what I could recollect after such a long time and some sketchy notes, which I could make personally during too short time at my disposal, from the concerned files of which the number was quite large. Even now I have not been able to make copies of all the relevant notings and these could not be supplied by the Commission due to the lack of staff. But as I have taken more notes than before it would be possible to give dates etc. more accurately than when I deposed first.

3. Information about each of these 4 officers was given to me personally by Shri R. K. Dhawan (as I have stated before the Commission, I had discussed this matter with Shri B. N. Tandon, the then Joint Secretary in Prime Minister's Secretariat and he had said that papers or information coming from Shri Dhawan

\*pp. . . . .



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should be treated as coming from this Secretariat as Shri Dhawan also belonged to this Secretariat). Shri Dhawan came to my office in North Block personally for this purpose on the 14th or 15th April, 1975. The information against each officer except Shri Cavle was conveyed to Shri Rajpal on 15-4-75 and he was asked to verify the information against each of these officers and submit a report within five days. The information against each of the four officers given to me by Shri Dhawan was that the Prime Minister had received complaints from M.Ps. to the effect that these four officers (Names and designation of all the officers were given by Shri Dhawan except, as far as I can recollect now, the exact designation of Shri Cavle in the S.T.C. was not given and I ascertained it myself), were corrupt, had large assets and were favouring certain firms. From the fact that he had come personally to give this information and that the complaints had been passed on to me by the Prime Minister made it quite clear that the matter could brook no delay.

4. The case of each officer would now be discussed separately.

5. *Shri A. S. Rajan :*

Shri Rajpal started confidential enquiries on 16-4-75 through his S.P. and other officers. On 16th as far as I can recollect now after having seen the relevant file, I asked Shri Rajpal if verification had started and he replied that he had already collected some information and the reputation of this officer for integrity was bad. He was then asked to send the information collected till then to me.

6. The special unit file was received sometime on the evening of 16-4-75 and the notings of the S.P. and Deputy Director (Intelligence) showed that (i) Shri Rajan had a bad reputation for integrity, (ii) he had shown favours to M/s. R. K. Machine Tools in recommending grant of licence for automobile parts and for recommending import of some raw material to M/s. Daulat Ram.

7. It may be noted here that under Section 3 and under Section 5 of the D.S.P.E. Act, every officer of the C.B.I. of and above the rank of S.I. has the powers and obligation of an officer-in-charge of police station. The function of the Intelligence Unit, the officers of which do not exercise any police powers, ceases with collection of intelligence and the decision about the registration of a case has to be taken by the Director or the Joint Director (in cases in which Intelligence Unit notes are forwarded by D. D. Intelligence) in accordance with legal provisions.

8. The information given by the Intelligence Unit on 16-4-75 itself lent confirmation to the allegations received against this officer by the Prime Minister and also disclosed specific instances of undue favours to two firms. Immediate action therefore had to be taken as required under Section 157 Cr. P.C. of which the relevant portion is quoted below :—

“Section 157(1) : If, from information received or otherwise, an officer-in-charge of a police station has reason to suspect the commission of an offence which he has empowered under Section 156 to investigate, he shall forthwith send a report of the same to a magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed to the spot, to investigate the facts and circumstances of the cases and, if necessary to take measures for the discovery and arrest of the offenders”.

9. From the above quotation, it will be clear that (1) a case has to be registered and investigation has to start immediately when there is even reasonable suspicion that a cognizable offence has been committed and even at this stage the suspected offender can even be arrested.

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10. Here I will request the Commission to appreciate that the information conveyed on 16-4-1976 itself by the Intelligence Unit required registration of a case in accordance with provisions of 157 Cr.P.C. under Prevention of Corruption Act against Shri Rajan. In fact, if I had delayed registration of the case, it might have been dereliction of duty on my part and I could have been blamed for it. In fact, even on the basis of the information conveyed by the Prime Minister through Shri R. K. Dhawan, a case could have been registered immediately because complaint of possession of large assets by this officer had been made by M.Ps. The real purpose for giving it for verification to the Intelligence Unit was to find out the reputation of this officer and specific information about favours to firms if any. The Intelligence Unit not only found, even on the 16th, that he had a bad reputation but also two specific cases of showing undue favours to 2 firms.

11. From some enquiry made from me by somebody it also appeared to me that there might have been some leakage when the Intelligence Unit verified the residential address etc. of this officer etc. and so, to prevent him from concealing any of his assets, DIG Delhi with whom the matter was discussed was asked to register the case and to have a search of the residence of this officer conducted soon after the registration because as noted by the DIG Delhi on page 2/c of Delhi Branch file, "the accused might have got some inkling about the impending C.B.I. probe against him".

12. Under Section 165, Cr.P.C., the search could have been conducted by the Investigating Officer himself as only through this means his assets could be uncovered without undue delay but still to enable an independent judicial authority also to apply its mind a request for a search warrant, in accordance with our usual practice, was made to the magistrate concerned and search was conducted only on the basis of the search warrant issued by him.

13. Ultimately, after completion of investigation the Joint Director (the file did not come to me at this stage as the J.D. was competent to pass final orders) ordered that minor penalty proceedings in respect of (i) favours shown to M/s. R. K. Machine Tools (ii) recommending import of the raw material to a firm (iii) contravention of Govt. Conduct Rules should be recommended. The Central Vigilance Commission not only agreed with the recommendations on 21-8-1976 but also remarked (38/C Part III of the Head Office file of this case) that "the Commission is rather surprised that only minor penalty proceedings have been recommended against Shri Rajan. Probably they (CBI) have not been able to gather adequate evidence to prove the active collusion of Shri Rajan. In these circumstances, Commission can only agree to institution of minor penalty proceedings".

Shri P. S. Bhatnagar

14. The confidential enquiry against Shri Bhatnagar was also ordered on 15-4-1975 and as in response to an enquiry about action taken in this regard, I was told, as far as I can recollect, on 16-1-1975 itself that this officer's reputation was bad, the DIG was requested to send the information which had been collected by his Unit. This officer's file also reached me on the evening of 16-4-1975 and according to the note of Shri Vijayan, SP, the reputation of this officer for integrity was not good, he was "working as agent of his Chief Marketing Manager, Shri Cavale, in dealing with parties coming into contact with PEC with ulterior motives, he has been placed under suspension under STC Rules for misconduct and that he was figuring in the case of Shri R. S. Bansal, Accountant who was arrested in Bombay in RC 44/74 when he was found with release orders at Bombay". Shri Rajpal in his note agreed that this officer did not enjoy good reputation endorsed the other allegations, and referred to his suspension by STC.

15. For the same reasons as the case of Rajan and, on account of the provisions of the Cr.P.C., quoted above, it was neces-

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sary to register a regular case for investigation against Shri Bhatnagar also and, accordingly, registration of a regular case in C.I.A. II was ordered.

16. After completion of investigation, Shri Chaudhuri recommended in respect of 3 allegations RDA for major penalty and I agreed with him. The C.V.C. on 17-6-76 advised minor penalty proceedings in respect of two of these allegations. We accepted the advice of the C.V.C.

*Shri R. Krishnaswamy*

17. Information about him was passed on also on 15-4-1975 to Shri Rajpal and confidential enquiries started on 16-4-1975.

In his case it was reported that his reputation was good but that he was holding a large number of shares in various companies though a major portion was gifted to him by his father.

18. As his reputation was said to be good registration of neither a P.E. nor a R.C.—PE is preliminary enquiry and RC is regular case—was ordered against him, when D.D. Intelligence put up the file on 19-4-1975. When the file was put up by the Jt. Director on 27-4-1975, there was information to the effect that he was holding a large number of shares in various companies even though a major portion of shares were gifted to him by his father. Because of this an enquiry into his shareholdings, specially to ascertain the shares purchased by him with his own money appeared necessary and as this enquiry could possibly be made from Income Tax Department etc., registration of a P.E., after discussion with the Jt. Director, was ordered on 27-4-75 and a P.E. was registered on that date in CIA-II. Special Unit also continued collecting further information about him and on 1-5-1975 Shri Chaudhuri, Jt. Director, noted that "the I.T. Return file of the officer has been collected. From this it is seen that his father gifted shares in 1972. He was, however, having the shares of Chemical Fibres, Poysha Industrial Co. Ltd., Indian Explosives from earlier years". As this clarified that he had acquired shares even

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before 1972 from his own money, when he was a comparatively junior officer, it became necessary to investigate his assets and so, after discussion with the Jt. Director, Shri Chaudhuri, it was ordered that the "S.P. may send his recommendation for conversion of his P.E. into R.C. through his D.I.G. After conversion is done, search is to be conducted immediately and a report submitted for information". Also, as noted by Shri Chaudhuri, "every care was to be taken, as explained during the discussion, that least annoyance and inconvenience was caused during the search". On the basis of the report of the S.P. of the D.I.G., the Jt. Director concerned permitted conversion of P.E. into R.C.

19. The action taken in this case was again in accordance with the provisions of the Cr.P.C. quoted above.

20. After completion of investigation (paras 14-177/n of H.O. file) while the investigating officer recommended prosecution on the charge of disproportionate assets, the DIG disagreed with this recommendation but agreed that regular departmental action should be recommended for showing favours to M/s. Amco Transformers. He also recommended action considered suitable by the Department for (i) obtaining discount of Rs. 125/- from Phillips India on the purchase of a Stereo system and (ii) for contravention of Conduct Rules for obtaining loans exceeding Rs. 1000/- from Indian Bank.

21. The Additional Director agreed with the recommendations of the D.I.G. except that he felt that no report for suitable action need be sent in regard to loans. I agreed with the Additional Director.

22. C.V.C. ultimately advised no action on 28-10-1976 and when it was put up before me, I agreed that we may accept C.V.C.'s advice.

23. From his house search some whisky bottles and some accounts relating to purchases from Singapore through Shri Krishnaswamy's sister-in-law were recovered

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and these indicated violations of Excise Act and F.E.R. Act respectively. Though we could have registered cases under Excise and FER Act and investigated them ourselves, we decided to report the recovery of whisky bottles to the local police and the suspected FER violation to the Directorate of Enforcement for necessary action.

#### 24. *Shri Cavle*

In regard to Shri Cavle, according to note recorded by S.P. Intelligence Unit and Shri Rajpal D.D. after secret enquiries, revealed that (para 4 of Intelligence Unit file) (i) Shri Cavle was a corrupt officer, (ii) he was living beyond his means, (iii) he had taken a bribe from M/s. Balliboi and Co. for showing favours to them... for getting an import licence and its mis-utilization and (iv) he had purchased a flat in Bombay with his ill-gotten money. His reputation for integrity was bad and he was seen visiting hotels and restaurants.

25. Shri Cavle (Para 20) owned T.V., Stereo Record Player, Air Conditioner, Air Room Cooler and an imported car besides other household goods and although he had not shown any flat in his property return, according to a source of Inspector Mukherjee, he had admitted that he owned a flat in Bombay.

26. Later some information was also received from Bombay to the effect that he had sold a FIAT car to Shri Tarachand of M/s. Empire Dying, Bombay and the price of sale shown i.e. Rs. 12,000/- was rather on the low side.

27. On 24-7-75 Shri Chaudhuri discussed the information available with me and I thought that an R.C. could not be registered straightaway but a P.E. could be registered. Also when more information became available within 4-5 days then the P.E. could be converted into R.C. Accordingly, a P.E. was registered in Delhi Branch on 28-4-75.

28. After collection of some more information and consideration of watch reports which showed that (i) he was living

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in a high style and (ii) had perhaps concealed purchase of a flat in Bombay, Shri Vijayan, S.P. (para 56 of the Intelligence Unit file) recommended a search of the house of Shri Cavle. On the same day, Shri Chaudhuri, agreeing with Shri Vijayan, recommended that the P.E. should be converted into R.C. This was approved by me and, as the Jt. Director, Shri Chaudhuri, noted, "the S.P. may send his recommendation through D.I.G. to Jt. Director (G) for conversion of this P.E..... into R.C., as the case is against a G.O. Class I. Jt. Director (G) may please approve the conversion and then searches may be conducted after obtaining search warrants. Jt. Director (G) may pass on the file to D.C.B.I. for his approval of conversion, if necessary". Shri Chaudhuri marked this note to J.D. (G), Shri M. Gopalan, for necessary action.

29. It may be noted that in this case although Shri Cavle was found to have acquired assets worth Rs. 1.60 lakhs during 10 years, it was thought that a good case for disproportionate assets could not be made out. It may also be added that another J.D. Shri Laxminarayanan, had noted on 4-6-75 (H.O. file part IV, pg. 1) that "if you want to get any information it has to be by immediate search... as otherwise evidence is likely to be lost".

30. Certain contravention of Departmental Rules were found during investigation but no action was suggested as Shri Cavle had resigned in the meantime.

#### Conclusion :

\* 31. In conclusion it may be desirable to discuss the justification of action taken under the heads (i) registration, (ii) searches, (iii) investigation.

#### (1) Registration :

32. As has been stated before, cases of corruption in which Prime Minister himself or herself desires quick investigation are rare and therefore utmost speed in the finalisation of these cases is necessary. It follows from this that preliminary confidential verification, if any, should be limited

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to the point at which there is a reasonable suspicion of commission of a cognizable offence (here an offence under the Prevention of Corruption Act). As the information given by M.Ps. to the Prime Minister was to the effect that all these officers were in possession of large assets, disproportionate to their known sources of income, and as this is a specific offence under the Prevention of Corruption Act, a case could have been registered against such of these four officers as soon as this information was received but just by way of caution, I asked D.D. Intelligence to make a confidential check mainly with a view to ensure that a case was not registered against an officer if his reputation was good. In case of all officers except Krishnaswamy it was reported that their reputation for integrity was bad and some specific instances of showing favours to firms and living in a high style, considering their status etc. was also reported. I would, therefore, respectfully submit that I could have been held guilty of dereliction of duty if cases were not registered against these three officers as soon as this information became available, as it was mandatory under Section 157 Cr. P. C.

33. In case of Krishnaswamy a case was not registered till it became clear from the Intelligence Unit file that he had acquired shares of a number of companies with his own money before some shares had been gifted to him by his father. This again was in compliance with the provisions of Cr. P. C.

34. I might add that such speed in registration of cases i.e. registering a regular case as soon as such action seems necessary under Section 157 of Cr. P. C. is usual when the information comes from the Prime Minister. To give instance of a very similar case, when Pandit Nehru received information from M.Ps. (in this case also the information was from M.Ps.) to the effect that there was corruption in purchases in Border Road Organisation at Tejpur, I was asked to fly to Tejpur and complete enquiries and have action initiated within 7 days even though it took 3 days by air from Delhi to Tejpur and back.

35. A team of officers had gone with me and within a few days we collected some information about corruption in purchases and 4 cases were registered. These are known as "Tuskar" cases.

36. While the decision for registration of cases was taken by me in accordance with the legal provisions quoted above, I might note incidentally, that in 2 cases in which Shri Chaudhuri was consulted he did not oppose the registration and seemed to agree with me and therefore his statement to the effect that he was acting entirely as directed by me is no correct. After all he was an officer of the rank of Inspector-General of Police and officers of this rank can and have always given to me independent and sound advice.

#### Searches :

37. As in all the cases the main allegations related to disproportionate assets, searches had to be conducted to uncover all the assets before information about enquiries leaked out. In this case the note of D.I.G., Delhi in case of Rajan and legal provisions regarding searches quoted above may be referred to. It might however be emphasised again that search warrants were obtained after putting up the information available against each officer before the competent magistrate.

38. Certain special features which will show beyond doubt that no harassment was caused to these officers are noted below :—

- (i) Although a case could have been registered immediately on receipt of information from the Prime Minister as mentioned before, a confidential verification in regard to reputation the other allegation was made and cases were registered at the stage at which it should have been done.
- (ii) Searches were necessary before any leakage to uncover all the assets and even though the C.B.I. Investigating Officer himself

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could have conducted the searches under Section 165 of the Cr. P. C., search warrants were obtained to enable the independent judicial authority also to apply its mind.

- (iii) Even at the stage of searches or soon after registration the officers could have been arrested in accordance with the provisions of Section 157 Cr. P. C. The fact that this was not done should prove beyond doubt that there was no intention to harass these officers by any vindictive action.

Here with the permission of the Chairman I would like to add that in the papers sent to me in regard to this privilege question there is mention of some reporting by the local paper that these officers were arrested. I think it was mentioned even during the debate on this question in the Lok Sabha. I might mention that no one was arrested. I thought due to this misunderstanding I have been dragged into this matter.

- (iv) In Krishnaswamy's case the Investigating Officer had recommended prosecution and if I had any intention to harass Krishnaswamy I could have accepted this recommendation but, as mentioned before, I accepted the most lenient recommendation made by the Additional Director.
- (v) The most important test in regard to point of harassment is investigation. The fact that no effort was made to pad evidence should also prove beyond doubt that there was no intention at all to harass these officers. In fact, in each case the recommendation of that senior officer, who recommended the most lenient action, was accepted.

39. In the end it may also be noted that nobody brought to my notice and

I had no idea at all that these officers had anything to do with Maruti affairs. If it had come to my notice I would have, as stated already, gone to the then Prime Minister and requested her that C.B.I. should not be involved in these cases even though we would have had to abide by her final orders.

#### ANNEXURE--J

In the MHA Resolution of April 1, 1963, under which CBI was established, collection of intelligence about corruption, which includes confidential verification of information, was noted as one of the functions of the CBI in addition to investigation and prosecution etc. Also, the Intelligence Unit at Delhi (also known as Special Unit or S.U.) only collects intelligence or makes confidential enquiries and does not perform any functions under the D.S.P.E. Act (which gives police powers to S.P.E. Division of the C.B.I.), namely investigation and prosecution.

2. The head of the Intelligence Unit is an officer of the rank of D.I.G. who, because he does not perform any police function, is designated as Deputy Director, while officers who perform police functions carry police designations also e.g. Director CBI is designated as Director, CBI and I.G., S.P.E. and Jt. Directors who are of full I.G.'s rank as Jt. Director and Special I.G.

3. Under the Deputy Director Intelligence are two officers of the rank of S.P., a number of Deputy S.Ps., a number of Inspectors and S.Is. and Head constables etc. who mainly constitute watch teams, which function under the control of the Inspector or Deputy S.P. who collects intelligence or verifies information confidentially in regard to an officer. Watching is only one of the way of collecting intelligence.

4. When some information had to be verified quickly then instead of wasting time in recording a note and then sending it to D.D. (Int.) it was given orally to the D.D. (Int.) who always reduced this information to writing and then proceeded

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to verify it. Also in urgent cases information against one officer was given to one team of Intelligence Unit for verification.

5. When it appeared that the allegations only amounted to departmental misdemeanour or some more useful information could be collected from Government departments only, a P.E. was registered but when the allegations related to cognizable offences requiring investigation under the Cr. P.C., a R.C. was always registered.

MR. CHAIRMAN : When did you join the CBI and when did you become its head ? Till what time were you there ?

SHRI D. SEN : I joined S.P.E. in January 1958 ; it was not CBI then ; it became CBI in 1963 and I became the Director of CBI in May, 1971 and I continued till March 1977.

MR. CHAIRMAN : At the moment, what are you doing ?

SHRI D. SEN : Nothing.

MR. CHAIRMAN : Under which ministry does it come ?

SHRI D. SEN : Formerly it was under the Home Ministry. It was then under the Prime Minister ; when I was the director it was under the P.M.

MR. CHAIRMAN : The Home Ministry had nothing to do with it ?

SHRI D. SEN : No. But Mr. Om Mehta was also the Minister of State for Home Affairs and he was in charge of the department of personnel which came under the P.M. The CBI comes under the department of personnel, which was part of the Prime Minister's Secretariat.

MR. CHAIRMAN : You had to meet frequently the Prime Minister. What was the reason ?

SHRI D. SEN : There were various administrative matters for discussion because the CBI came directly under the Prime Minister. Sometimes important

cases had to be discussed. As I have said in my evidence in May 1976 I had to move to 3, Safdarjang Lane because the house where I was staying was being demolished ; since my new residence was close to the PM's house, sometimes I was called and handed over some papers, instead of they being sent by dak.

MR. CHAIRMAN : What are the other comparable organisations for intelligence, like the CBI ?

SHRI D. SEN : I want to make one thing clear : the C.B.I. is not an intelligence organisation ; it is an organisation for investigation of cases. We have only one unit for intelligence work and that intelligence is about collection of information about corruption.

MR. CHAIRMAN : What are the other agencies ?

SHRI D. SEN : Intelligence Bureau is one ; RAW is another.

MR. CHAIRMAN : It appears somewhat unusual that the other chiefs of other intelligence agencies did not meet so frequently the Prime Minister as you did.

SHRI D. SEN : I. B. is under the Home Ministry, it is not under the Prime Minister. Only CBI and RAW came directly under the Prime Minister.

MR. CHAIRMAN : How many times Mr. Kao of RAW visited the Prime Minister ? Can you give us an idea ? Did he meet the P.M. once or twice a day as you did ?

SHRI D. SEN : I never met the P.M. twice or thrice a day ; as I explained sometimes just for handing over some papers I might be called there.

MR. CHAIRMAN : How many complaints against the central government officers were dealt with by the CBI during 1974, 1975 and 1976 ? Can you give us a rough idea ?

SHRI D. SEN : On an average the CBI investigates about 1200 new cases every year. On a very rough estimate, about 150

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or so may be economic offence cases and about 1000 would be against government servants.

**MR. CHAIRMAN :** How many such cases originated from the Prime Minister, in the year 1974, 1975 and 1976 ?

**SHRI D. SEN :** There must be similar cases but I cannot say offhand.

**MR. CHAIRMAN :** In your statement you have stated that whenever any verbal or other instructions come from the P.M. you take it seriously ; otherwise it will tantamount to dereliction of duty. You acted with promptness in the case of these four officers ; cannot you recall one case where such complaint originated from the office of the Prime Minister ?

**SHRI D. SEN :** When I say dereliction of duty, it was not in the context of the Prime Minister ; I said that in the context of section 157 Cr. PC.

**MR. CHAIRMAN :** Can you recall a similar case where the complaint originated from the source of the office of the Prime Minister ?

**SHRI D. SEN :** Sir, I am sorry, I cannot recollect at this time, but I quoted one case here which refers to Pandit Nehru's time. There have been some other cases also.

**MR. CHAIRMAN :** Has it ever come to your knowledge that any complaint as this one was brought to your notice as complaint made to the Prime Minister by M.Ps. and then it was directed to you for making investigation ? Is there any such single case ?

**SHRI D. SEN :** I am sorry, I do not remember.

**MR. CHAIRMAN :** This vague thing won't do. Please do not hesitate to say anything here. You have been the director of CBI since 1971. You said that there were so many occasions. I want to know a single case which has been directed to you for investigation and where you have found that this was a complaint made

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to the Prime Minister and the Prime Minister wanted it to be investigated by you.

**SHRI D. SEN :** In a number of cases M.Ps. send their complaints in writing to me.

**MR. CHAIRMAN :** I want to know from you whether you had the occasion of inquiring into any case which was directed to you from the office of the Prime Minister and it was told that the Prime Minister received the complaints in respect of this case from the M.Ps. and on the basis of the strength of those complaints made by the M.Ps., the office of the Prime Minister directed you to investigate in this matter.

**SHRI D. SEN :** I am very sorry, at this distance of time I don't remember any.

**MR. CHAIRMAN :** A man of your position, when you dealt with thousands of cases, when you so glaringly elaborated the things, could you not remember even one case ? You do not remember even a single case which was directed by the Prime Minister on the complaints of M.Ps. ?

**SHRI D. SEN :** If I am given some time, I might be able to see the files and tell you.

**MR. CHAIRMAN :** When did you receive the complaint from Mr. R. K. Dhawan ?

**SHRI D. SEN :** On the 14th or 15th April.

**MR. CHAIRMAN :** You mentioned it to the Shah Commission during cross-examination as 15th.

**SHRI D. SEN :** Yes, it was 15th.

**MR. CHAIRMAN :** At what time and where ?

**SHRI D. SEN :** Mr. Dhawan came to my office in North Block to give this information.

**SHRI KRISHAN KANT :** Was Mr. Dhawan coming to you quite often to give you the cases ?



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SHRI D. SEN : Sometimes he came to me to give information.

MR. CHAIRMAN : Would you kindly tell exactly or from the memory what are the exact words that were verbally communicated to you by Mr. Dhawan ?

SHRI D. SEN : As far as I recollect, the sum and substance of what he said was this, that some M.Ps. have complained to the P.M. that these four officers were corrupt, they had very large assets and that they were favouring certain firms.

MR. CHAIRMAN : Did you note down the exact words of what he told you ?

MR. D. SEN : I did not note down, but as soon as Mr. Dhawan left, I called Mr. Rajpal and he noted this on the very day, the 15th. It was on the file.

MR. CHAIRMAN : Did you ask Mr. Dhawan to give you the complaint in writing ?

SHRI D. SEN : No, Sir. This is never done. This is all treated as information because a complaint comes only from a man who has first-hand knowledge, and if he wants his name to come, then only there will be a written complaint.

MR. CHAIRMAN : Did you talk to the Prime Minister about this personally because you mentioned that you had many occasions to meet the Prime Minister very frequently ?

SHRI D. SEN : I will not say 'very frequently'. I might have gone to her place to get some papers.

SHRI KRISHAN KANT : How many times ?

SHRI D. SEN : I think I met her twice or thrice a month, but I had to go there occasionally also to take papers.

SHRI KRISHAN KANT : Is there not an official method of getting the papers ?

SHRI D. SEN : Because I was on No. 3, Safdarjang Lane, my way to office was through that house and because every day I passed it when I went to office, I went

there when somebody had telephoned to me to pick up the papers.

SHRI KRISHAN KANT : You are the head of the CBI, you go there quite often ?

SHRI D. SEN : If it is a top secret thing.

SHRI KRISHAN KANT : But then, Top Secret papers are also sent in sealed covers ?

SHRI D. SEN : That was quite true, but that was the procedure.

SHRI KRISHAN KANT : That was the procedure you adopted ?

SHRI D. SEN : No.

MR. CHAIRMAN : Why did you not think it proper or desirable to verify as you had an easy access to the residence of the office of the Prime Minister ? Why did you not try to verify from the Prime Minister whether the complaint that was made by Mr. R. K. Dhawan on behalf of the Prime Minister, or whether the exact wordings that Mr. Dhawan communicated to you were the words of the Prime minister herself ?

SHRI D. SEN : At that moment I did not consider it necessary to verify because normally after some action is taken, we send the progress report and sometimes, it ultimately reaches the Prime Minister.

SHRI KRISHAN KANT : Probably that was the relation you built up with Mr. R. K. Dhawan.

SHRI D. SEN : No, Sir.

MR. CHAIRMAN : What are the names of officers against whom verbal complaints were communicated to you ?

SHRI D. SEN : These four officers.

MR. CHAIRMAN : Did Mr. Dhawan give the full names of these officers ?

SHRI D. SEN : He gave their surnames and designations.

MR. CHAIRMAN : Have you noticed that Mr. Dhawan in his statement and in

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the statement which he made before the Shah Commission—I am not concerned with the Shah Commission because he has communicated the same to us—he categorically said, not once, but innumerable times, that he mentioned no designations and no full names whatsoever ?

SHRI D. SEN : That is not correct. If there is a name of 'Bhatnagar', there are hundreds of Bhatnagars. We could not find out in one day who is that Bhatnagar. He said : 'Mr. Bhatnagar working in the STC'. This is what Justice Shah observed : "There are hundreds of Bhatnagars, we do not know where this Bhatnagar is working".

MR. CHAIRMAN : According to your version, although it is contradictory to the version of Mr. Dhawan, Mr. Dhawan gave you the surnames and also the specific designations of those officers.

SHRI D. SEN : Excepting in the case of Mr. Cavale about whom he said that he was working in the STC. He did not give his exact designation.

MR. CHAIRMAN : According to your categorical statement, you received a complaint on 15th. At what time did you receive this complaint ?

SHRI D. SEN : Some time during the day. I do not remember the time.

MR. CHAIRMAN : Some time during the day does not mean anything. I want to know the approximate time.

SHRI D. SEN : I do not exactly remember it, but I passed on the information immediately to Mr. Rajpal and he had recorded his note on the 15th.

MR. CHAIRMAN : You cannot remember whether it was in the morning or noon or in the evening.

SHRI D. SEN : I never knew that it would assume such an importance, because I treated it as any other case except that the cases which came from the P.M. which had to be given top priority.

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MR. CHAIRMAN : You were treating it very important because it came from the Prime Minister. You took it very seriously and you were asked to take prompt action.

SHRI D. SEN : I may be excused. It had to be given top priority. Otherwise, it was a case like any other case. Top priority means in completing the investigation.

MR. CHAIRMAN : What do you mean by immediately ?

SHRI D. SEN : Mr. Rajpaul's office used to be in the Safdarjang Enclave. I thought if I gave a ring to him, he might come in an hour or so.

MR. CHAIRMAN : In your statement you have mentioned that a complaint was received. Did you receive it in the morning or noon ? Then you mentioned by 16th.

SHRI D. SEN : 16th afternoon.

MR. CHAIRMAN : It is strange that you do not know the time. Then it is mentioned about who are the bad characters and what are the preliminary charges.

SHRI D. SEN : I may mention here that in two cases—Mr. Rajan and Mr. Bhatnagar—the report came on the 16th afternoon, not in other cases, not in the case of Mr. Cavale. They took some time in these cases. As I mentioned, about Mr. Rajan, there was some leakage of information. Somebody rang me up. It was recorded at that time by the DIG Delhi in his file. On 16th, I telephoned to Mr. Rajpaul. He said he had already collected some information about Mr. Rajan and Mr. Bhatnagar. So, I asked him to send these files to me. He had already collected information about their reputation and certain other things.

MR. CHAIRMAN : What are the rules and procedure of the CBI in regard to investigations or enquiry in respect of any complaint ? Whether on the basis of any verbal complaint you take steps or is it necessary that that verbal complaint must be backed immediately by the written complaint ?

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SHRI D. SEN : The procedure is that we mostly work on the information supplied to us. But cases are registered on the basis of our own information. The name of the informant is never divulged. Even when a Minister or his Secretary sends a complaint to us in writing and he marks it secret, we do not treat it as a complaint but we treat it as information.

MR. CHAIRMAN : My question has not been answered. I asked you a very specific question. In the case of Prime Minister, you said, I do not know whether it is an exception or not. My question is if a verbal complaint is made whether CBI immediately goes into action or if a verbal complaint is made, from whatever source it comes, is it required to be backed by a written complaint ?

SHRI D. SEN : No, Sir.

MR. CHAIRMAN : Can you give me one instance during 1974-75, 1975-76 and 1976-77 where you conducted any kind of an enquiry or investigation where any verbal complaint was made either by your Ministry or any Secretary ?

SHRI D. SEN : For example, I give you one instance which I remember. It was very recent when I was about to hand over my charge. The Secretary made a verbal complaint about Mr. Butt who was the Chief Secretary in U.P. He wanted it to be verified. We verified that complaint. Since he was in the U.P. Government, we could not register the case. We sent it to the Secretary and later on I heard that that case had been registered.

MR. CHAIRMAN : Only one case you could remember.

SHRI D. SEN : There are many other cases.

MR. CHAIRMAN : Whenever any verbal complaint is received either from the Minister or the Prime Minister or his Private Secretary or any Secretary belonging to any department, is it not necessary to ask them to send it in writing for keeping a record ?

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SHRI D. SEN : This has not been the practice. All I can say is that this has not been the practice. Whenever a Minister or a Secretary gives information, we do not ask him to send it in writing. Mr. B. N. Tandon, Joint Secretary to the Prime Minister, used to send us complaints. I discussed it with him. I asked him : If Mr. Dhawan sends me any information how should I treat it. Should I treat it as coming from him or from the Prime Minister ? He said : Mr. Dhawan is also part of the Prime Minister Sectt. and any information coming from him should be treated as information coming from the Prime Minister's Sectt.

MR. CHAIRMAN : You did not get it confirmed in writing.

SHRI D. SEN : If you stick to writing, with all respects to you, we may get very few complaints. As far as even Secretaries are concerned, even they do not want to put it in writing. They say : This particular information is being sent to you, you better verify it.

MR. CHAIRMAN : Is there any lacuna ?

SHRI D. SEN : In fact, the Santhanam Committee itself recommended that secrecy of the information should be safeguarded.

MR. CHAIRMAN : So, the whole file is secret.

SHRI D. SEN : Our office files are not secret.

MR. CHAIRMAN : I want to draw your attention to the remarks made by the Home Minister himself : He said : important files are secret. Secrecy does not mean that no record should be kept.

SHRI D. SEN : With all respects to you, this matter was examined by the Estimates Committee in 1968. The Estimates Committee went into the procedure of CBI. In 1968, the procedure of the CBI was explained to the Estimates Committee. As I said, 70 per cent of our cases are mainly based on information and FIR begins like this : "information has been received".

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There is nothing in writing. If you want to change the procedure, it can certainly be changed. But all I wish to say is that this has been the procedure so far.

MR. CHAIRMAN: Did you meet the Prime Minister within a week after your office started enquiring into the complaints against these four officers?

SHRI D. SEN: I might have met her but there was no talk about this case.

MR. CHAIRMAN: I suppose you are a regular newspaper reader and I also think that you must have attended the Parliament's officers' gallery before the 15th.

SHRI D. SEN: No, Sir.

MR. CHAIRMAN: But you must have read in the newspapers that many questions were raised on the Floor of Parliament about Maruti.

SHRI D. SEN: About Maruti, there used to be questions and it used to be reported in the press.

MR. CHAIRMAN: Did any suspicion ever arise in your mind that these officers were dealing with Maruti?

SHRI D. SEN: This suspicion never arose in my mind. As I have said before the Shah Commission, if I had the slightest inkling that these officers were connected with this, I would have gone to the Prime Minister and said that CBI should be kept out of the case. We had registered a preliminary enquiry against Mr. M. Sondhi. The S.P., Ranchi, sent a report about Shri Sondhi when he was in Bokaro. When this report came up before Shri Om Mehta he said: 'Yes, you may start an enquiry'. Then I said we must consult the Minister first and went to Mr. Pai. He said: 'I cannot say anything about Bokaro: you can start an enquiry'. Later on my Secretary Mr. Trivedi told me that there seemed to be some question of victimisation involved. So, when it came to my notice, I went to the then Prime Minister and told her that it was being said that there must be some question of victimisation in this case and, therefore, I would like the CBI to be kept

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out and that I would suggest that no enquiry should be made although there were allegations. Then she agreed there should be no enquiry and, till I left...

MR. CHAIRMAN: Your officers who were enquiring into the cases visited the Batliboi office and also the PEC and the STC and at that time they came to know that Shri Bhatnagar was suspended—it had happened within one day—and Mr. Krishnaswami was transferred. They also came to know that they were involved in getting some information in regard to Maruti and that these officers had to face certain embarrassment and harassment and intimidation due to their involvement in getting information in regard to Maruti.

SHRI D. SEN: You can see the Intelligence File. No officer pointed it out to me and I did not come to know at all that these officers had anything to do with Maruti.

MR. CHAIRMAN: I think you are now convinced?

SHRI D. SEN: Yes. In fact, the first time I came to know about this was when a news item was published, I think at the end of March, in the Indian Express. Even then I did not know the full thing: but when I went before the Shah Commission and Mr. Pai gave his statement there, I came to know.

MR. CHAIRMAN: You are now convinced that the complaints appear to have originated from the main or primary reason that these four officers were dealing with the collection of information regarding Maruti, and that was the primary reason that they were subjected to harassment?

SHRI D. SEN: This is a matter for conclusion and your conclusion is final, Sir.

MR. CHAIRMAN: We shall arrive at our own conclusion, but since you have handled the whole matter I am asking you whether it is clear to you now.

SHRI D. SEN: As far as the FIR is concerned, you will see that we exonerated

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all these officers of the main charge of disproportionate assets and there could be no better proof of the *bona fides* of the CBI.

MR. CHAIRMAN: Your worthy officers who were deputed to enquire into this, so expeditiously visited the PEC and STC to get information about these officers but they did not give even a little thought to the question as to what was behind it that action had already been taken—some officer had been suspended and some officer had been transferred—and there was a furore in the office. Your officers could not get even an inkling as to what was going on behind all this?

SHRI D. SEN: At least, nobody brought it to my notice.

MR. CHAIRMAN: In connection with the investigation against these officers did any of your officers meet either the Secretary or Joint Secretary or the Minister of Industry or Commerce?

SHRI D. SEN: Not to my knowledge because I did not ask them whom they were meeting and they did not report it to me.

MR. CHAIRMAN: Now, let us come to the most important question, the original question. You yourself examined Mr. Dhawan?

SHRI D. SEN: I cross-examined him on certain points.

MR. CHAIRMAN: You yourself have said that the words Mr. Dhawan used were 'check up the antecedents' of these four officers . . .

SHRI D. SEN: That is what Mr. Dhawan said. I said this was untrue and that he had told me that an investigation should be made. I cross-examined him on this point because Mr. Dhawan stated that he had given me this information for checking up the antecedents of the officers. I cross-examined him on that and said 'You did not ask me to check up their antecedents but told me to investigate into

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the allegation. I also told him that the antecedents of an officer are checked at the time of first appointment and that on an actual complaint, only an investigation can be made.

MR. CHAIRMAN: Investigation of what?

SHRI D. SEN: Investigation into the allegation of disproportionate assets.

MR. CHAIRMAN: Mr. Dhawan will be coming tomorrow, and he has also sent a statement. From the beginning to end he has used the words 'antecedents should be checked'. You can now understand why I was so anxious to know as to why you did not keep a record. There is a confusion at the starting point itself. Mr. Dhawan says that what he said was that the antecedents of these four officers should be checked, while you say that he wanted investigations to be carried out.

SHRI D. SEN: What I say is supported by contemporaneous statements also. I called Mr. Rajpal on the 15th and as recorded in the minutes told that these officers are reported to be corrupt, so their cases have to be enquired into.

MR. CHAIRMAN: I want to know what are the exact words that were used by Shri Dhawan according to your version and what you asked your officer, Shri Rajpal—the exact words used by you.

SHRI D. SEN: I would read out my extract taken from the Intelligence Bureau file at that time. This is a note by Rajpal on 15-4-1975. He noted:

"DCBI desired immediate verification of the information at page 1—C."

MR. CHAIRMAN: We will come to that later. I want to be very specific. Dhawan did not go to Rajpal. He made certain complaint to you. What is the complaint? Dhawan said that he wanted the antecedents of these officers to be checked up; you say: No, he wanted investigation to be done. About what? What are the exact

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words, as far as you can recollect used by Shri Dhawan in lodging the complaint against these officers ?

SHRI D. SEN : As far as I can recollect and as I could recollect before the Shah Commission, Mr. Dhawan told me that these four officers, according to certain MPs are corrupt and they have very large assets, which in legal language would mean assets disproportionate to their known sources of income, and this complaint has to be investigated. I immediately called Shri Rajpal and gave him this information. I would add that if it were a question of checking antecedents, as I said, antecedents are checked when the man joins the service for the first time, secondly, CBI does not make any enquiry about antecedents, it only investigates cases. Antecedents are checked by IB. Thirdly, if I was asked to check only the antecedents, I was not bitten by a bug to start an enquiry.

MR. CHAIRMAN : We find that from the beginning to the end, Dhawan tried to stick to one thing that he used the words, i.e. checking up antecedents of these officers.

SHRI D. SEN : Then, this is self-contradictory.

MR. CHAIRMAN : You have mentioned about the findings, minor penalty.

SHRI D. SEN : Minor penalty in two cases ; in one case there was some violation of the conduct rules, but we did not make any recommendation because Mr. Cavale had resigned. In Krishnaswamy's case, although the branch recommended prosecution, on the charge of disproportionate assets but on examination, we did not agree to this. Departmental action was recommended on one charge and suitable penalty in another case. The Central Vigilance Commission, however, came to the conclusion that no action is necessary and we accepted their recommendations.

MR. CHAIRMAN : Although you suggested minor penalty, it appears from the subsequent action that no legal or departmental action was taken.

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SHRI D. SEN : In two cases, the CVC accepted that there should be minor penalty. We had recommended departmental action in respect of three officers ; Cavale had resigned. The CVC had agreed in two cases, but I do not know what happened later.

MR. CHAIRMAN : After the findings of the CBI and the steps recommended by them having not been implemented, don't you feel that these officers were subjected to moral, psychological and physical harassment on charges which proved to be not worthy of investigation ?

SHRI B. SHANKARANAND : You are asking for his opinion.

MR. CHAIRMAN : No.

SHRI D. SEN : We register about 500 to 600 regular cases against Government Officers on the basis of allegations of corruption but out of these hardly 50, 60 or 70 go for prosecution, the rest of the cases go for departmental action.

MR. CHAIRMAN : Here, so many Ministers were involved. The things moved among the various Ministers and the Prime Minister. It was not merely a question of investigation here. After investigation, the complaints were not found to be worthy of any action.

SHRI D. SEN : I can only speak as a CBI officer. This is probably a hazard of Government service. In so many cases, investigation is done but in the vast majority of cases, prosecution is not launched. For example, in Krishnaswamy's case, our branch recommended prosecution for disproportionate assets, but we found legally, the case would not be strong and we did not agree to that. As far as we are concerned, we tried to avoid all possible harassment to them. For example, they could not have been arrested, we did not do that.

MR. CHAIRMAN : What about the suspension ?

SHRI D. SEN : I am not concerned with that. We did not recommend that.

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MR. CHAIRMAN : We have to take the totality of the whole picture. They were suspended immediately.

SHRI D. SEN : But the action about suspension was not on the basis of our report. On the 16th when the report came to me about Bhatnagar it was noted in the Intelligence Unit file that he has been suspended. That is the added reason why we should take immediate action.

MR. CHAIRMAN : Now, my other colleagues will put you questions.

SHRI B. SHANKARANAND : Mr. Sen, do you know that the present enquiry concerning the privilege is also against you ?

SHRI D. SEN : Yes, I know this.

SHRI B. SHANKARANAND : May I know during 1975 how many cases approximately were investigated against the Central Government officers ?

SHRI D. SEN : The total investigations would be roughly 1,600 or 1,700. Out of these 600 may be old cases and a thousand roughly would be the new cases.

SHRI B. SHANKARANAND : And they were all government servants.

SHRI D. SEN : Yes, Sir.

SHRI B. SHANKARANAND : Out of these 1,000 new cases in 1975 how many were against officers of the rank of these four officers ?

SHRI D. SEN : Out of these 1,000 cases about 500 or 600 will be against gazetted officers. Our policy is to take cases against gazetted officers.

SHRI B. SHANKARANAND : Out of these 500 or 600 cases against gazetted officers in how many cases departmental action was taken ?

SHRI D. SEN : I cannot remember but some officers may have been suspended. We did recommend transfers in certain cases but the number of suspensions would not be large. It would be very small.

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SHRI B. SHANKARANAND : Please tell the Committee the file number in which there are notings of the Deputy Director, Mr. Rajpal whom you would have told what Mr. Dhawan told you.

SHRI D. SEN : File No. Inf./39/75-IC dated 16th April, 1975.

SHRI B. SHANKARANAND : As for the functioning of the CBI—whether it is verification, investigation or registration of cases—it is usually done on information.

SHRI D. SEN : Yes, Sir. Nearly 66 per cent of the cases are registered on the basis of our own information and some on information coming from the Ministries.

SHRI B. SHANKARANAND : And in these cases the complainant is the government.

SHRI D. SEN : In many cases the complainant is government. By complainant, I mean, they give the information. The information might be coming from a Joint Secretary, Deputy Secretary, etc.

SHRI B. SHANKARANAND : Usually in corruption cases the complainant is Government. Who file the complaint ?

SHRI D. SEN : We file on our own. In the court Government is the complainant.

SHRI B. SHANKARANAND : And it is the practice that the name of the informant is not to be disclosed.

SHRI D. SEN : Yes. It is not to be disclosed in any circumstances.

SHRI B. SHANKARANAND : Informant is not the complainant in the court.

SHRI D. SEN : Informant is not the complainant. We ourselves are the complainant.

With the permission of the Chairman I want to mention something which I have recollected just now. Even when Shastriji was the Home Minister he used to give information. He received some information from an MP against three officers of the Rajasthan Government. We treated it as information and we went

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ahead with the case. Ultimately, we reported the result to Shastriji. I went to Shastriji and told him that these officers belong to Rajasthan Government and we do not come in the picture. Still he wanted a confidential enquiry. We did it. It was forwarded to Rajasthan Government. Later on Government of Rajasthan asked us to formally enquire into it. So, this practice is there. It is only because the informant is treated as sacrosanct that we are able to get information. If the informant's name is to be given out then the sources of information will dry up.

MR. CHAIRMAN : During revolutionary movements, in younger days as school boys when we were taking part in the freedom struggle, the British Government used to record our activities and even the names of informers were recorded; at the time of transfer of power all those records were burnt. Still some unburnt files were there and we found some blacksheep whose names were there; we could not even imagine that they would have done like this.

SHRI D. SEN : That might be the practice in the Intelligence Bureau; in our case it is not. Many things are given to us by government servants and if their names became known they will be victimised; even if we want to keep it secret it is bound to leak out. I dare not ask my DIG as to what is his source of information; nor can the DIG ask his SP. It is the practice.

SHRI B. SHANKARANAND : The practice that the names of the informers should not be recorded or disclosed, is it the convention or is it the rule of law?

SHRI D. SEN : I think there is also some rule of law because even the courts cannot force us to give the names of informers.

SHRI B. SHANKARANAND : In the statement sent to us, there is an annexure. Will you please read that also so that we know what you have said. Is it your own

note? It gives various procedures prescribed?

SHRI D. SEN : Yes; it gives them in a brief form.

SHRI B. SHANKARANAND : You have said that collection of intelligence about corruption is your main job?

SHRI D. SEN : Yes, political intelligence is not our job.

SHRI B. SHANKARANAND : Collection of information about Corruption includes verification. You receive certain information from Mr. Dhawan. Is it part of your duty, the duty of the CBI, to collect information which included confidential verification of the information received?

SHRI D. SEN : If we receive information from unknown sources, verification becomes important. But when information is from a known source, especially when some M.P. complains about corruption, and if the information is about a cognizable offence, a case could be registered immediately.

SHRI B. SHANKARANAND : I am asking that only. You have made it clear that these were the officers whose cases were investigated by the CBI. At that particular time, in April that year, can you remember whether investigations were going on against only four officers or against many other officers also?

SHRI D. SEN : At any particular time, there would be 300 or 400 cases under investigation.

MR. CHAIRMAN : This is a peculiar question. I particularly wanted to know from you this. Will you kindly give an instance where at that time the CBI entered into any kind of inquiry against any Central Government Officer? You did not mention about that.

SHRI D. SEN : You asked about the cases against any Central Government Officers in which information may have



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been given by the Prime Minister and I said "I do not remember the cases".

MR. CHAIRMAN: There have been other cases.

SHRI D. SEN: Yes.

MR. CHAIRMAN: When did those cases start?

SHRI D. SEN: In 1975, a case which was registered in 1974 may be under investigation and some times even a case which was registered in 1973; but such cases will be very rare. But in April, 1975, there will be many cases which may have been registered that very year i.e. January, February, March and April.

SHRI B. SHANKARANAND: In all those four cases the investigations were referred to the CVC and their advice was accepted.

SHRI D. SEN: The rule is, in the case of Gazetted Officers, after the enquiry, our report goes to the CVC and the CVC gets the opinion of the Ministry and then decides the case. If we do not agree with the advice of the CVC we can make a representation.

SHRI B. SHANKARANAND: I want to know whether you know one rule of law. Do you know that the present enquiry is going on against Shrimati Indira Gandhi, yourself and Mr. Dhawan.

SHRI D. SEN: Yes, Sir.

SHRI B. SHANKARANAND: Do you also know that the person found guilty can be punished by Parliament?

SHRI D. SEN: Yes.

SHRI B. SHANKARANAND: Do you also know that a person against whom an enquiry is going on is like an accused?

SHRI D. SEN: Yes, Sir. I suppose.

SHRI B. SHANKARANAND: Do you also know that it is a rule of law that an accused cannot be a witness against himself?

SHRI D. SEN: That is a Constitutional Provision.

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SHRI B. SHANKARANAND: That is what I want.

MR. CHAIRMAN: Perhaps you know that the Procedures of Parliament are different from those of the Courts of Law.

SHRI D. SEN: Yes.

MR. CHAIRMAN: Do you also know that in a Court of Law, all procedures are guided strictly by coded Acts?

SHRI D. SEN: Yes.

MR. CHAIRMAN: Do you also know that this is not the case in the case of Parliamentary Committees, especially Privileges Committee? Do you know that they are guided by general principles?

SHRI D. SEN: I know that each Committee of Parliament has its own procedure.

MR. CHAIRMAN: You should keep it in mind. Parliamentary procedures are also in accordance with the Constitutional Provisions. If you jump to conclusions so quickly that under the Provisions of the Constitution you cannot be examined, what you say does not apply here.

SHRI B. SHANKARANAND: On this point, I differ from you.

MR. CHAIRMAN: You may differ from me.

SHRI B. SHANKARANAND: It is a matter of procedure and law.

MR. CHAIRMAN: You have asked about the law and I have given my decision.

SHRI B. SHANKARANAND: There is no question of a decision. We have to be guided by the rule of Law and procedure.

MR. CHAIRMAN: Just to put it on record, I had to make a clarification.

SHRI D. SEN: I want to make one thing clear. I have been called to give evidence even though I am one of the persons against whom there is a privilege

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motion. I have not claimed any privilege in giving my evidence. I know that you have your own procedure. When I was asked a question, I was only saying that there is a Constitutional Provision. . .

MR. CHAIRMAN : I think you know that the functioning of the judiciary, the legislature and the executive are different.

SHRI KRISHAN KANT : You read out a note of Mr. Rajpal. What was that? Mr. Dhawan came to see you and he went away and you told Mr. Rajpal and he noted down. What did he note down?

SHRI D. SEN : His note was : "Shri Bhatnagar, Deputy Manager, (Marketing) Project Equipments Corporation is a corrupt officer and by his corrupt practices has acquired assets disproportionate to his genuine sources of income."

This was recorded by him on 15th April. In a file, there are two portions. One is the noting portion and the other is the correspondence portion. This note was on page 1(c).

SHRI KRISHAN KANT : The file must start with this note.

SHRI D. SEN : It starts with the noting portion. This note was dated 15th April, 1975.

SHRI KRISHAN KANT : Is that all?

SHRI D. SEN : Yes, Sir.

SHRI KRISHAN KANT : There are other Officers.

SHRI D. SEN : For each, there is a separate file.

SHRI KRISHAN KANT : After this information was given to you by Mr. Dhawan, did the Prime Minister ever ask you or did you report to the Prime Minister about the progress of the cases?

SHRI D. SEN : No. I remember that we may have sent one or two notes about the progress of the cases and those notes

may have gone to the Prime Minister on the usual course.

SHRI KRISHAN KANT : Did you meet the Prime Minister?

SHRI D. SEN : No, Sir. I never talked to her.

SHRI KRISHAN KANT : Did the Prime Minister ever ask you again to let her know about the position of the cases?

SHRI D. SEN : No, Sir. I was not asked.

SHRI KRISHAN KANT : Was your Office asked? It has to go only through you.

SHRI D. SEN : Yes.

SHRI KRISHAN KANT : After Mr. Dhawan told you, you started taking action. But no information was sent to the Prime Minister.

SHRI D. SEN : I did not send any information personally or in writing. We may have sent some notes to the Department of Personnel and they may have gone to the Prime Minister. About that I would not know.

SHRI KRISHAN KANT : What note?

SHRI D. SEN : The notes about the progress of some of these cases.

SHRI KRISHAN KANT : In all cases do you send copy of the note to the Department of Personnel?

SHRI D. SEN : No. In cases which may be treated as important the progress reports are sent usually to the Department of Personnel and if they consider it necessary, they will send the same to the Prime Minister. Otherwise, they do not send it.

SHRI KRISHAN KANT : In all cases you regularly send the progress reports?

SHRI D. SEN : In some cases.

SHRI KRISHAN KANT : In some cases only you send the progress reports?

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SHRI D. SEN : Yes.

SHRI KRISHAN KANT : After how long ?

SHRI D. SEN : It depends. Whenever there is some development, we send a report. But I do not recollect at this point of time in which cases the report was sent.

SHRI KRISHAN KANT : Do you know, we have got here a letter which was written by Mr. Pai to the Prime Minister telling her that these cases have been instituted because of commission of these officers who were inquiring into the Maruti affairs and Mrs. Gandhi wrote back giving information about the cases to Mr. Pai, that it was not so. So, it means the Prime Minister must have asked you. Here is her letter :

"Dear Shri Pai,

I am amazed to read your letter of the 5th May and the aspersions cast against the CBI. Your presumption that the CBI searched the houses of some officers of your Ministry because of their inquiries in connection with answers to Parliament Question to which you have referred in your letter, is totally baseless."

Here, Mr. Pai said that the action had been taken because the officers were collecting information about Maruti affairs. Then Mrs. Gandhi's reply referred to the report from the CBI. She said : "I have made enquiries and find that the CBI received information that some officers of your Ministry were in possession of a large number of shares and were living rather lavishly." It means the Prime Minister must have asked you.

SHRI D. SEN : In this case I did not come to know about Mr. Pai's letter. As far as I recollect, the Prime Minister did not ask me, but Mr. Om Mehta or somebody else must have asked, and we might have sent the progress report to him.

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SHRI KRISHAN KANT : Mrs. Gandhi wrote : "I have made enquiries". Because earlier the information was sent to you by the Prime Minister, she said : "I have made enquiries and find that the CBI received information that some officers of your Ministry were in possession of a large number of shares and were living rather lavishly. According to the normal practice, the CBI made confidential verification and the information was found to have some basis." And then, she enclosed a note from the CBI about all the officers.

SHRI D. SEN : We must have been asked by the Ministry.

SHRI KRISHAN KANT : Did the Prime Minister ever ask ? You said "No".

SHRI D. SEN : As far as I remember, the Prime Minister did not ask me, but it appears that somebody else on her behalf might have asked.

SHRI KRISHAN KANT : It may be the Prime Minister or Mr. Dhawan.

SHRI D. SEN : Or Mr. Om Mehta, or the Secretary, any of them might have asked.

SHRI KRISHAN KANT : You have referred in your note to Mr. Nehru's enquiry on what some M.Ps. said. We know at that time that the names of the M.Ps. were known to Pandit Jawaharlal Nehru. Did you find out anything here ? Do you remember that the names of the M.Ps. who have complained were also known ?

SHRI D. SEN : But we never asked the names of M.Ps.

SHRI KRISHAN KANT : But do you remember any names ?

SHRI D. SEN : I remember very well that there was some meeting at which some complaint came.

SHRI KRISHAN KANT : Do you know the names ?

SHRI D. SEN : They might have come in the newspapers. We never enquired

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about the names. But we deal with the case on the basis of information.

SHRI KRISHAN KANT : But in Pandit Nehru's time, the names of M.Ps. were known.

SHRI D. SEN : At that time he called the Director, CBI and told him.

SHRI KRISHAN KANT : Do you have anything on the file ?

SHRI D. SEN : As far as I remember, the name of no M.P. would be there.

SHRI KRISHAN KANT : Did the Prime Minister at that time write a letter to the CBI or was it a verbal information ?

SHRI D. SEN : He called Mr. Kohli who was the Director at that time and then I was asked to prepare a note within 7 days.

SHRI KRISHAN KANT : You did not know the names ?

SHRI D. SEN : No.

SHRI KRISHAN KANT : When you said in your note that no harassment to the officers who tried to investigate was caused, may I know how do you define harassment ?

SHRI D. SEN : Harassment would be when somebody was to be arrested without warrant. Harassment is said to be because of investigation, but I don't think it is harassment. At least we do not consider investigation as harassment. As regards searches also, we did not make any searches on our own.

SHRI KRISHAN KANT : How do you define harassment ? Is searching a house harassment or not ?

SHRI D. SEN : There is no legal definition for harassment.

SHRI KRISHAN KANT : You said in your reply that you did not cause any harassment. You said twice or thrice like that. Therefore, I am asking you : What do you mean by harassment ? Searching a house is no harassment ?

SHRI D. SEN : Searching a house may be harassment. But in case of disproportionate assets searches are almost invariably made as it is in the interests of investigation because if we do not make a search and we make a report that no disproportionate assets were made out, somebody may say that no search was made about the disproportionate assets. Secondly, after that a suspicion may still linger on because there is no search made. So, by doing this, we reach a definite conclusion. I do agree that search is always a harassment. But here also, as you see in my notes, when we send somebody to search, a senior officer, we tell him everything and here also directions are given that as far as possible, no inconvenience should be caused to the man whose house is searched and he should be told why this search was being made and he should cooperate.

SHRI KRISHAN KANT : Many of the searches were carried out even without taking the heads of departments into confidence and they were informed later on. Was it not called harassment ?

SHRI D. SEN : In the cases of disproportionate assets, searches have been carried on without informing the head of the department, and the question is, at what point he should be informed. The rule is that the Head of the Department may be informed before or after the search. That is written in the Manual. So, it is for the officer who makes the search to decide whether to inform him before the search.

SHRI KRISHAN KANT : Mr. Chattopadhyaya said in the evidence that he protested that action by CBI started without taking any consent or without informing his office.

SHRI D. SEN : No protest came. He suspended Mr. Bhatnagar himself.

SHRI KRISHAN KANT : In other cases he protested. Not in this case ?

SHRI D. SEN : No protest came.

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**SHRI KRISHAN KANT :** Are you categorical that Mr. Chattopadhyays never protested?

**SHRI D. SEN :** In the evidence before the Shah Commission he said that he protested. But the protest has not come from him.

**SHRI KRISHAN KANT :** You say that search is not harassment?

**SHRI D. SEN :** Search legally is only a process of investigation.

**SHRI KRISHAN KANT :** Then what would be harassment?

**SHRI D. SEN :** About harassment I will just say that the real harassment would be if somebody is arrested without any warrant. If the evidence does not warrant it but still the man is prosecuted, that is real harassment. In Krishnaswamy's case the Branch has recommended prosecution, but we did not agree to it.

**SHRI KRISHAN KANT :** For example, his children are harassed by not getting jobs etc. and there is similar harassment at various stages. Is that not harassment?

**SHRI D. SEN :** It did not come to my notice. In the case of Mr. Cavale he said that he did not get a job. But we have sent a report saying that there is nothing against him. Now it is for the Ministry to take action on it.

**SHRI KRISHAN KANT :** We have got a case of Shri Cavale and his wife. Wherever she went for a job, she had to face CBI things. About LIC policy also, you had harassed them. It means you have reached everywhere about that and everywhere they were faced with the CBI enquiry. In one case, he had to take a fresh medical examination for re-instating the policy. Even then he could not get his policy re-instated. I want to know only this much whether it is harassment or not.

**SHRI D. SEN :** If this was happened by . . .

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**SHRI KRISHAN KANT :** Whether you would call this harassment or not. You say simple yes or no. Do not go by ifs and buts.

**SHRI D. SEN :** This will be harassment for which we are not responsible.

**SHRI KRISHAN KANT :** That we have to decide whether you are responsible or not.

**MR. CHAIRMAN :** Whether the CBI was responsible or not is a different thing. When the CBI started proceedings, he had to face certain serious consequences which led to going to the court and mental torture. He had to face certain serious difficulties. Now he has asked a question whether it amounts to harassment or not. Which is the agency which has caused this is a different thing?

**SHRI B. SHANKARANAND :** You can come to your own conclusion.

**SHRI KRISHAN KANT :** He has used the word 'harassment' in his statement.

**SHRI B. SHANKARANAND :** Supposing he says : no.

**MR. CHAIRMAN :** My friend, Mr. Krishan Kant, wanted to have some clarification, as he pointed out, on certain measures that were taken by the CBI. He wants to know whether that tantamount to harassment or not.

**SHRI D. SEN :** I would say a few words to explain the question of harassment. This case has assumed importance.

There may be more than 100 cases of search in a year and in all those cases some harassment has certainly caused. However, even when the legal provision empowered us to harass these officers which we did not do. Some officers had been arrested also. We did not arrest any of these officers. Then I said : we should try to avoid inconvenience. We did not try to harass them. Voluntarily, we did not cause any harassment. In the case of Mr. Krishnaswamy, the branch had recommended prosecution. If we were

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inclined to harass him, we could do it on this recommendation and send the case to the court, but we did not do it. We went strictly by the merit of the legal opinion that the case was not good enough for a court and we did not send it to the court. These were certain things which we did not do.

**SHRI KRISHAN KANT :** Had you got, before searching their houses, in touch with the departments or their personal files, or their annual income and expenditure returns, whatever they used to do, perhaps this would not have arisen at all? You are putting your own case. I want to clarify my point of view. After seeing all the evidences that have come before us and ultimately the action that you have taken, what the CBI has done—there are 3-4 charges against different persons—now everything is clarified. If you had gone into the personal files of the officers even before taking any action, perhaps things would have been clarified much quicker and there would have been no harassment. You are telling your point of view. We have to examine the other points of view also. The whole thing has assumed a little proportion. If you had seen all these things, their personal files, income and expenditure returns—every Government Officer is asked to give his annual income return—perhaps the position would have been clarified. So, I want to know whether this would amount to harassment or not. Secondly, you are saying you are not responsible for this. Here, Mr. Cavale says before the Committee—his wife was working in Delhi with M/s. Sobhagya Advertising Agency—“The Chairman of the company, Mr. Singhvi came to our house and said that CBI have asked him lot of questions and they have said it is dangerous to keep my wife in the office. I am told Mr. Chanderbhan, DSP, CBI went to the Chairman, Sobhagya, where Mrs. Cavale was working and he said, “you are having the services of Mrs. Cavale and it is not good for you”. Then our Chairman said: “We would be waiting for that letter from you. You have said that the Mico Chairman made the

observation that ‘you were the victim of Sanjay Gandhi’. What did he mean by that observation?” Then Mr. Cavale replied: I met him at Taj Mahal Hotel; I did not ask him. I asked them whether they did not want me in their company. He said: we very much like to have you here; but since you are the victim of Sanjay Gandhi, I cannot take you and jeopardise my position; he was vice-Chairman, Mr. Vacha. Then again Mr. Cavale said: “To take sufficient precaution, I went to Jaslok Hospital, I got myself examined and got the certificate. I took the medical certificate of the LIC Doctor. I thought probably they will disqualify me on some ground. I said: if you cannot accept Jaslok Hospital Certificate, what else you can accept. But they did not say this. They simply wrote a letter saying that they cannot take action on this, without stating any reason for it”. Then our Chairman said: “Even if there is some rule which says that they can subject to you to an official examination, that is not what we are interested. Here you have been categorically told that because of your CBI Enquiry, you are being subjected to re-examination”.

“If you have been trying to get employment for your wife, did she come across with any kind of odd questions and odd problems like the inquiry conducted by the CBI or something like the question on Maruti or any kind of interference from any officials? If it is so, then you state the facts. Otherwise, I am not interested.

The reply was :

“She joined Mettur Beardsel and within a month, as you rightly said, very awkward questions were asked saying that ‘your husband was found to be very corrupt and he was proved to be living beyond his means. What is happening? I believe the CBI was inquiring about it’. And the next month she lost the job.”

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Then, in regard to LIC also he was specifically told 'you are a victim of Sanjay Gandhi and an enquiry is being made'. Your officers knew that Sanjay Gandhi was behind this and Maruti was behind this and you were completely ignorant that action was being taken against him because of Maruti and Sanjay Gandhi?

SHRI D. SEN : Nobody brought it to my notice.

SHRI KRISHAN KANT : I am asking you a simple question. Your junior officers knew, the LIC people knew and, when they went for jobs, the bosses there knew, but you did not know? Either you are making an incorrect statement or your officers were saying incorrect things.

SHRI D. SEN : So many officers of the CBI were examined before the Shah Commission and one or two of them were hostile to me also. Nobody said he brought it to my notice that these people were connected with Maruti. I am telling you on oath that it never came to my notice that these people were connected with it.

SHRI KRISHAN KANT : Then how did your junior officers know?

SHRI D. SEN : I do not know.

SHRI KRISHAN KANT : Even the LIC people and others were telling them that the CBI was behind them and Sanjay Gandhi was behind them, and you say you did not know?

MR. CHAIRMAN : He is saying on oath and swearing that it was not brought to his notice. Our inference can be drawn later on, but we have to accept what he says.

SHRI KRISHAN KANT : Here is another case, regarding Textile Inspectors. The Chairman said :

"Harassment against the officers continued . . ."

SHRI D. SEN : It is true that the Secretary of the Foreign Trade Ministry asked me if any Textile Inspectors had been arrested. I told him that no Textile Ins-

pector had been arrested by us and so there was no question of our being involved. Later on it came to be known that they were arrested by the Delhi Police.

SHRI KRISHAN KANT : So, he did protest?

SHRI D. SEN : At the time of the arrest, when the Secretary asked me, I said 'we are not concerned because we have not arrested anybody'.

SHRI KRISHAN KANT : Now, coming to the question of Mr. Sondhi, you met Mr. Pai in regard to Mr Sondhi?

SHRI D. SEN : Yes.

SHRI KRISHAN KANT : What did he tell you?

SHRI D. SEN : The complaint was about Bokaro and he told me that he was a senior officer of high integrity as far as the Ministry's work was concerned, but if this allegation related to Bokaro, then I could make an enquiry. That is what he said, putting it briefly. Then, when I came and discussed it with Shri Trivedi, who was Secretary of the Department of Personnel, he said that probably in this case some victimisation was involved.

SHRI KRISHAN KANT : What sort of victimisation?

SHRI D. SEN : He did not tell me that. He said that some victimisation may be involved. So I went to Mrs. Gandhi who was the then Prime Minister and said 'This is what is being said about the case : so it is better that the CBI is not involved in this case although there are some specific allegations'. Then she said, 'All right, you need not investigate into this matter yet'.

SHRI KRISHAN KANT : I do not understand. Supposing he had done something wrong, then he will have to be penalised. So, did this victimisation mean that it was for some political ends?

SHRI D. SEN : He only said that there might be some kind of victimisation.

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**SHRI KRISHAN KANT** : Did you talk to Mr. Pai about the automobile case ?

**SHRI D. SEN** : I don't know : there must have been some mention of that also.

**SHRI KRISHAN KANT** : Here is a statement which Mr. Pai made here and also before the Shah Commission. He says :

"Later on, when Mr. Krishnaswamy . . . was being pursued for a different reason."

But Mr. Sen does not remember about the Premier Automobiles. In this case, did Mrs. Gandhi on her own tell you that you should not pursue the case ?

**SHRI D. SEN** : What Mr. Pai says about Bokaro is not correct. There is a contemporaneous note recorded by me about the discussions; that can be seen.

About the second part, I went to Mrs. Gandhi soon after the registration of the PE, not an RC.

**SHRI KRISHAN KANT** : What was the approximate date ?

**SHRI D. SEN** : Very much before these cases; it will be probably in 1974 or it may be early 1975. This case of Mr. Sondhi occurred very much before.

**SHRI KRISHAN KANT** : It was raked up again to harass him during the emergency.

**SHRI D. SEN** : No, Sir.

**SHRI KRISHAN KANT** : Was Mr. Sondhi under surveillance ?

**SHRI D. SEN** : No, Sir.

**SHRI KRISHAN KANT** : He made a statement that he was under surveillance.

**SHRI D. SEN** : He might be under a wrong impression.

**SHRI KRISHAN KANT** : All these things happened during emergency.

**SHRI B. SHANKARANAND** : He has not said that.

**SHRI D. SEN** : This is a matter of record.

**SHRI KRISHAN KANT** : Mr. Chairman, when Shri Shankaranand asked Shri Pai that when he differed with Mrs. Gandhi, why he did not resign, Shri Pai replied that he did not resign because by not resigning, he could save Mr Sondhi.

**SHRI B. SHANKARANAND** : I did not ask that question.

**MR. CHAIRMAN** : I do not know who asked the question, but I do remember that he said that categorically.

**SHRI KRISHAN KANT** : I was only trying to co-relate this in the evidence. To a question put by Shri Shankaranand, as to why he did not resign, he replied : He did not want to oblige her.

**SHRI B. SHANKARANAND** . It was with reference to these four officers, not Mr. Sondhi.

**SHRI KRISHAN KANT** : Mr Pai on his own said and he pursued the case of Mr. Sondhi and it was ultimately Mr. Borooah and Rajni Patel whose interference helped Mr. Sondhi and the case not being pursued. He said : I could save a good civil servant.

Here is the evidence on page 37.

"**SHRI B. SHANKARANAND** : Then why did you not resign ?"

**SHRI PAI** : On what issue ?

**SHRI B. SHANKARANAND** : Because your Ministry was demoralised.

**SHRI PAI** : I did not want to oblige her by resigning. I wanted to fight it out. I wanted to be dismissed. Because, what wrong have I done ? I have already said that if I had resigned, I would have to come and give an explanation in the House and the explanation is, either I will have to take the blame . . .



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The whole thing has happened during emergency.

**SHRI B. SHANKARANAND :** This was because he said that the whole Ministry was demoralised.

**SHRI KRISHAN KANT :** Kindly see page 56 of the earlier evidence of Shri Pai. Shri Sen said that the case was not pursued. My saying is that it was not pursued because of political interference. Mr. Pai's evidence is :

"As a Minister, I got it cleared from the Cabinet. But later on, I got some charges against him and it included this as one of the charges. When they were collecting information, I got really worried. He had been an upright and outstanding officer and the public sector units under the Ministry had made great progress because of his involvement. And if at all I saved anyone officer among these by not resigning, it was Mr. Sondhi. I called his sister, Mrs. Raksha Saran, a close friend of Mrs. Gandhi and told her that her brother was in difficulty because of some prejudice and that she should go and plead with Mrs. Gandhi. She did not get an interview for ten days and ultimately, she met Mrs. Gandhi. She came and said that Mrs. Gandhi was very cold. I then met Sarin, the then Adviser to the Gujarat Government who had just come. Sarin was, Secretary, Steel before. I asked him if he knew Sondhi. He said that he knew him very well. In fact, he got him. He was the General Manager, Tank Factory, Avadhi and he got him to Bokaro. I asked him, what he thought of his integrity and whether he was above board. He said : Yes, he is above board. He said : 'absolutely'. I told him, 'This is what happened' to which he replied, 'I will go and tell'. These are the charges. It is stupid. It cannot be true. This is not fair. For one month he was refused any interview. Later on, I called Mr. K. C. Pant and told him, 'You were the Minister incharge of Steel. Mr. Sondhi was working under you'. He said, 'Yes'. I asked him, 'What do you

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think of him?' The reply was 'A very good officer. No complaints at all'. Then I told him, 'This is what happened. Will you please go and tell'. He, in turn, saw Mrs. Gandhi and told me later, 'Mrs. Gandhi was very angry for my speaking on his behalf'.

He said that after his going to Mrs. Gandhi, the case was not pursued. I am saying that the case was not pursued because of political interference from political leaders. The question is whether he is correctly informing the Committee. That is why this is relevant.

"Then I asked Mr. Sondhi to get in touch with Sardar Swaran Singh because Mr. Sondhi's father was a great freedom fighter from Punjab and his reputation was very high. So, I asked him to go and see Mr. Swaran Singh. He was a Minister coming from Punjab. I thought I should ask him to try everything. Sardar Swaran Singh agreed to speak but nothing happened. Ultimately I approached Mr. Borooh and Mr. Rajai Patel who was in her good books at that time. He saw and he was told, 'Ask him to behave properly hereafter and we will keep this case pending'. It is only after the emergency was over that the CBI sent him a clearance of all the charges that they have found nothing. Well, if I had also resigned, Mr. Sondhi would have been completely crucified. So, I tried to do my best because in my opinion these persons were not guilty but were subjected to some kind of prejudice which was unjustified."

The point I am making is that Shri Sen was an agent of a political decision and was not working on his own.

Shri Sondhi was under surveillance and this is on record. I wanted to bring this out.

**SHRI D. SEN :** I want to make one thing clear. The cases of these four officers were taken before emergency and not during emergency.

**SHRI KRISHAN KANT :** You are mixing up the issue.

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**SHRI D. SEN :** Shri Pai says that it was during emergency. I say this is not correct. You may please call for the file. F.I.R. is there. Everything will be clear insofar as Shri Mantosh Sondhi's case is concerned. Shri Saxena was dealing with the case. You can call him. All this was before emergency.

I went to Mrs. Gandhi and she told me that no action need be taken.

There might be influences working from the other side.

**SHRI KRISHAN KANT :** You went to Mrs. Gandhi after having a talk with Shri K. C. Pant.

**SHRI D. SEN :** Yes, S<sup>r</sup> Shri K. C. Pant and R. K. Trivedi told me.

**SHRI KRISHAN KANT :** They say there was no harassment. My point is did they go in for searches and investigation after going through the personal records of these officers? Have you seen the comments on letters about Shri Cavale?

**SHRI D. SEN :** No, Sir.

**SHRI KRISHAN KANT :** Here is a letter from Shri Prakash Tandon which is addressed to Shri Cavale. It reads :

"A few personal words of farewell—and thanks for all the support I received from you as a colleague. I have always greatly admired your personal quality of integrity and sincerity, great virtues, especially nowadays.

I hope you and your family have a happy resettlement back home, and with my kindest regards and good wishes."

Here is a note of Shri P. J. Fernandes, Finance Secretary, Government of India. He says—

"I found Shri Cavale to be an officer of upright character and devoted to his duty. Subsequently, the STC posted Shri Cavale as its Branch Manager in Frankfurt. On return from Frankfurt Shri Cavale was posted to the newly established subsidiary of STC . . .

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Sometime in the month of April 1975, Shri L. R. Cavale called on me and stated that he was being subjected to arbitrary harassment in the STC. He further stated that he had suddenly received orders of transfer to Madras where there was no work of the PEC at all. When I further questioned Shri Cavale he mentioned that this action has been taken probably because he had collected some information at the request of the Ministry of Industrial Development pertaining to sales of machine tools to Maruti Limited. He mentioned that the information was called for by the Ministry of Industrial Development for answering a Parliament Question. I told Shri Cavale that I would meet the Chairman of the STC and find out the real position.

Accordingly, I paid a call on Shri Vinod Parekh, Chairman, STC. I do not remember the exact date but it was sometime in the middle of April 1975. I asked Shri Parekh why this sudden action had been taken against Shri Cavale and whether the STC had found anything against him. I made it clear to Shri Parekh that if the STC had discovered anything against Shri Cavale I had nothing to say. Shri Vinod Parekh clearly and positively told me that the STC had nothing whatsoever against Shri Cavale, and that his record of service was unblemished. When I pressed Shri Parekh further, he stated that he was helpless because he was acting under superior instructions. When I was asked Shri Parekh whether I should discuss the matter with the Secretary, Foreign Trade, he stated that the instructions had come from another level."

That shows the calibre and character of those persons but CBI went into operation without caring to see the personal records and without talking to the officials concerned.

**SHRI D. SEN :** It is not our practice to see the character rolls. In no case we see the character roll. I am talking on the basis of my experience that 80 per cent of

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corrupt officers are having excellent records. Most of the corrupt officers get good chit from their superior officers. Their records are very often better than the records of the honest officers.

**SHRI B. SHANKARANAND :** What Mr. Sen said just now is entirely correct.

**MR. CHAIRMAN :** Let us not enter into cross-talks.

**SHRI D. SEN :** Moreover, if we undertake all these exercises of going through their personal records, this, that and the other, in the meantime, there will be leakage and there will be no point in making an enquiry.

**MR. CHAIRMAN :** Mr. Sen has not answered the question put by Shri Tripathi.

श्री बाघव प्रसाद त्रिपाठी : मैं अपना सवाल हिन्दी में पूछ लूँ। प्रभो आपने सामान्य रिमार्क किया, है कि ऐसा देखा गया है कि कुछ आफिसर्स जिनका करैक्टर रोल में बहुत अच्छे इंदराजात होते हैं उनमें बहुत से आफिसर्स करप्ट साबित होते हैं। आप बतायें कि क्या आपके विभाग में भी यही हालत है? आपके विभाग में भी आपने आफिसर्स को क्लीन बिट्स दिए हैं क्या वे भी बाद में करप्ट साबित हुए हैं?

श्री डी० सेन : जहाँ तक मेरे डिपार्टमेंट का ताल्लुक है, मैं कहूंगा कि सी० बी० आई० में आफिसर्स के करप्ट होने के चाँसेज बहुत कम हैं क्योंकि सी० बी० आई० में जितना सुपरविजन है उतना किसी और डिपार्टमेंट में नहीं है।

**MR. CHAIRMAN :** There are so many cases. They have a right to say that that is not the case.

**SHRI KRISHAN KANT :** This Department is so incorruptible. Still the officers were being harassed. It shows that efficiency of the department.

**MR. CHAIRMAN :** What I want to say here is this. Shri Krishan Kant has put certain facts and put certain questions. Mr. Sen replied in his own way according to his understanding of the case.

**SHRI KRISHAN KANT :** We are not giving a clean chit; we are going by records. About these four officers, we are not making any comments on the action taken by the CBI.

**MR. CHAIRMAN :** Mr. Sen you are not coming in the picture. Both my colleagues are now hungry. We shall resume our sitting at 15.15 hours.

*(The witness then withdrew)*

*(The Committee then adjourned)*

**MR. CHAIRMAN :** Mr. Sen, please take the oath again.

*(The witness took the oath)*

श्री बाघव प्रसाद त्रिपाठी : मैं एक सन आप से पूछना चाहता हूँ। जो लिखित बयान आप का मिला है, उस के पढ़ने से ऐसा पता चलता है कि इस मामले में आप ने जाँच करने में बड़ा प्रोम्प्टनेस दिखाई और बाद में जो जाँच की गई तो उस का परिणाम यह हुआ कि पहले किसी प्रायोरिटी ने यह रिक्मेंड किया था कि इस में मेजर पेनेल्डी होनी चाहिए लेकिन बाद में यह हुआ कि माईनर पेनेल्डी होनी चाहिए। तो मैं यह जानना चाहता हूँ कि क्या आप यह बता सकते हैं कि इस केस में जो आप ने प्रोम्प्टनेस दिखाई थी वह इसलिए थी कि आफेंस बड़ा सीरियस था या इस कारण दिखाई थी कि जिस प्रायोरिटी ने इस केस में इन्क्वायरी करने के लिए कहा था, वह बहुत इम्पोर्टेंट प्रायोरिटी थी, जिस की वजह से आप ने तुरन्त एक्शन शुरू कर दिया?

श्री डी० सेन : इस में दो बातें हैं। पहली यह है कि जो भी कम्प्लेंट हमारे पास 4, बर्नगेट से आती है या प्राइम मिनिस्टर से आती है या किसी मिनिस्टर से आती है, उस में हम प्रोम्प्टनेस दिखाते हैं। दूसरी बात यह है कि जो आफेंस था वह किज़यर था कि उनके पास जो एसेट्स थे, वे उन की इन्कम से डिस्प्रोपोर्शनेट थे। जब एम० पी० ने इस बारे में कहा, तो उन के खिलाफ स्पेसिफिक आफेंस था और उस की इन्वेस्टिगेशन तुरन्त होनी चाहिए थी।

श्री बाघव प्रसाद त्रिपाठी : जब आपको मेजर प्राक पालियामेंट से इस बारे में पता चला, तो आप ने उन से सम्पर्क स्थापित किया ताकि यह जाकूम हो जाए कि इस में कहीं

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तक सच्चाई है। घ्राप ने उनसे सम्पर्क स्थापित न कर के तुरन्त कार्यवाही शारम्भ कर दी, क्या इस का कारण यह था कि यह बात ऊंचे से धाई थी ?

श्री डी० सेन : इसको मैं जरा एक्सप्लेन कर दूँ। इसमें बात यह है कि एम० पीज से जो कम्प्लेंट धाली है, उसमें हम एम० पीज० को कान्टैक्ट नहीं करते हैं।

श्री भाषव प्रसाद त्रिपाठी : उनसे कांटेक्ट क्यों नहीं करते हैं ?

श्री डी० सेन : उनके पास से हमारे पास यह कम्प्लेंट धाई कि उनके एसेट्स ज्याबा हैं। उन्होंने जो यह कहा तो इन्वेस्टीगेट कर के ही कहा होगा। दूसरी बात यह है कि एक दफ्ता यह हुआ कि जब एम० पीज से पूछा तो वह चीज प्रेस बगैरह में उन्होंने दे दी।

श्री भाषव प्रसाद त्रिपाठी : यह धाववस्त होने के लिए कि यह एक मुनासिब केस है जिस में जाँच होनी चाहिए, क्या ध्रापने कोई सूचना या कोई सूची या लिस्ट प्राप्त की कि इन लोगों के पास इतने एसेट्स हैं ?

श्री डी० सेन : जह यह स्पेसिफिक कम्प्लेंट थी कि इन के पास जो एसेट्स हैं, वे इन की इन्कम से बिसप्रोपो-रिनेट हैं, तो मैंने सिर्फ इस बात की जाँच की कि इनकी रेपुटेशन कैसी है।

**SHRI NARENDRA P. NATHWANI :** In annexure I to your statement given to the Shah Commission you have described the procedure. You have referred to the constitution of CBI. This machinery was for collection of intelligence about corruption which includes confidential verification of information. This was one of the functions of the CBI in addition to investigation and prosecution, etc. You say that it collects intelligence or makes confidential enquiries and does not perform any function under Delhi Police Establishment Act.

*(Shri O. V. Alagesan in the Chair)*

You say that on 15th April 1975 Shri Dhawan met you and orally informed you that Prime Minister had received certain complaints from M.Ps against certain officers.

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You said that he gave particulars of three officers. About the fourth officer information was incomplete. You believed that he was Shri Cavale.

**SHRI D. SEN :** He said that he was working in STC. He did not give his designation.

**SHRI NARENDRA P. NATHWANI :** When you received this information from him what did he say ?

Of course, in the morning, you have been examined and the Chairman also asked you certain questions.

Did he not tell you to investigate the matter ?

**SHRI D. SEN :** To the best of my recollection he told that these were the allegation and these should be investigated. The allegation was about the disproportionate assets.

**SHRI NARENDRA P. NATHWANI :** You handed over the matter to Shri Rajpal.

**SHRI D. SEN :** For quick verification.

**SHRI NARENDRA P. NATHWANI :** Verification of what ?

**SHRI D. SEN :** About the reputation of these officers and if they were favourably inclined towards any business firms.

**SHRI NARENDRA P. NATHWANI :** At that time he had not mentioned the names of any particular firms.

**SHRI D. SEN :** Yes, Sir.

**SHRI NARENDRA P. NATHWANI :** This is the only thing that happened on that day—the Prime Minister has received complaints from Members of Parliament about certain officers. He gave particulars also and said that these were the allegations. Kindly investigate. This is all.

I ask you whether you recollect anything further.

**SHRI D. SEN :** No.

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**SHRI NARENDRA P. NATHWANI :** Did he tell you that investigation should be expedited ?

**SHRI D. SEN :** As I said before the Commission also . . . .

**SHRI NARENDRA P. NATHWANI :** Did he tell you anything about expediting the investigation ?

**SHRI D. SEN :** As far as my recollection goes, the investigation had to be done expeditiously.

**SHRI NARENDRA P. NATHWANI :** Did he tell you to do it expeditiously ?

**SHRI D. SEN :** He must have said that the matter is urgent

**SHRI NARENDRA P. NATHWANI :** You are an experienced officer. When you say 'he must have', this is an argument. You can take time to recollect whether he asked you to expedite

When I asked you just now—did he tell you anything further, you replied—nothing more. You may now take time to recollect whether he told you to expedite the matter.

**SHRI D. SEN :** As far as I recollect Mr. Dhawan told me that investigation should be made quickly.

**SHRI NARENDRA P. NATHWANI :** And naturally you wanted to carry out that instruction also.

**SHRI D. SEN :** Yes, I wanted to carry out the instructions but according to the procedure.

**SHRI NARENDRA P. NATHWANI :** You handed over the matter for investigation to Mr. Rajpal.

**SHRI D. SEN :** I must make it clear here. There was a lot of confusion there. Shri Rajpal is not an investigating authority; he is only an intelligence officer. I just asked him to ascertain the reputation of the officers. So, investigation had to be given to some other people.

*Shri D. Sen*

**SHRI NARENDRA P. NATHWANI :** Very well. You entrusted the matter to Mr. Rajpal only for verifying the reputation of the officers.

**SHRI D. SEN :** And whether they were favouring any business firm.

**SHRI NARENDRA P. NATHWANI :** Whether they had shown any favour to the business firms.

**SHRI D. SEN :** Whether any information is available about their assets.

(**SHRI SAMAR GUHA—In the Chair.**)

**SHRI NARENDRA P. NATHWANI :** You now say that it was for verification. When you wanted to go into the question of verifying whether any favour had been shown by them and what was the condition of the assets of these officers, actually, you were investigating into the charge of corruption. When a man is accused of being corrupt, then further factors are important ones. Don't you realise that? What is the meaning of it? Are you trying to draw any distinction between investigating of an alleged offence that they are being corrupt and their having assets far more in excess of their known sources of income and their having shown some favour? When such a charge is made, you told him to investigate whether they had shown any favour to the business firms. What else are you doing ?

**SHRI D. SEN :** This is only a secret thing; it does not do damage to anybody. My purpose for doing this thing is this. Suppose it is found that the reputation of the officers is very good. Then, no further action is taken. We have an intelligence unit which is a store house of information. If somebody has come to know something adverse in the past of their being friendly with some businessmen, it is possible that that information is available there. It may come to me immediately. That is how the Intelligence Unit is functioning. Investigation is entirely different. We started doing this as a result of the recommendation of the . . . .

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**SHRI NARENDRA P. NATHWANI :** I am now putting it to you like this. In fact, you were trying to investigate the facts. You just now said that these were the details. In fact a main charge was made against them and you were trying to find out the details only—collection of intelligence.

**SHRI D. SEN :** The point is this. In collection of intelligence, no police powers could be used. The Intelligence Unit has no police powers. According to Cr. P. C. if I were to go in for investigation, then I will have to give that to some Unit other than the Intelligence Unit.

**SHRI NARENDRA P. NATHWANI :** You should have recorded the First Information Report. This is the charge. You were being told that the people have committed the acts of corruption; these are the officers who have shown favour to particular firms. So, you were entrusting this enquiry to Mr. Rajpal. What more is needed? Why did you not ask another set of officers for investigating into the matter?

**SHRI D. SEN :** Because one allegation was specific. That was about possessing the disproportionate assets. That allegation was specific. The other allegation was that they were probably showing certain favours to certain firms. That was not specific. So, I thought that we could get some information about that. That can also be investigated into.

**SHRI NARENDRA P. NATHWANI :** So, actually you were investigating into the charges levelled against these officers. You gave that to a person who was authorised to hold an investigation. What more could you have asked him to do? Mr. Rajpal was only a member of the Intelligence Unit as you call it and not one who is authorised. But, in fact, you entrusted him with the investigation work which could have been normally handed over to the other set or group of officers under you.

**SHRI D. SEN :** According to our procedure—it may be right or wrong—we give

something to intelligence unit. They cannot go and ask for any records; they cannot go and record any statement. Whatever information they have they give, that is, by means of watching or by seeing as to who goes and meets certain people. If there is any information available in the previous record—this is collection of intelligence which is included in our charter—that they give. Investigation is an accepted thing. Investigation is an accepted thing in our charter. We have been treating the intelligence as a separate thing from investigation. It may not be a very legal thing. That has been the procedure.

**SHRI NARENDRA P. NATHWANI :** Suppose someone comes and makes an allegation. Allegation involved or implied the charge of corruption necessarily. That is a cognizable offence. Is it not?

**SHRI D. SEN :** Yes, Sir.

**SHRI NARENDRA P. NATHWANI :** When it is brought to the notice of any higher officer or any other person, he is bound to come and report that to the police station. If he reported that that man had committed the act of corruption by showing a favour to such and such a firm or he had been receiving amounts—the exact amount is not known—would you not have enquired into it in that case?

**SHRI D. SEN :** If the complainant himself comes and tells then . . .

**SHRI NARENDRA P. NATHWANI :** Suppose a murder is committed. Somebody comes and tells me that a murder is committed. That man comes and tells that. I go and report that to the police officer; he will record it as my F.I.R.

**SHRI D. SEN :** Murder is a different thing.

**SHRI NARENDRA P. NATHWANI :** I am giving you the extreme case. If somebody comes and tells that thing to me. I go and report that a cognizable offence has taken place. In that case what is the procedure laid down under the Cr. P.C.?

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**SHRI D. SEN :** What you say is correct. Suppose an M.P. comes to me directly and tells me.

**SHRI NARENDRA P. NATHWANI :** The only difference is this. Here an M.P. comes and tells that thing. I think there is a particular officer. Suppose he had given some information in respect of somebody. Suppose an M.P. had come and told you the same thing which Mr. Dhawan said, would you not have recorded that ?

**SHRI D. SEN :** If an M.P. comes and files a complaint directly, then we would have to proceed with that.

**SHRI NARENDRA P. NATHWANI :** Under the Cr. P.C. if it were a cognisable offence, you would have taken steps as required under the Criminal Procedure Code for recording the complaint. Am I right ? Naturally.

**SHRI D. SEN :** Yes, Sir.

**SHRI NARENDRA P. NATHWANI :** Whatever information came, they conveyed that information through the Prime Minister who, in turn, passed that on to someone.

**SHRI D. SEN :** This is only an information—not a complaint.

**SHRI NARENDRA P. NATHWANI :** Do you agree that the information was about the committing of a cognisable offence.

**SHRI D. SEN :** Yes, Sir.

**SHRI NARENDRA P. NATHWANI :** It makes no difference whether the person knows that to his personal knowledge or he has received that information from some other person and gives that to you. That is about the committing of a cognisable offence. If I have myself seen a cognisable offence being committed or I have been told by someone about it, I am putting it to you like this. Pardon me, Mr. Sen, in saying this. I take it that you are conversant with the provisions of the Cr. P.C. If you look at Sec. 154, it is very clear. In this case, I am putting it to you that irrespective

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of the person who conveyed this information to you about the committing of a cognisable offence, you should have proceeded under Sec. 154 for recording that complaint.

**SHRI D. SEN :** With due respect I may say that we are taking this action under Section 157 Cr. P.C.

**SHRI NARENDRA P. NATHWANI :** There is a section 154 which binds you also. You have already said that if any MP had come and made a similar complaint you would have recorded his evidence.

**SHRI D. SEN :** It does bind us but we are not a police station in the sense that an ordinary police station is.

**SHRI NARENDRA P. NATHWANI :** Why not ? Under Section 154 whenever an information is given about the commission of a cognisable offence if it is brought to your notice as the Director of CBI you are bound to refer him to the police station.

**SHRI D. SEN :** Sir, I crave the indulgence of the Committee for a minute or so to explain this point. If you look at our FIRs you will find in 70 per cent of our cases it is just said that "information has been received". The name of the informant is not divulged. We act on the basis of mere information. When the information comes from a Secretary or a Minister their name is not divulged. You will appreciate, Sir, if we say this information has come from the Prime Minister then the Prime Minister would have been called to give evidence in the court. So far as our cases are concerned no Minister wants to go to court to give evidence.

**SHRI NARENDRA P. NATHWANI :** In this case it is not the Prime Minister who had complained. It was Mr. Dhawan who had.

**SHRI D. SEN :** Mr. Dhawan has no authority to give any information of his own.

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**SHRI NARENDRA P. NATHWANI :** Any citizen of this country can give information about the commission of an offence. It is not merely the privilege but a duty cast on every person in this country. He is bound to give information if he comes to know that any offence has been committed. It is obligatory upon me to go and file a complaint with the police. In this case specific charge and names have been mentioned. So, my point is that you deviated in this case. I could have understood if names had not been given or tangible information was not available with you. So, my first point is that you should have proceeded to investigate the case under Section 154.

My second point is that even when you handed over to Mr. Rajpal to verify certain information about their character etc., for example, take the case of Mr. Bhatnagar. You had given five days' time to collect the information but the case was registered against him within two days.

**SHRI D. SEN :** It was on the 17th.

**SHRI NARENDRA P. NATHWANI :** I want to understand what is meant by registering of a case.

**SHRI D. SEN :** Sir, as far as SPE is concerned it is not a police station. So, this registration we do is for two purposes. One is for statistical purpose and the other as far as we register a case we send the copy of the FIR to the Magistrate or Special Judge.

**SHRI NARENDRA P. NATHWANI :** Therefore, when you say the case was registered against Mr. Bhatnagar you took down FIR. May I take once a FIR is received the case is registered. Then you will follow the normal proceedings under Cr. P.C. I would like you to go through Section 154. This requires certain formalities to be observed. I want to know whether that procedure was followed in this case or not.

**SHRI D. SEN :** I have seen this section.

**SHRI NARENDRA P. NATHWANI :** Kindly read section 154. Once it is recorded some report is to be sent to the Magistrate.

**SHRI D. SEN :** We generally act under section 157.

**SHRI NARENDRA P. NATHWANI :** 154(1) requires that once an FIR is recorded it is signed by that person. Is that the procedure adopted in this case?

**SHRI D. SEN :** In no case do we record the name of the informer. As I said we follow the procedure under 157 Cr. P.C.

**SHRI NARENDRA P. NATHWANI :** Before we come to 157, the requirements of 154 are to be satisfied; you have to adopt that procedure; you were good enough to admit that also. I leave this point to be dealt with by Mr. Jethmalani. Now there were serious charges of corruption against 3 or 4 officers. Did it not occur to you that to get information, you have to make full investigation?

**SHRI D. SEN :** After registration we make full investigation. In this case two cases were given to SPCIA (II), one of the investigating branches and two cases were given to the Delhi Branch.

**SHRI NARENDRA P. NATHWANI :** When a complaint was received from Members of Parliament, were they approached for recording their statement, for eliciting information from them? Was any attempt made in this case?

**SHRI D. SEN :** As I submitted to the hon. Chairman—it may be correct or incorrect procedure and if need be it can be changed—we never give the name of informant that has been the procedure.

**SHRI NARENDRA P. NATHWANI :** Because you received instructions from the Prime Minister, it did not matter whether there was any substance in it or not; you were willing to carry out implicitly the orders to proceed against those officers. That is the graveman of the charge. That becomes obvious when we tried to understand the procedure that was adopted in



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those cases. Firstly, there was great hurry. Heavens would not have fallen if things had been done in the normal course. In the first instance there was express direction given by Mr. Dhawan that the Prime Minister wanted it to be expedited. You were good enough to say so. You were sure that he did say so?

**SHRI D. SEN :** I think he said so, to the best of my recollection.

**SHRI NARENDRA P. NATHWANI :** You want to qualify it.

**SHRI D. SEN :** It is difficult to remember what words were used two years ago.

**SHRI NARENDRA P. NATHWANI :** If you want to qualify your statement, you may do so and you can allow your statement to be recorded : "I have got no definite recollection, but because he said that verification should be completed quickly I infer that the direction was probably investigation should be done quickly."

Do I understand you to say that Mr Dhawan did not say in so many words to expedite the matter but that it was a matter of inference on your part from that fact that he told that it had to be completed within certain days?

**SHRI D. SEN :** I said, as far as I could recollect, to the best of my recollection, it was stated that investigation should be done quickly. I cannot say what words were actually used.

**SHRI NARENDRA P. NATHWANI :** You have said : "As far as I recollect, he did say so."

**SHRI D. SEN :** Yes.

**SHRI NARENDRA P. NATHWANI :** If you want to qualify it as a matter of inference. . .

**SHRI D. SEN :** I was saying as to on what my recollection was based. It was based on certain circumstances.

**SHRI NARENDRA P. NATHWANI :** Recollection is not based on anything. Once you remember a thing you have per-

*Shri D. Sen*

sonal recollection. You remember the thing vividly for some reason or the other. Is not it? Without the assistance of referring to any document you may have recollection. In that sense do you have a recollection of any fact of this incident without reference to any file or other paper? Kindly understand this question. We will stop with this. You can take your time. You can ask me to explain it to you. So far as this incident is concerned, do you have personal recollection from your memory?

**SHRI D. SEN :** As I said just now, I do not remember and recollect the exact words. But to the best of my collection . . .

**SHRI NARENDRA P. NATHWANI :** You may not remember the exact words, verbatim, but you can give the substance. Even after a minute, you and I are apt to forget what I asked and what you said. But you remember that this is the substance and gist. In that sense, have you got recollection from memory of whatever was said at that time?

**SHRI D. SEN :** My recollection is that the investigations were to be done very quickly.

**SHRI NARENDRA P. NATHWANI :** Kindly see Paragraph 2 of your statement before the Shah Commission. You gave evidence in the first instance. Then you gave your written statement, a copy of which has been submitted to us. After seeing the notes and files, you made the written statement. There you have improved your version of the incident after you referred to the files.

**SHRI D. SEN :** No. I have said that as I make this after seeing the note, it would be possible to give the dates accurately. When I first went, I had not seen some of the records and naturally I could not remember the dates and all that. Therefore, here I had given those dates more accurately after seeing the records.

**SHRI NARENDRA P. NATHWANI :** After you had taken the notings, etc,

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your recollection improved and your memory was corroborated and your impression and memory would have revived.

SHRI D. SEN : Certainly.

SHRI NARENDRA P. NATHWANI : And this you would not have been able to do without the help of the notings.

SHRI D. SEN : Yes, that is true.

SHRI NARENDRA P. NATHWANI : Some events may not occur to one's mind on its own, but when he reads his diary or when somebody says, it would have been like that, then you recollect and say "Correct".

SHRI D. SEN : Yes.

SHRI NARENDRA P. NATHWANI : There are difference between your first statement and the subsequent one. There are bound to be.

SHRI D. SEN : Some small differences.

SHRI NARENDRA P. NATHWANI : There are some differences.

SHRI D. SEN : Yes.

MR. CHAIRMAN : Before we stop today, I would ask one clarification because Mr. Dhawan will be coming tomorrow. Mr. Dhawan in his statement which he has sent to us, says that he did not suggest to you any agency by which the investigation should be made.

SHRI D. SEN : That is true. It has to be chosen by us.

MR. CHAIRMAN : Does he mean by 'agency', CBI or RAW or IB.

SHRI D. SEN : IB is not under me. I have nothing to do with it.

MR. CHAIRMAN : Did he mean particular Officers ?

SHRI D. SEN : I think he meant various branches. That is what I could say.

MR. CHAIRMAN : It is something interesting that I found in his statement where he says that neither he nor the

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Prime Minister suggested the agency. What does he mean by this ?

SHRI D. SEN : I cannot make out that he means by this.

MR. CHAIRMAN : What shall we do now ?

SHRI B. SHANKARANAND : We may again meet tomorrow.

MR. CHAIRMAN : We may start with Mr. Dhawan and in the afternoon we may call Mr. Sen.

SHRI B. SHANKARANAND : Let us finish this witness first.

SHRI RAM JETHMALANI : Mr. Chairman, with your permission, can we ask the witness to give us a copy of the transcript of his entire testimony before the Shah Commission ?

MR. CHAIRMAN : No. Mr. Dhawan has sent us. . . .

SHRI D. SEN : I had requested the Shah Commission to give me a copy of my testimony, but they said, they do not have staff for that. On the first day when I gave evidence, they have given me a copy of that.

SHRI RAM JETHMALANI : If you have got that, you give us a copy of that at least.

SHRI D. SEN : I do not have it now.

SHRI RAM JETHMALANI : You give it tomorrow.

SHRI B. SHANKARANAND : I think it has been circulated.

SHRI RAM JETHMALANI : No. What is circulated is the statement he has given to the Commission.

MR. CHAIRMAN : You will find that in the statement that Mr. Dhawan has sent to us, there are many interesting things. There are many references to Mr. Sen also. I am just expressing my opinion.

Since we have to submit our report by August, we will have to finish the evidence part of it this week.

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SHRI RAM JETHMALANI : Whatever the witness is in possession of, he should submit it tomorrow.

MR. CHAIRMAN : You please try to do this.

SHRI D. SEN : It will not be of any use. What I could tell before the Shah Commission was only purely from memory. Later on the evidence which I gave before the Shah Commission is very im-

portant because I gave it after referring to the records. But they are not giving me the copy of that evidence.

MR. CHAIRMAN : We are resuming our sitting tomorrow at 10 a.m. Mr. Sen, you please come at 10 O' clock tomorrow morning.

SHRI D. SEN : Yes, Sir.

*(The witness then withdrew)*

*(The Committee then adjourned)*

Tuesday, the 20th June, 1978

PRESENT

Professor Samar Guha—*Chairman*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Ram Jethmalani
6. Shri Krishan Kant
7. Professor P. G. Mavalankar
8. Shri R. Mohanarangam
9. Shri Narsingh
10. Shri Narendra P. Nathwani
11. Shri Meetha Lal Patel
12. Shri B. Shankaranand
13. Shri Ravindra Varma

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer*

Shri M. P. Gupta—*Senior Legislative Committee Officer*

WITNESSES

- (1) Shri D. Sen (*former Director of Central Bureau of Investigation*).
- (2) Shri R. K. Dhawan (*former Additional Private Secretary to the then Prime Minister*).

(*The Committee met at 10.00 hours and again at 15.00 hours*)

(f) Evidence of Shri D. Sen.

(*The witness took the oath*)

SHRI D. SEN : One hon. Member wanted a copy of my statement. I have brought it.

SHRI NARENDRA P. NATHWANI : You could have taken action, registered a case, even on the basis of allegations against these officers conveyed by the Prime Minister through Mr. Dhawan. Is that true or not?

SHRI D. SEN : I have to explain a little.

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SHRI NARENDRA P. NATHWANI : Please answer and then give the explanation.

SHRI D. SEN : I could have taken action, but we generally, almost always, act...

SHRI NARENDRA P. NATHWANI : You could have. Let there be yes or no. Then you can modify or explain.

SHRI D. SEN : I could have taken action immediately.

SHRI NARENDRA P. NATHWANI : You could have registered a case or taken action against all these officers?

SHRI D. SEN : Yes.

SHRI NARENDRA P. NATHWANI : If you want to add anything, you may do so.

SHRI D. SEN : I will just explain, because we always keep the names of our informants secret. Under section 157 Cr. P.C., although the F.I.R. is in the same form as under section 154, we never give the name of the informant, and the complainant is the investigating officer himself. That has been the established procedure for a very long time.

After yesterday's question—because these procedures are sometimes challenged in the court also and when the procedure is struck down, we change it—I asked one of my retired officers, who is also well versed in law, whether this point has been challenged in court. Then he gave me a ruling. I have got the ruling also, on this point whether, when information is available about a cognizable offence, F.I.R. should be filed immediately under section 157 or we should act under section 154. The High Court had set aside the conviction, but the Supreme Court upheld it. There were three Judges in that Bench. The view of two was that even a secret or preliminary enquiry is an investigation, and that registration of the F.I.R. is not a *sine qua non*. The other view which was upheld by Justice Mudholkar was that investigation starts after the F.I.R., that even when specific information is given, there is nothing to

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prevent the police by way of caution from making a secret or a preliminary enquiry, because it does not interfere with anybody in any way. I will read out the citation.

**SHRI NARENDRA P. NATHWANI :** You give the reference.

**SHRI D. SEN :** A.I.R. (1954) Supreme Court 221, the State of U.P. Vs. B. K. Joshi.

**SHRI NARENDRA P. NATHWANI :** Will it be correct to say that without the help of files or notings, without reference to them, you have not got any dependable memory, recollection of the events that have taken place? Left to yourself, you would not be able to recollect exactly what has happened.

**SHRI D. SEN :** Somethings I may remember; somethings I may not remember.

**SHRI NARENDRA P. NATHWANI :** After you received the information through Shri Dhawan, did you ask any of your officers to examine any of these officers? You did not do it yourself.

**SHRI D. SEN :** Not immediately because the procedure is that they are examined during the investigation.

**SHRI NARENDRA P. NATHWANI :** After the cases were registered against them, whether any one of these officers was examined by you or any explanation taken or not.

**SHRI D. SEN :** They were examined during the investigation.

**SHRI NARENDRA P. NATHWANI :** When were they examined?

**SHRI D. SEN :** I won't be able to give you the date.

**SHRI NARENDRA P. NATHWANI :** What is why I am saying without reference to files or notings you will not be able to tell us.

**SHRI D. SEN :** This I am not in a position to say now.

Shri D. Sen

**SHRI NARENDRA P. NATHWANI :** Can you say approximately, roughly when was Mr. Krishnaswamy examined?

**SHRI D. SEN :** The standard procedure is that they are examined generally when the investigation is about to be completed, and no other witnesses remain to be examined.

**SHRI NARENDRA P. NATHWANI :** When was Mr. Krishnaswamy or Mr. Bhatnagar examined?

**SHRI D. SEN :** I do not know.

**SHRI NARENDRA P. NATHWANI :** As regards the explanation given by them, did they say anything about their being prosecuted? You cannot say anything without reference to files or notings.

**SHRI D. SEN :** Yes, I cannot say anything without reference to files or notings.

**SHRI NARENDRA P. NATHWANI :** Take the case of Mr. Bhatnagar. You have given us a copy of the statement. Kindly see paragraph 14 on page 6. You were referring to enquiry against Mr. Bhatnagar. You have stated that you have received information on 15.4 itself that this officer's reputation was bad. DIG was requested to send information and so on. In the case of Mr. Bhatnagar, he was placed under suspension under STC rules for misconduct. You found from the file noting that he was suspended for misconduct. Did you get any enquiry made as regards the suspension, why he was suspended and what he had to say, because you were enquiring into the charges of corruption? Therefore, would you certainly like to see whether this has anything to do with corruption or not? Then your attention was pointedly drawn that he was under suspension for his misconduct. Did you try to pursue this matter of suspension for his misconduct by asking the department to enquire into it?

**SHRI D. SEN :** We did not do it at that stage.

**SHRI NARENDRA P. NATHWANI :** When did you do it?

**SHRI D. SEN :** During investigation.

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**SHRI NARENDRA P. NATHWANI :** As far as I can recollect, on 16th April, this happened. You received his file in the afternoon of 16th and according to the note on that file on 16th April, you came to know that the Department had suspended for his misconduct.

**SHRI D. SEN :** Yes. We thought that since he had been suspended he must have done something wrong.

**SHRI NARENDRA P. NATHWANI :** Since you were concerned with charges of corruption, would you not like to enquire about them. It happened either on 15th or on 16th. Mr. Dhawan came and said : there are charges of corruption against him. Immediately the next day, on the 16th, you came to know that his department had suspended him. Still you did not think it fit to enquire into his suspension, to find out whether it had anything to do with it. You either say yes or no.

**SHRI D. SEN :** We did not make any open enquiry just then.

**SHRI NARENDRA P. NATHWANI :** You did see not merely antecedents but also other things about showing favouritism. I want to know whether it has got anything to do with these two letters. You came to know from the day when Mr. Dhawan came to you saying that the Prime Minister wanted that the case of this officer should be enquired into. That was why some action had to be taken. You say yes or no.

**SHRI D. SEN :** I must say with all respect to you, Sir, that I did not know about this at all and my main difficulty in that case had been that our established procedure had not been properly appreciated. Though this procedure may be wrong, this may have to be changed later on. At this stage, we did not make any open enquiry, but only collected information whatever we could get.

**SHRI NARENDRA P. NATHWANI :** As far as his antecedents were concerned, as far as his assets were concerned, as far as his showing favouritism was concerned,

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did you find out whether it had got anything to do with his suspension ?

**SHRI D. SEN :** As I said earlier, I did not know about this at all. But if you want me to check it up, I will do so.

**SHRI NARENDRA P. NATHWANI :** The houses of Mr. Krishnaswamy and others were raided and searches took place. These are senior officers—Mr. Krishnaswamy, Mr. Bhatnagar and others. Is there any convention in your office that before raids are carried out or searches conducted, you should either inform the Secretary or the Minister concerned ?

**SHRI D. SEN :** The Rule is that they should be informed either before or after.

**SHRI RAM JETHMALANI :** Why did you not do it before raiding their premises in these cases ?

**SHRI D. SEN :** This rests with the S.P. of the Branch. He has to take a decision whether to inform immediately or afterwards. It is not taken at my level.

**SHRI RAM JETHMALANI :** When you were consulted as to whether there should be a search carried out or not, did it not occur to you to inform ?

**SHRI D. SEN :** This rests entirely with the S.P. and he has to go by the standing orders. The standing orders are that the information may be given before or after.

**SHRI RAM JETHMALANI :** From the note prepared by you, it seems there was considerable delay in making the report. Take Mr. Krishnaswami's case for instance. When you were impressed on the very first day itself that the matter should be quickly disposed of, why did it take so long a time in the making of the report ?

**SHRI D. SEN :** You mean, to complete the investigation ?

**SHRI RAM JETHMALANI :** Yes. You said yesterday also that Mr. Dhawan had come to you and asked you to complete the enquiry quickly, that the Prime Minister had conveyed this allegation to you

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and that you took very strong steps also—that you asked for a report within five days etc. Why then, was there so much delay in completing the enquiry?

**SHRI D. SEN :** Cases of disproportionate assets always take a long time to investigate because, during investigation of these cases, the expenditure over the entire period since their entry into service has to be found out. That takes a very long time. Cases of disproportionate assets sometimes take two years to complete. From that point of view, this investigation, as far as I can say, was not completed very late. In fact, it was completed quickly, because these are the most difficult cases.

**SHRI RAM JETHMALANI :** Even when you bear in mind that the matter had to be disposed of as quickly as possible and the Prime Minister had herself taken interest and had sent this information or allegation to you?

**SHRI D. SEN :** A thorough investigation of cases of disproportionate assets takes a minimum time of seven to eight months.

**SHRI RAM JETHMALANI :** Now I am drawing attention to Mr. Krishnaswamy's statement. He says that he was being reverted to the parent Department, viz. the Railway Department, and he was protesting against it. In that connection, he stated :

"I still had about seven to eight months of my tenure . . ."

This is what Mr. Krishnaswamy had stated before us. He also said that he was told that, in the circumstances then prevailing, he should go on leave and go back to the Department because that was the only way in which they could make the CBI close his case.

**SHRI D. SEN :** As far as we are concerned, we never said that.

**SHRI RAM JETHMALANI :** May be you never said it, but you took so long a time. I am trying to point out that there was an offer made that you will close the

case if he carries out the wishes and goes away.

**SHRI D. SEN :** No Sir.

**SHRI RAM JETHMALANI :** This was told to him by senior officers : that is what Mr. Krishnaswamy has said. I am trying to point out that the way the whole enquiry has been conducted shows that the real motive for instituting what is called a 'preliminary enquiry' or 'investigation' was to obstruct or intimidate them for collecting information about Maruti.

**SHRI D. SEN :** That is not the case. I will explain. The S.P. made a request that as he had to question certain subordinates of Mr. Krishnaswamy, he should be transferred. The DIG agreed with this. A request was made only for his transfer.

**SHRI RAM JETHMALANI :** I put it to you so that you will get an opportunity to say what you had to say in this regard.

**SHRI D. SEN :** I am thankful to you. I may point out that we go by the established procedure. When a procedure is struck down by law we change it, but as long as it is not struck down, we have to go by it.

**SHRI RAM JETHMALANI :** Are you familiar with the working of the Indian Penal Code?

**SHRI D. SEN :** I know the section with which we deal.

**SHRI RAM JETHMALANI :** You are also aware there is a Section like 211 which punishes false institution of criminal proceedings?

**SHRI D. SEN :** Yes, there must be.

**SHRI RAM JETHMALANI :** You are not aware of it?

**SHRI D. SEN :** I do not remember because we do not deal with it.

**SHRI RAM JETHMALANI :** You may not remember the number but you know that the Penal Code punishes false institution of proceedings?

**SHRI D. SEN :** If somebody gives false information, it is punishable.

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SHRI RAM JETHMALANI : I take it that you are aware that one of the objects of recording the First Information Report is that you should be able to fix the identity as well as responsibility for filing of false complaints? Are you aware or are you not aware of it?

SHRI D. SEN : That may be in the Police Station but not in the CBI.

SHRI RAM JETHMALANI : I am not talking about the Police Station. Do you know that one of the objects of the First Information Report is that if the information turns out to be false, steps can be taken under the criminal law against the person who gives such false information?

SHRI D. SEN : Yes, action can be taken under 182.

SHRI RAM JETHMALANI : And under 211 also.

SHRI D. SEN : I am not aware of 211.

SHRI RAM JETHMALANI : You never heard of people being prosecuted under 211 for giving false information to the Police?

SHRI D. SEN : Since criminal proceedings start when the case goes to court...

SHRI RAM JETHMALANI : Do you know that giving false information is an offence?

SHRI D. SEN : Yes, Sir.

SHRI RAM JETHMALANI : Also, one of the objects of recording an FIR is that it should be possible to determine who initially maliciously and falsely set the criminal law in motion?

SHRI D. SEN : I do not know the law so much. In 80 per cent of our cases, the name of the informant is not given.

SHRI RAM JETHMALANI : Are you not aware of this elementary simple fact that an FIR is also recorded that in the event of the information turning out to be false, the person giving that information could be prosecuted.

SHRI D. SEN : You are a legal luminary; we go by our established procedures.

SHRI RAM JETHMALANI : Do not digress from the point. Are you aware or not?

SHRI D. SEN : I am aware of Section 182, Cr. P.C.; that is the section we use. I know that whenever somebody gives false information, he is punishable.

SHRI RAM JETHMALANI : You also know that one of the objects of the FIR is to pinpoint the person who lodged the complaint or gave the first information.

SHRI D. SEN : That is true.

SHRI RAM JETHMALANI : I take it that you were as much concerned to bring offenders to book as those who gave some false information.

SHRI D. SEN : That is true.

SHRI RAM JETHMALANI : If the information on which you started this case is maliciously false, who, according to you is responsible for giving that information?

SHRI D. SEN : We never thought that this information was given to us with a malicious purpose.

SHRI RAM JETHMALANI : I am not asking that. If it turns out *ex post facto* that this information from the beginning to the end was totally false, who should be punished for this? I want you to assume that the information is wrong from the beginning to the end.

SHRI D. SEN : The information from the beginning to the end did not prove to be false.

SHRI RAM JETHMALANI : Please do not evade the question. Who gave you the information which turned out to be false?

SHRI D. SEN : The information was given to me by Mr. Dhawan.

SHRI RAM JETHMALANI : If the information was wrong, then the person punishable for that is Mr. Dhawan.



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**SHRI D. SEN :** That will be a matter of inference.

**SHRI RAM JETHMALANI :** If the Committee comes to this conclusion that the information was false, the person punishable, according to you, is Mr. Dhawan.

**SHRI D. SEN :** Would you like me to pronounce an opinion ?

**SHRI RAM JETHMALANI :** I am asking you as head of an investigating agency, as to who should be punished.

**SHRI D. SEN :** Shri Dhawan.

**SHRI RAM JETHMALANI :** You know that Mr. Dhawan was acting as the mouth-piece of Mrs. Gandhi.

**SHRI D. SEN :** That is what he told me. He also said that this information was received from certain M. Ps.

**SHRI RAM JETHMALANI :** Is this right that one of the reasons why you acted in this matter in that speed is the fact that Mr. Dhawan told you that the information had been received by the Prime Minister herself ?

**SHRI D. SEN :** By the Prime Minister from the M. Ps. and the Prime Minister wanted quick action.

**SHRI RAM JETHMALANI :** Do I take it that one of the reasons why you acted with this remarkable speed in this case was because the then Prime Minister wanted it ?

**SHRI D. SEN :** Yes, Sir.

**SHRI RAM JETHMALANI :** According to you, if the information turns out to be wrong or false, it will be Mr. Dhawan who should be responsible for giving that false information. But if Mr. Dhawan is right that he got this information from Mrs. Gandhi, the person responsible would be Mrs. Gandhi.

**SHRI D. SEN :** I cannot say anything on this point.

**SHRI RAM JETHMALANI :** Why ?

*Shri D. Sen*

**SHRI D. SEN :** It was also conveyed that she had received the information from some M. Ps.; then you can also say that M. Ps. . . .

**SHRI RAM JETHMALANI :** Supposing the very story that certain M. Ps. had given this information to the Prime Minister itself is wrong, then according to you who will be responsible ?

**SHRI D. SEN :** If the information is given maliciously, then somebody would be responsible.

**SHRI RAM JETHMALANI :** You are evading the question deliberately, I suggest that. Is it very difficult for the head of the CBI to say that if it turns out that the whole story is false and the Prime Minister conveyed this information to Mr. Dhawan, then the person responsible along with Mr. Dhawan would be the ex-Prime Minister.

**SHRI D. SEN :** If it is given maliciously.

**SHRI RAM JETHMALANI :** You agree that if this information is given maliciously, then the Prime Minister herself would be responsible for this.

**SHRI D. SEN :** I would request you not to drag me in this kind of . . .

**SHRI RAM JETHMALANI :** You are supposed to assist the Committee. We are representing the nation; it is your duty to assist us.

If this information was totally false that any M.P. had made any complaint to the Prime Minister and the Prime Minister only knew that the official were doing their duty and collecting some information, then you agree that the whole responsibility will be of Mrs. Gandhi.

**SHRI D. SEN :** I would beg to be excused; she is too big a personality for me . . .

**MR. CHAIRMAN :** Whatever you want to say, you can say categorically. You can say, it appears or you can say, it is beyond your competence, but this is not the answer.

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**SHRI D. SEN :** I think this is most unfair. This is a very hypothetical question. It will not be good on my part to give an opinion on a hypothetical question relating to a big personality.

**SHRI B. SHANKARANAND :** The hon. member started with a hypothetical question. Let us be impartial. You should not have allowed it.

**MR. CHAIRMAN :** He started with a hypothetical question. He later on concretised it. Mrs. Gandhi happens to be a big personality, therefore, no information or views can be given is not the correct way of answering the question. There are many alternatives to answer the question.

**SHRI B. SHANKARANAND :** To avoid complications I wish you do not allow hypothetical questions. Otherwise there would not be any end. I am also competent to ask hypothetical questions on any subject and I will be asking the question whole of the day. Legal questions, interpretations, opinions may not be allowed.

**MR. CHAIRMAN :** For the sake of clarification things started from hypothetical questions and then he concretised it. I shall allow such things.

**SHRI B. SHANKARANAND :** On legal point no hypothetical question can be asked to the witness. It is a matter of argument.

**SHRI D. SEN :** Hypothetical questions were not allowed when I appeared before the Shah Commission.

**MR. CHAIRMAN :** We will not be guided by the opinion of the Commission.

**PROF. P. G. MAVALANKAR :** Witness should particularly note that these are different proceedings, of a Parliamentary Body. Just now a little while ago, in reply to questions of Shri Jethmalani the witness said that the former Prime Minister is too big a person. Therefore, he would not like

to answer. Has he not taken an oath before this Committee that he will disclose the truth that he knows. No consideration should come in the way that the person is too great. It is a matter of opinion. How can any witness tell this Committee since he has regards for any person(s), therefore, he will not tell truth to the Committee ?

**MR. CHAIRMAN :** I have told Mr. Sen that he cannot evade the question by saying that she happens to be a big personality. He has other alternative ways to answer the question.

**SHRI D. SEN :** I am prepared to answer questions on facts. I am not concealing anything. I request the Chairman and the Members not to put me in an embarrassing position by putting hypothetical questions.

**MR. CHAIRMAN :** You will get all protection from the Chair.

**SHRI RAM JETHMALANI :** I ask you if this is assumed, who is responsible as Head of the Agency ?

**SHRI D. SEN :** Unless I investigate, I cannot say who is responsible for giving false information.

**SHRI RAM JETHMALANI :** Have you maintained the record of this investigation ?

**SHRI D. SEN :** The investigation is done by an officer . . .

**SHRI RAM JETHMALANI :** Has the record of the investigation in this case been maintained in such a manner that anybody can discover who gave false information in the first instance ?

**SHRI D. SEN :** Record is maintained as per our procedure.

**SHRI RAM JETHMALANI :** Has the record been kept in such a manner that it is possible to discover as to how these proceedings started and at whose instance ?

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**SHRI D. SEN :** This will not show. We never give the name of the informant even if it comes from the Minister or Secretary. This is our usual practice.

**SHRI RAM JETHMALANI :** Your procedure is that if false information comes from any Minister, the identity of the Minister cannot be discovered,

**SHRI D. SEN :** The name of the informant is never given and especially in the case of Ministers or Secretaries.

**SHRI RAM JETHMALANI :** The name of the informant is not disclosed to the public or to the court. But the Department knows the name of the informant.

**SHRI D. SEN :** In many cases we even do not know that.

**SHRI RAM JETHMALANI :** Do I take it that you raided the houses of the people even without knowing the identity of the person? To my mind in the interest of public service, the department is allowed to withhold from courts or from members of the public the identity of the informant, but the identity and their reliability must be known to the Department.

**SHRI D. SEN :** Not in all cases.

**SHRI RAM JETHMALANI :** If your subordinate comes and tells you that the Prime Minister is guilty of corruption, you will not find out whether it is desirable to pursue it.

**SHRI D. SEN :** I cannot go into it in cases of complaints against the Minister.

**SHRI RAM JETHMALANI :** If your subordinate tells you that this public servant is corrupt, you will act without finding out whether the informant is praiseworthy or good to be believed in.

**SHRI D. SEN :** If the informant is known, then we can take action quickly. If the informant is not known to us, then we start with the preliminaries. Some preliminary verification is made.

*Shri D. Sen*

**SHRI RAM JETHMALANI :** Now, tell me, throughout investigation, have you recorded anywhere that primarily this information came to you either from Mrs. Gandhi or from Mr. Dhawan or from Mrs. Gandhi through Shri Dhawan?

**SHRI D. SEN :** No, Sir.

**SHRI RAM JETHMALANI :** Now, today if we have to determine the truth of your story, Mr. Dhawan gave you this information. I take it that we have to rely on your word?

**SHRI D. SEN :** You have to rely on my word and you can question the others also, that is, Mr. Dhawan.

**SHRI RAM JETHMALANI :** Are you in a position to support this story that Mr. Dhawan called on you and gave this information? By reference to nothing else, speaking for myself, I am not prepared to disagree.

**SHRI D. SEN :** I am not prepared to support this except my statement. Because I have not got any record.

**SHRI RAM JETHMALANI :** Please tell me. Would it be right to say that Mr. Dhawan called on you and told you that these officers were causing harassment to some people?

**SHRI D. SEN :** As I have said yesterday, what Mr. Dhawan told me was that these officers were corrupt; they were possessing disproportionate assets; they were favouring certain firms.

**SHRI RAM JETHMALANI :** Would it be wrong to say that Mr. Dhawan came and told you that these persons were harassing someone?

**SHRI D. SEN :** As far as I remember, it was not a harassment; it was only favouring certain firms.

**SHRI RAM JETHMALANI :** Mr. Dhawan never talked to you about harassment at all.

**SHRI D. SEN :** As far as I remember he never talked about harassment.

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**SHRI RAM JETHMALANI :** When these four names were given to you, had you at any time, discovered or tried to discover whether these four persons were engaged in some common activities or some common adventures ?

**SHRI D. SEN :** No, Sir.

**SHRI RAM JETHMALANI :** When these four names were bracketed together and given to you, did it ever occur to you that these four had been engaged in common activity ?

**SHRI D. SEN :** It did not occur to me.

**SHRI RAM JETHMALANI :** Do you know it now ?

**SHRI D. SEN :** I know it now because evidence has come.

**SHRI RAM JETHMALANI :** To-day you know that these four officers were engaged in collecting information required by Parliament.

**SHRI D. SEN :** It came in the evidence before the Commission. To-day I know that.

**SHRI RAM JETHMALANI :** To-day you also know that the actions which were taken by the CBI were designed to frustrate the efforts of these officers in that direction.

**SHRI D. SEN :** Sir, I cannot give an opinion on this point. I think the Parliament question was to be answered. I am speaking as on to-day. Before that I had no knowledge. The Parliament question was to be answered on the 16th and we registered the case on the 17th. So, if the intention was that these officers should not collect the information . . .

**SHRI RAM JETHMALANI :** If a Parliamentary question is put down on a particular day, no supplementary answer or no further information can be asked for by a Member because of this.

**SHRI D. SEN :** I do not know about this.

*Shri D. Sen*

**SHRI RAM JETHMALANI :** Did you at any time realise that because of registration of cases against these officers or their transfers or suspensions etc. it would necessarily affect the efforts of frustrating the activity in which these officers were lawfully employed ?

**SHRI D. SEN :** I cannot say that because some officers, in spite of that, will continue to do their duty.

**SHRI RAM JETHMALANI :** Some officers felt frustrated in doing their duty. Is it right ?

**SHRI D. SEN :** If some officers felt frustrated, that was a matter of inference.

**SHRI RAM JETHMALANI :** What do you think that would have happened in these cases now that you know the facts ? Did you or did you not believe that these officers were prevented from doing their lawful duty to Parliament ?

**SHRI D. SEN :** This is again a question which is at the very root of the privileges motion.

**SHRI RAM JETHMALANI :** Now tell me whether any communication would pass from the CBI to the Prime Minister excepting through you ?

**SHRI D. SEN :** Generally it will pass through me. Sometimes the Joint Director or Additional Director may send a note to the Personnel Department which will go to the Prime Minister.

**SHRI RAM JETHMALANI :** When something is under investigation has any note been sent to the Prime Minister from the CBI excepting through you ?

**SHRI D. SEN :** A note did go. But, I do not remember as to whether I sent this note or somebody else. But, a note did go in the form of a progress report that after registration this is the action that has been taken.

**SHRI RAM JETHMALANI :** Have you got the report ?

**SHRI D. SEN :** I do not have the report.

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Shri D. Sen

**SHRI RAM JETHMALANI : \*\***

**MR. CHAIRMAN :** It appears to me—I want to refresh my memory—that yesterday we asked a question whether any interim report or the report of the progress made in regard to the investigation was sent Mrs. Gandhi, you said 'No'. Only final report was sent.

**SHRI D. SEN :** As far as I remember—I am subject to correction—Mrs Gandhi did not ask for a note. We might have sent a note to Shri Om Mehta on being asked about it. This is what I said.

**SHRI B. SHANKARANAND : \*\***

**MR. CHAIRMAN :** No reference about the Commission's Report should be there. That is not part of the record.

**SHRI RAM JETHMALANI :** You do not know whether the progress report which was sent to the Prime Minister was by the CBI or somebody else.

**SHRI D. SEN :** I might have sent the progress report. Generally the progress reports are prepared by the junior officers—may be by the Joint Director or D.I.G. I forward it to the Department of Personnel or to Shri Om Mehta or whoever wants it.

**SHRI RAM JETHMALANI :** I am talking of the note to the Prime Minister.

**SHRI D. SEN :** We did not send any note to her. I do not remember now to whom that note was sent. As far as I remember, the Prime Minister did not ask for any note if it was in connection with a letter by Shri T. A. Pai that was sent. It was said but it never came to my notice. It may be in the form of a special report.

**SHRI RAM JETHMALANI :** This document emanated from the C.B.I. Now, tell me when was it sent ?

**SHRI D. SEN :** That I cannot say. It was not given here as to whom it was sent.

**SHRI RAM JETHMALANI :** You can surely find out the facts from the files.

**SHRI D. SEN :** I have no access to files now.

**SHRI RAM JETHMALANI :** By now you know that you were unnecessarily trying to obstruct them. By now you know that a note must have gone from the C.B.I.

**SHRI D. SEN :** It must have gone from the C.B.I. I cannot say that without reference to files.

**SHRI RAM JETHMALANI :** Are you in a position to explain how the note reached the Prime Minister ?

**SHRI D. SEN :** I cannot say. You must be fair to me also. How can I say as to whom this note was sent because notes are sent to the Secretary of the Department of Personnel and others.

**SHRI RAM JETHMALANI :** It has come from the CBI. As a head of the organisation you must know that. It has reached the Prime Minister. Can't you tell us as to how the note reached the Prime Minister ?

**SHRI D. SEN :** But I can't say how did it reach Prime Minister. It may have gone through Mr. Om Mehta or Secretary.

**SHRI RAM JETHMALANI :** Why do you send the note to Mr. Om Mehta ?

**SHRI D. SEN :** In all cases which are treated important and where searches are made they are sent to the Deptt. of Personnel.

**SHRI RAM JETHMALANI :** Do you deny or are you in a position to deny that this note was sent by the CBI to the Prime Minister because initially the proceedings had been set in motion at the instance of the Prime Minister ?

**SHRI D. SEN :** This I cannot say without reference to the files whether we sent

\*\*Not to appear as ordered by the Chair.

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it direct to the Prime Minister or through Mr. Om Mehta. Generally we send the note through Deptt. of Personnel.

**SHRI RAM JETHMALANI :** This note went to the Prime Minister because in this particular case the Prime Minister had instituted the case. Is that true or false ?

**SHRI D. SEN :** I cannot say anything without reference to the file.

**SHRI RAM JETHMALANI :** Whom do you send your progress reports ?

**SHRI D. SEN :** To Department of Personnel and in some cases to Mr. Om Mehta directly. Department of Personnel came under the Prime Minister and not the Home Minister.

**SHRI RAM JETHMALANI :** I will say that this note was directly meant for the Prime Minister's Secretariat.

**SHRI D. SEN :** It depends on Mr. Mehta whether he sends them to the Prime Minister or not.

**SHRI RAM JETHMALANI :** Do you know the date of the note ?

**SHRI D. SEN :** It is not given here.

**SHRI RAM JETHMALANI :** Do you admit that this must have been sent in the early part of May ?

**SHRI D. SEN :** As far as I can see this note must have been sent at a very early stage of investigation, that is, soon after the search. After the search it is our practice to send special reports.

**SHRI RAM JETHMALANI :** At least today you know this note was annexed by Mrs. Gandhi to her letter of 7th May written to Mr. Pai ?

**SHRI D. SEN :** I came to know it during my appearance before the Shah Commission.

**SHRI RAM JETHMALANI :** Please tell us this note records the investigation made upto what date ?

**SHRI D. SEN :** This must have gone soon after the search.

**SHRI RAM JETHMALANI :** Search took place on 3rd May.

**SHRI D. SEN :** In this case on 19-4-1975.

**SHRI RAM JETHMALANI :** Is this note dated sometimes in April ?

**SHRI D. SEN :** It should be.

**SHRI RAM JETHMALANI :** Please have a look into the contents of this note. This note refers to the investigation done against Rajan. I take it that similar notes were sent against three other officers too.

**SHRI D. SEN :** I cannot say without reference to the file whether they were actually sent or not. I expect such notes should have gone.

**SHRI RAM JETHMALANI :** This note purports to say that on receipt of the information to the effect that Shri Rajan, Development Officer has shown undue favours to M/s. R. K. Machine Tools, Ludhiana and M/s. Daulat Ram Industrial Corporation Pvt. Ltd., Ludhiana. Were these two names obtained either from Mr. Dhawan or any Member of Parliament ?

**SHRI D. SEN :** This came only from secret information. Mr. Rajpal reported it.

**SHRI RAM JETHMALANI :** Except for secret information there is no other material to justify this assertion.

**SHRI D. SEN :** Yes. I may add ultimately these allegations were found to be correct.

**SHRI RAM JETHMALANI :** According to you when were they found to be correct ?

**SHRI D. SEN :** When the investigation was completed.

**SHRI RAM JETHMALANI :** That is during the Emergency. You had learnt that the original source of the grievance

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against these officers were some Members of Parliament. Did you at any time throughout this investigation—either during preliminary enquiry or formal investigation—try to discover the identity of any Member of Parliament?

SHRI D. SEN : No, Sir.

SHRI RAM JETHMALANI : Is there anything anywhere in your record to show that initially you had been told that Members of Parliament were responsible for giving this information?

SHRI D. SEN : There is nothing in writing about it.

SHRI RAM JETHMALANI : Do I take it that except for the oral word, there is nothing at all to show that any Member of Parliament had given any information to the Prime Minister?

SHRI D. SEN : This is only what Mr. Dhawan told me; that is all.

SHRI RAM JETHMALANI : Why did you not try to ascertain? You say that Members of Parliament are respectable persons and their information is reliable. Why is that throughout the investigation you did not take the elementary step of contacting those M.Ps and find out what they had to say?

SHRI D. SEN : Generally we do not do so; even when information comes from them, we are only concerned with the allegations and we investigate them.

SHRI RAM JETHMALANI : If a Member of Parliament has something specific to tell you, you do not bother to check it up?

SHRI D. SEN : If there was anything specific it would have come to me; the only thing specific was their larger assets.

MR. CHAIRMAN : Do you remember the case of Tulmohan Ram? Were not M.Ps contacted?

SHRI D. SEN : In that case, the first thing that was given to us was to ascertain whether those M.Ps had signed it. The

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Commerce Ministry sent a petition signed by a number of M.Ps in favour of giving licence and asked us to verify that. We had to go to the M.Ps to find it out; that was the only purpose of the enquiry.

SHRI RAM JETHMALANI : According to you the Members of Parliament were anonymous?

SHRI D. SEN : Not anonymous; they probably did not want to be questioned. It came from Mr. Dhawan that the M.Ps had given this information and I thought that the M.Ps wanted this information to be conveyed to us. That is all.

SHRI RAM JETHMALANI : Suppose some M.P. had knowledge that those officers were in possession of a particular asset here or in some city or some asset concealed somewhere, would you not consider that useful?

SHRI D. SEN : That would certainly be useful.

SHRI RAM JETHMALANI : Why did you not do the obvious thing?

SHRI D. SEN : Because we never go beyond this.

SHRI RAM JETHMALANI : I am suggesting to you that the story of M.Ps had been subsequently concocted; such a story never existed on that day.

SHRI D. SEN : I would not say this is correct; this is what Mr. Dhawan told me.

SHRI RAM JETHMALANI : Did you ask what exactly those M.Ps had to say?

SHRI D. SEN : He told me: the M.Ps said that they are in possession of large assets which their income does not justify and that they are favouring certain firms.

SHRI RAM JETHMALANI : If Mr. Dhawan says that all that he did was to give four names, he is speaking falsehood?

SHRI D. SEN : If he says that, it is not correct. It is quite obvious because there are hundreds of Bhatnagars, hundreds of Rajans in Delhi.

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MR. CHAIRMAN : This question was asked and he had categorically stated.

SHRI D. SEN : He gave us surnames and designations.

SHRI RAM JETHMALANI : I do not suggest that he did not give you the names in that sense ; he gave you names and designations of the officers. Did he do only that and nothing more ?

SHRI D. SEN : No, Sir ; he gave those allegations.

SHRI RAM JETHMALANI : When did you for the first time learn that at least one of these officers was concerned with the enquiry from Batliboi company ?

SHRI D. SEN : This I learnt for the first time when it came before the Shah Commission ?

SHRI RAM JETHMALANI : Through-out your investigation you did not learn that one of those officers at least was concerned with making enquiries from Batliboi company ?

SHRI D. SEN : As far as I remember, it did not come out during investigation. I learnt it when it came before the Shah Commission.

SHRI RAM JETHMALANI : If I suggest to you that the information which Mr. Dhawan gave you was : these four officers are unnecessarily prying into the affairs of Maruti ; do something to prevent this ?

SHRI D. SEN : No, that is not correct because as I said in the beginning, I did not know anything about Maruti.

SHRI RAM JETHMALANI : I suggest to you that that is precisely why while you recorded the first information report you made no enquiry about the M.Ps.

SHRI D. SEN : That is unfair because in 80 per cent of our cases, no name of the informant is recorded. We only say : 'Information had been received.....'.

SHRI RAM JETHMALANI : What made you believe that Mrs. Gandhi or Mr. Dhawan wanted a secret enquiry ?

SHRI D. SEN : I did not say secret enquiry ; I said investigation ; they wanted investigation.

SHRI RAM JETHMALANI : 'Their names should not be disclosed'—what made you believe so ?

SHRI D. SEN : That is our usual practice ; we never record the names of the Minister or Secretary, whenever they give information.

SHRI RAM JETHMALANI : The information which you got initially from Mr. Dhawan specifically told you that they were concerned about the activities of those four officers : please make enquiry, amongst other things, into their antecedents. Is it so ?

SHRI D. SEN : It is not correct. I have already said that I was not told to enquire about their antecedents ; I was asked to make an investigation into the allegations.

SHRI RAM JETHMALANI : Would you concede that the information which you got from Mr. Dhawan did amount to the allegation of a cognizable offence ?

SHRI D. SEN : Yes, Sir.

SHRI RAM JETHMALANI : Are you not by law compelled to record the FIR when the report amounts to commission of cognisable offence ? If the report is believed to be true, you are required to record it in writing.

SHRI D. SEN : At some stage we have to record it in writing.

SHRI RAM JETHMALANI : The report is required to be signed...

SHRI D. SEN : That is under Section 154. We were acting under Section 157.

SHRI RAM JETHMALANI : I am suggesting to you that you did not deliberately follow the procedure of Section 154 because you knew from the beginning that you were inquiring into something non-existent.



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SHRI D. SEN : It is absolutely incorrect because in eighty per cent of the cases it is said "on receipt of information received or otherwise....." Under Section 157 of Cr. P.C. ....

SHRI RAM JETHMALANI : I am coming to that in a minute. When you receive information about a cognisable offence and if you are not satisfied that it is genuine, you embark on a preliminary inquiry. This is the only law that I know. Is that right? Only when you are not *prima facie* convinced about the truth of the information you conduct a preliminary inquiry before recording the FIR, Correct?

SHRI D. SEN : This is not absolutely correct.

SHRI RAM JETHMALANI : Is it substantially correct?

SHRI D. SEN : Some part of it is correct. In some cases we record it immediately.

SHRI RAM JETHMALANI : You record it immediately when the information is manifestly credible.

SHRI D. SEN : Not necessarily. When the information comes in writing from somebody we record it immediately. Otherwise, if it comes orally, by way of caution we may make a very quick verification and then record it.

SHRI RAM JETHMALANI : Are you aware that under Section 154 when the information comes orally, it should be recorded in writing?

SHRI D. SEN : Section 154 does require that. But as I was saying again and again, in eighty per cent of the cases and especially in the case of Government servants, we say : "information has been received" and there is no name of the informer.

SHRI RAM JETHMALANI : In respect of each of these four cases you were told that they were showing some favours to some firms?

SHRI D. SEN : Yes.

SHRI RAM JETHMALANI : Why is it that you did not take the elementary step of asking Mr. Dhawan to give you the names of the firms?

SHRI D. SEN : He did not know the names of the firms.

SHRI RAM JETHMALANI : Did you ask him?

SHRI D. SEN : As I said the names of the firms were not given.

SHRI RAM JETHMALANI : That I know. Did you ask him this elementary question?

SHRI D. SEN : At this distance of time, I do not remember. I may or may not have asked it.

SHRI RAM JETHMALANI : What do you think your normal reaction would be as a reasonable Officer?

SHRI D. SEN : It would be to ask for the names.

SHRI RAM JETHMALANI : You asked him, but he could not give.

SHRI D. SEN : That is one of the reasons why it was sent for a quick verification and if the names of the firms could be found out.

SHRI RAM JETHMALANI : That was one of the reasons why you ordered a preliminary inquiry on the 15th?

SHRI D. SEN : It was a secret verification.

SHRI RAM JETHMALANI : The secret verification which you ordered on the 15th was intended to secure information about two things : (a) disproportionate assets and (b) favouritism to firms.

SHRI D. SEN : Information about the assets could not be found quickly.

SHRI RAM JETHMALANI : On what did you order the secret inquiry on the 15th?

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SHRI D. SEN : Mainly about their reputation and for the names of any firms. Again according to our procedure, if any Officer had come to adverse notice previously it will be on record.

SHRI RAM JETHMALANI : What is the purpose for which you ordered the secret enquiry ?

SHRI D. SEN : Mainly reputation.

SHRI RAM JETHMALANI : Subsidiarily.

SHRI D. SEN : If there was any record of these Officers having shown favours or if there was anything adverse that has come to notice.

SHRI RAM JETHMALANI : When was the result of the secret inquiry communicated to you ?

SHRI D. SEN : On the 16th evening.

SHRI RAM JETHMALANI : You ordered the Secret inquiry on the evening of 15th ?

SHRI D. SEN : Sometime on 15th.

SHRI RAM JETHMALANI : In the evening ?

SHRI D. SEN : I do not remember whether it was in the morning or evening.

SHRI RAM JETHMALANI : To whom did you order ?

SHRI D. SEN : Mr. Rajpal.

SHRI RAM JETHMALANI : Nobody else ?

SHRI D. SEN : Yes.

SHRI RAM JETHMALANI : You got the information as a result of the secret inquiry on the 16th morning ?

SHRI D. SEN : On the 16th evening.

SHRI RAM JETHMALANI : Where are these firms in which Mr. Rajan was involved located ?

SHRI D. SEN : This information was found out from the intelligence unit records and one of these firms was R. K. Machine Tools.

SHRI RAM JETHMALANI : Therefore no enquiry was made outside the Officer and you had to open up a file and discover the information from that.

SHRI D. SEN : Yes. It was already on the records of the intelligence unit and it was reported.

SHRI RAM JETHMALANI : No investigation was made outside the Office. The secret inquiry was done by reading a few files.

SHRI D. SEN : It is a secret inquiry and not an investigation.

SHRI RAM JETHMALANI : I have never heard this term "secret inquiry". Anyway we will adopt that. You did not expect any inquiry outside Office to be made.

SHRI D. SEN : During secret inquiry nobody from outside is contacted. The information is collected through some source or from something in the records.

SHRI RAM JETHMALANI : Can I take it that secret inquiry means only reading of papers in your own office ?

SHRI D. SEN : In our own office or in some other offices if we get it secretly.

MR. CHAIRMAN : What do you mean by some other Offices ? Is it not any branch of yours ?

SHRI D. SEN : No. For example, if an officer knows somebody in the Income Tax, and if he can see those papers secretly.....

MR. CHAIRMAN : Just now you admitted that no outside inquiry was made and you only had to go through your file. The FIR was submitted on the 16th evening.

SHRI D. SEN : In Mr. Rajan's case whatever information was given, it was based on what they could get from their files.

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MR. CHAIRMAN : What is the practice ? Do you keep this dossier for all the important officers of the Central Government ?

SHRI D. SEN : It is not the practice to do so.

MR. CHAIRMAN : How is it that this information was recorded in your office ?

SHRI D. SEN : If anybody comes to any adverse notice then we record it.

MR. CHAIRMAN : Did he come to adverse notice at any time ?

SHRI D. SEN : The report says that he had come to adverse notice.

MR. CHAIRMAN : If that is so, at that time did you draw the attention of the Department of Personnel to it ?

SHRI D. SEN : We must have written to the Department concerned.

MR. CHAIRMAN : You must have known. This is a specific case. Did you do it ?

SHRI D. SEN : Yes.

MR. CHAIRMAN : When did you do it ? When did it come to your notice and whether you have communicated it to the Department of Personnel ?

SHRI D. SEN : It was conveyed to the Department concerned at that time when it came to the adverse notice. After that we did not take any action.

MR. CHAIRMAN : You got the report from your files. In that report you found that his conduct was a bad conduct. If you found like that, did you not ask the Department of Personnel to take appropriate action against him ?

SHRI D. SEN : This information might have been received two or three years back. At that time the Department might have that information. When we receive such information, we only pass it on to them. But if there is something else also, then we make use of it.

MR. CHAIRMAN : How and when did you get the information about Mr. Krishnaswamy, Mr. Bhatnagar and Mr. Cavale ?

SHRI D. SEN : About Krishnaswamy and Cavale it took some time.

MR. CHAIRMAN : How many days ?

SHRI D. SEN : In the case of Krishnaswamy the inquiry started on 16-4-1975 and it was on 27th the case was registered.

MR. CHAIRMAN : What about Mr. Cavale and Mr. Bhatnagar ?

SHRI D. SEN : In the case of Bhatnagar it started on 16th. On the 16th this information came and on 17th it was registered.

PROF. P. G. MAVALANKAR : It is not clear from the witness when he said 'secret inquiry'. I would like to know, in continuation of what Mr. Jethmalani has asked him, what exactly is the nature of the secret inquiry. He has not elaborated on that. Please tell us what is the nature of the 'secret inquiry'.

SHRI D. SEN : The Intelligence unit does not have any Police powers. It cannot go to any office to get any record. The secret enquiry is just for our own satisfaction that there is something against the man about whom we are going to make an inquiry.

PROF. P. G. MAVALANKAR : What exactly you do ?

SHRI B. SHANKARANAND : Mr. Chairman, at this point I want to know whether you are compelling Mr. Sen to divulge the very functioning of the secret inquiry. I want to know whether you want him to make it public.

MR. CHAIRMAN : In this matter I want the guidance of the Committee. I do not know exactly what is the procedure and whether it amounts to divulging the secret functioning. You may please repeat your question.

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**SHRI B. SHANKARANAND** : I have never raised any question or objection. This is for clarification whether you want the ex-CBI Head who knows what exactly they do during secret inquiry and how they do the secret inquiry, to make it public and whether it is allowed by law.

**SHRI RAM JETHMALANI** : We are exercising a constitutional function, nothing beyond that.

**MR. CHAIRMAN** : Is there anything about secret inquiry under the law?

**SHRI RAVINDRA VARMA** : We are basing our questions on the nature of a secret inquiry. To that extent I think we can ask questions.

**MR. CHAIRMAN** : I have been told about the procedure and functioning of this Committee. If there is something which may amount to the divulging of the secret information, it may not be placed, without the permission of the Speaker, on the Table of the House.

**SHRI D. SEN** : I would suggest that this may not be recorded here, but I will explain orally what is secret inquiry.

**MR. CHAIRMAN** : Let it be recorded, but if the hon. Speaker so thinks that it should not be placed on the Table of the House, it is left to his discretion.

**SHRI D. SEN** : In the secret inquiry, the first thing is that they check if the officer is on their index card. And if this officer is on the index card, that means, he has come to adverse notice before and in the index card the connection in which he came to the adverse notice would also be mentioned. The next thing is, because these people have been working in the intelligence for a long time—they are kept there for a longer period—they have their contacts in every Department and from those departmental people whom they know, they will be able to ascertain about the reputation of the officer, about his integrity. The next thing is they will also be able to know about that officer from his subordinates. It may be desirable or may not be desirable, but it is a practice

that from his subordinates and others they will also come to know about his style of living and all this and there may be certain other things also—I cannot be very exhaustive, but the thing is that during secret inquiries they are prohibited from contacting anybody except somebody who is absolutely in their confidence because he should not leak out the secret inquiry that is made. The next thing is, if they know somebody who can show some records about him secretly, they will look into them. Otherwise they will not go to any Department to look into the records. That is, very briefly, the secret inquiry.

**SHRI RAM JETHMALANI** : The only verification which was made in the case of Rajan between the 15th and 16th was looking into some papers lying in your office already.

**SHRI D. SEN** : There were two things. One was about the papers, the index card in which he had come to adverse notice. That information was reproduced here. And the other was his reputation for integrity was bad, and this must have been ascertained by them from some of their sources in the department.

**SHRI RAM JETHMALANI** : What was the information available with your department even before the 15th April about this officer, Rajan? Was there any information collected between the 15th and 16th?

**SHRI D. SEN** : No. He had shown favours to R. K. Machine Tools and Daulat Ram.

**SHRI RAM JETHMALANI** : That he had shown favours was information with your department even before the 15th April.

**SHRI D. SEN** : In the Intelligence Wing.

**SHRI RAM JETHMALANI** : It is part of your department.

**SHRI D. SEN** : Yes.

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**SHRI RAM JETHMALANI :** Please tell me how old this information was which was lying with your department.

**SHRI D. SEN :** As far as I remember, this information . . .

**SHRI RAM JETHMALANI :** Why can't you be more specific? Every time you say as far as you remember.

**SHRI D. SEN :** This information was I think four or five years old.

**SHRI RAM JETHMALANI :** For four or five years it was lying with your department?

**SHRI D. SEN :** In the Intelligence Wing.

**SHRI RAM JETHMALANI :** Will you please tell us whether the records showed the nature of the favouritism shown?

**SHRI D. SEN :** I will read out :

"He has shown favour to R. K. Machine Tools in recommending grant of licence for automobile parts and in recommending the import of raw materials to Daulat Ram."

**SHRI RAM JETHMALANI :** In which year?

**SHRI D. SEN :** In my note it is not given.

**SHRI RAM JETHMALANI :** Did you bother to find out?

**SHRI D. SEN :** The year was 1969.

**SHRI RAM JETHMALANI :** Is it the year in which the favour was shown or the year in which it came to your notice?

**SHRI D. SEN :** The year in which it came to our notice.

**SHRI RAM JETHMALANI :** This information had come to your notice in 1969, but favouritism of which year? Another five years before 1969?

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**SHRI D. SEN :** This is not given here in the note. In the Intelligence Wing it should be there.

**SHRI RAM JETHMALANI :** Your information did not disclose when these favours were shown to these two firms?

**SHRI D. SEN :** This should be in the Intelligence Wing. In the note which came to me, it is not mentioned.

**SHRI RAM JETHMALANI :** You directed the F.I.R. to be filed after the secret enquiry?

**SHRI D. SEN :** Yes.

**SHRI RAM JETHMALANI :** We are not talking of your state of mind. What exactly did you come to know? That this officer had shown favours to these two firms and it was known to your department some six years ago?

**SHRI D. SEN :** In 1969.

**SHRI RAM JETHMALANI :** Did you enquire even in 1969 as to the year in which these favours were shown? Some 20 or 30 years back? This you did not verify?

**SHRI D. SEN :** Because this matter was still under correspondence with the department.

**SHRI RAM JETHMALANI :** Did your note tell you what the nature of the favours shown was?

**SHRI D. SEN :** It says :

"Shri A. S. Rajan has tried to show undue favour to R. K. Machine Tools, Ludhiana, in the matter of recommending the grant of an import licence."

**SHRI RAM JETHMALANI :** "Undue favour shown" does not indicate what favour was shown at all, whether Mr. Rajan had anything to do with it, what he did. Nothing, no particulars.

**SHRI D. SEN :** No.

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SHRI RAM JETHMALANI : There were no particulars of the favours supposed to have been shown by Rajan six years ago ?

SHRI D. SEN : In this note it was not given.

SHRI RAM JETHMALANI : Before taking a decision whether an F.I.R. should be filed or not, did you take the simple precaution of finding out what your department was doing with this for six long years ?

SHRI D. SEN : It was under correspondence with the department.

SHRI RAM JETHMALANI : What is the meaning of "correspondence with the department" ?

SHRI D. SEN : We wanted them to take action, and they were asking for particulars.

SHRI RAM JETHMALANI : What had your department done to discover the truth or falsity of the allegation for six years ? Your department had taken no action in this matter.

SHRI D. SEN : This is not correct.

SHRI RAM JETHMALANI : Which is correct ?

SHRI D. SEN : We had reported it to the department and the correspondence was going on with them because they are concerned with imports.

SHRI RAM JETHMALANI : I take it that for six years you were just trying to hold an informal enquiry into the allegation. What had you done about this allegation which was known to you for six years ? I cannot understand the meaning of correspondence. Either there is a secret enquiry or F.I.R. or investigation.

SHRI D. SEN : In certain cases we report it only to the department. We reported it to the department and we thought they would take some action. They wanted some particulars, they were given to them.

SHRI RAM JETHMALANI : Therefore, I take it that you had given information to the department to take action, but you were not conducting any enquiry.

SHRI D. SEN : We were not investigating.

SHRI RAM JETHMALANI : Why ? Because you did not think it worthwhile investigating into it for six years ? You never thought it worthwhile to hold either a secret enquiry or a formal enquiry or an investigation under the Criminal Procedure Code.

SHRI D. SEN : Some kind of secret enquiry must have been made and then the matter must have been reported to the department.

SHRI RAM JETHMALANI : You tell us the state of your knowledge on 15th April. What did you know ? You directed that a formal F.I.R. should be filed. I hope you know what I am driving at. You deliberately resurrected some dead matter of 1969 and dishonestly converted it into an F.I.R.

SHRI D. SEN : This is not correct.

SHRI RAM JETHMALANI : If some action had been taken on this, then it would have been different. For six years your department made no enquiry into the truth of this allegation. None.

SHRI D. SEN : None except a secret enquiry.

SHRI RAM JETHMALANI : What is the secret enquiry, and what was the result ?

SHRI D. SEN : I will not be able to say without the Intelligence Unit's file.

SHRI RAVINDRA VARMA : The question that Mr. Jethmalani is asking you is whether for six years you looked to outside sources of information from which information could have been collected. The answer is clear, that you have not done so. Do you deny it ?

SHRI D. SEN : I beg your pardon.

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**SHRI RAM JETHMALANI :** I have explained, and he has explained to you more clearly, that you got information about the misconduct of a public servant in 1969, which is exactly a good long six years before 1975. What has your department done ? You tell us that all that you did was to make a secret enquiry. Please tell us what that secret enquiry was and the result of the secret enquiry.

**SHRI RAVINDRA VARMA :** He says the information came to them in 1969. After that, all that they did was to conduct a secret enquiry. Earlier he told this Committee—that a secret enquiry consisted of looking into the already available material in the files— that no enquiry was made outside. This is the meaning. All that he did from 1969 to 1975 was to conduct a secret enquiry. Have you not said so ?

**SHRI D. SEN :** I did not say that from 1969 we were conducting a secret enquiry. In the beginning, some secret enquiry must have been made.

**SHRI RAVINDRA VARMA :** Did you not tell this Committee that all that you did was to conduct a secret enquiry ? You did not tell that all the time you were conducting a secret enquiry. You told the Committee that all that you did was to have a secret enquiry.

**SHRI D. SEN :** That is true.

**SHRI RAVINDRA VARMA :** You have already told the Committee that a secret enquiry is distinct from an open enquiry ; that a secret enquiry means looking into information which is already available in the indices or the sources which are known to have the information and ready to let you open work at it without divulging that there has been an enquiry. You have looked into it. You have not asked anyone else.

**SHRI D. SEN :** In this case, that is quite correct.

**SHRI RAM JETHMALANI :** Are we therefore, right in presuming that this information which you got six years ago, a

secret enquiry which could not have taken more than a day and presumably you did not find it worthwhile to convert this secret enquiry into a preliminary enquiry and therefore this allegation was found to be utterly useless ?

**SHRI D. SEN :** By themselves, they were not fit enough for investigation.

**SHRI RAM JETHMALANI :** This decision must have been arrived at before 1975. It should have taken nearly a day of two.

**SHRI RAVINDRA VARMA :** You must say yes or no. You should not nod your head.

**SHRI D. SEN :** This was not fit enough for investigation by itself. That decision must have been taken.

**SHRI RAM JETHMALANI :** In the interval, there was no further information at all on this point.

**SHRI D. SEN :** There was no further information except the correspondence which was going on with the CCIE. I do not have that correspondence with me. I have this note only with me.

**SHRI RAM JETHMALANI :** Have you ever seen that correspondence ?

**SHRI D. SEN :** No.

**SHRI RAM JETHMALANI :** How did you come to the conclusion that this correspondence was going on ?

**SHRI D. SEN :** This is given in the intelligence report. This note is dated 16th April 1975.

**SHRI RAM JETHMALANI :** From this note you came to know that there was some correspondence. Did you try to see what sort of correspondence was going on ? So far as these allegations were concerned, no additional material was made available to you at all. Why did you deliberately get them incorporated in the FIR ?

**SHRI D. SEN :** They were showing favours to certain firms. Since this matter was not investigated, we thought we should investigate this matter also.

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**SHRI RAM JETHMALANI** : On the material available.

**SHRI D. SEN** : On the basis of the material available.

**SHRI RAM JETHMALANI** : In order to harass these officers at the instance of your superiors, you deliberately instituted a false FIR.

**SHRI D. SEN** : This is absolutely incorrect. When this matter was reported to the Central Vigilance Commissioner, which is the highest authority, he said that on this allegation of showing favours, there might have been a major penalty, because we had recommended only a minor penalty. So, he accepted this.

**SHRI RAM JETHMALANI** : That was there during the emergency. This was done just to cover up everybody—six years old allegations.

**SHRI B. SHANKARANAND** : Now he says : everybody. You should stick to the facts.

**SHRI D. SEN** : I think this had been the greatest misfortune because everybody believes that everybody was affected during the emergency.

**SHRI RAM JETHMALANI** : I cannot possibly say that everybody was affected, but, at least, hundreds and thousands were sent to jails. They were affected.

**PROF. P. G. MAVALANKAR** : Can the witness give his opinions on emergency and the state of affairs during the emergency, because, at one time, he said he had no information to give ?

**SHRI D. SEN** : I am not giving any opinions. I am only expressing my difficulties that I am finding it difficult to convince everybody about certain procedures.

**PROF. P. G. MAVALANKAR** : Mr. Jethmalani asked the witness whether this was done during the emergency or not. Everybody knows what has happened. He should not give his opinions on emergency.

But he started giving his opinions on emergency. I want this to go on record that to get opinions on emergency is not proper.

**SHRI D. SEN** : I beg your pardon. I was not giving opinions on emergency.

**SHRI B. SHANKARANAND** : We do not want their opinions.

**SHRI RAM JETHMALANI** : You get a copy of the First Information Report against Mr. Rajan.

**SHRI D. SEN** : I have got a copy of that.

**SHRI RAM JETHMALANI** : You kindly give it to us.

**SHRI B. SHANKARANAND** : We want the original and not a copy of it.

**MR. CHAIRMAN** : These are attested copies.

**SHRI B. SHANKARANAND** : An attested copy is no proof. I also know the law of evidence : I want the original. While law is being quoted every minute from the Criminal Code, the Hon. Member says we are not governed by law ! When it comes to the law of evidence, he is not bothered but when it comes to the IPC, O yes, he is !

**MR. CHAIRMAN** : Attested copies are as good as originals.

**SHRI B. SHANKARANAND** : Nobody's opinion can change the law. Law is law and a copy is a copy : whether it is attested or not it cannot be the original document.

We have been asking hypothetical questions on 211 : let us not say we are not concerned with law.

**MR. CHAIRMAN** : It is a matter of common-sense.

**SHRI B. SHANKARANAND** : I am not concerned with commonsense : I am concerned with law.

**MR. CHAIRMAN** : I would like to be benefited by your guidance : you may show me the law or the Act and the particular provision.



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**SHRI B. SHANKARANAND** : I will do it.

**SHRI RAM JETHMALANI** : Only if a document which is produced goes against the accused, it should be produced in original.

**SHRI B. SHANKARANAND** : You are going to use it against a person who is also accused of breach of Privilege.

**SHRI RAM JETHMALANI** : Now, Mr. Sen, you caused this First Information Report to be instituted : it was instituted directly on your orders ?

**SHRI D. SEN** : I only order the registration of a case. The First Information Report is the responsibility of the S. P. The Intelligence unit file is sent to him and he then . . .

**SHRI RAM JETHMALANI** : You applied your mind to all the matter available and then decided that this First Information Report should be filed ?

**SHRI D. SEN** : I did not draft the FIR.

**SHRI RAM JETHMALANI** : You do not take the responsibility for the contents of the First Information Report ?

**SHRI D. SEN** : No, I cannot take the responsibility for the contents of the FIR : I can take the responsibility for the registration of the case.

**SHRI RAM JETHMALANI** : Who is responsible for the contents of the document ?

**SHRI D. SEN** : The S. P. of the Branch.

**SHRI RAM JETHMALANI** : Who is it ? Mr. Vijayan ?

**SHRI D. SEN** : No, he had nothing to do with the recording of the FIR. If you will let me have the file for a minute I can tell you.

I find that this was recorded by Shri R. P. Sharma, S.P., Delhi Branch.

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**SHRI RAM JETHMALANI** : Mr. Chairman, since we have got attested copies, do we mark them as 'Exhibits' ?

**SHRI B. SHANKARANAND** : There can be no question of Exhibits in Privilege proceedings.

**MR. CHAIRMAN** : All the evidence will be collected. I have already stated the procedure. It will be recorded in the proceedings, but whether it will be placed on the Table of the House or not depends on the discretion of the Speaker.

**SHRI RAM JETHMALANI** : When you present the Report on our behalf, you will refer to all that is brought out in the evidence as well as in the documents ?

**MR. CHAIRMAN** : Some portions of the FIR can be quoted in our proceedings wherever required, not the whole.

**SHRI RAM JETHMALANI** : Is this right that usually in cases of disproportionate assets before recording as FIR, the officer is asked through the head of his department to explain the assets ?

**SHRI D. SEN** : No, Sir.

**SHRI RAM JETHMALANI** : Is this practice followed at all ?

**SHRI D. SEN** : Not before the registration of the case.

**SHRI RAM JETHMALANI** : If you had after the registration of the case any reply from the Officer, it would be hit by Sec. 152 of Cr. P.C.

**SHRI D. SEN** : That is true.

**SHRI RAM JETHMALANI** : My knowledge is that in all these matters the officer's attention is invited through the departmental head to the disproportionate assets and he is asked to give his explanation.

**SHRI D. SEN** : That is not correct. If we ask the officer, immediately the whole thing will leak out.

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SHRI RAM JETHMALANI : Do you deny that this practice has been followed in some cases ?

SHRI D. SEN : Not at all in those cases in which we register the case. It might have happened in one or two cases ; generally, we do not ask.

SHRI RAM JETHMALANI : Has it happened in some cases ?

SHRI D. SEN : I would not be able to say that . . .

SHRI RAM JETHMALANI : Supposing your preliminary enquiry discloses that an officer possessed disproportionate assets, before recording an FIR, would you not ask the departmental chief to draw his attention to this and call for his explanation ?

SHRI D. SEN : It might happen in a rare case, but generally in 95—98 per cent cases, it does not happen.

SHRI RAM JETHMALANI : In this case before recording the FIR, no enquiry of any kind was made from the officer.

SHRI D. SEN : No, Sir. I might clarify that there is a Central Government service rule by which an officer can be asked to declare all his assets and disclose the source of acquiring them. Formerly, in some cases, it was being asked. Later on, some officers refused saying that they cannot give evidence against themselves and legally it is not tenable. After that generally, it has not been asked.

SHRI RAM JETHMALANI : Is it true that in case of Rajan before you caused the case to be registered, you did come to know that his departmental chief had said that in the previous enquiry, nothing mala fide was found on his part ?

SHRI D. SEN : According to the copy I have with me, the reply received from DGTD was that it was admitted that Shri Rajan should have been meticulous in checking up the specifications.

SHRI RAM JETHMALANI : Does it not say that the officer had no mala fide ?

SHRI D. SEN : This is not the whole quotation; it does not contain that.

SHRI RAM JETHMALANI : You are reading the portion which you want to rely upon. It contains that portion also.

Now, in spite of that, you caused this case to be registered.

SHRI D. SEN : We would not go by the officer's opinion, whether it is mala fide or not. It is a matter for investigation.

SHRI RAM JETHMALANI : Have you got the panchnama of the search of Rajan's place ?

SHRI D. SEN : Not here.

SHRI RAM JETHMALANI : What was recovered on search ?

SHRI D. SEN : According to the note shown to me, the total value of the assets is given . . .

SHRI RAM JETHMALANI : Even your own enquiry showed that this officer was in possession of assets worth Rs. 80—90 thousands of rupees.

SHRI D. SEN : Yes, Sir.

SHRI RAM JETHMALANI : Do you know what was Mr. Rajan's salary ?

SHRI D. SEN : Roughly, it would be Rs. 1,600 or Rs. 1,700 ; he was a development officer.

SHRI RAM JETHMALANI : How long has he been in service ?

SHRI D. SEN : I have to see the record.

This is not given in the file. This did come in the investigation stage.

SHRI RAM JETHMALANI : Did he have information about any other source of income ?

SHRI D. SEN : Not before registering the case.

This is a matter for investigation. When investigation is done, all sources of income are found out.

SHRI RAM JETHMALANI : Did you find out whether his wife was employed ?

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SHRI D. SEN : In Rajan's case it was not mentioned that his wife was employed.

SHRI RAM JETHMALANI : It is an offence to have disproportionate assets in relation to one's source of income.

SHRI D. SEN : Yes.

SHRI RAM JETHMALANI : Therefore, before you *prima facie* come to the conclusion that it is a case of disproportion, you should have a *prima facie* idea of the source of income.

SHRI D. SEN : That is not correct. That is a matter of investigation.

SHRI RAM JETHMALANI : You do not believe that you should have *prima facie* evidence at least about the assets of a person and about his sources of income before you can *prima facie* come to the conclusion that there is disproportion.

SHRI D. SEN : That will be known at the time of investigation.

SHRI RAM JETHMALANI : *Prima facie* you should know his approximate assets. You must know approximately his source of income and see apparently whether it is a case of disproportion.

SHRI D. SEN : When the information comes from a reliable source, then this is not done.

SHRI RAM JETHMALANI : Before registering an offence you do not come to the conclusion even whether *prima facie* there is an evidence supporting the offence !

SHRI D. SEN : By way of caution we investigate.

SHRI RAM JETHMALANI : Between 15th and 16th all that you did was to find out about the reputation of the officer.

SHRI D. SEN : As also whatever was contained in the Report.

It will not be possible to make any investigation if we were to find out all this in the first instance. If you want to make heroes of these officers. I have nothing to say.

SHRI RAM JETHMALANI : You interfered with these people. We are not making heroes of anybody. Any human being would be angry on this. You are absolutely not repentant on all this.

SHRI D. SEN : I am very sorry for saying 'heroes of these officers'.

SHRI B. SHANKARANAND : Such an attitude against a witness is uncalled for. We should not treat witnesses like this. Are we to convert this Committee into a body for prosecution. Let us not behave like prosecutors. We are here to enquire about the truth.

MR. CHAIRMAN : I have said that this question should not be put. I have taken up your case.

SHRI D. SEN : Fifty files at random may be called for by the Committee and the Committee will get an idea how FIRs are recorded.

SHRI RAM JETHMALANI : You are assuming as if I do not know anything about disproportionate assets.

SHRI D. SEN : You will come to know whether these cases had been dealt with prejudicially.

MR. CHAIRMAN : Why are you using these words. You try to reply as honestly as you can but do not use any adjectives. Do not get angry.

SHRI D. SEN : Fifty files may be called for to see how F.I.Rs are recorded. It will provide a clear picture. These cases are being viewed in isolation.

SHRI RAM JETHMALANI : You sent a note either directly or indirectly to the ex-Prime Minister. Paragraph 5 of the note says—

"The house search also revealed that the accused Shri A. S. Rajan is in possession of costly movable assets in the form of a fiat car 1969 model . . ."

In 1975, six years old car for an officer whose salary is Rs. 2,000 you considered a costly movable asset.

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**SHRI D. SEN :** It is difficult even for most of the DIGs to maintain a car.

**SHRI B. SHANKARANAND :** Yes, it is difficult to maintain a car.

**SHRI RAM JETHMALANI :** You considered 1969 model car a costly asset without knowing for how much it was purchased.

**SHRI D. SEN :** I also have a car 1969 or 1970 model. At that time it used to cost about Rs. 30,000.

**SHRI RAM JETHMALANI :** Did a fiat car in 1969 cost Rs. 30,000 ?

**SHRI D. SEN :** His salary then must have been Rs. 1,300.

In 1975, his salary was about Rs. 1,500 to 1,700. In 1969 his salary must be less than this. I think for an officer of that status, possession of a Fiat car is a costly asset.

**SHRI RAM JETHMALANI :** According to you, an officer of his status to have a six-year old Fiat car was a costly asset. Even on that date, in spite of these documents, your department did not have the elementary fairness to ask this Officer from where did he acquire that car. Before you sent an objective report to the Prime Minister, did you, at least, after the search, call upon the officer to give you the source of acquiring the car ?

**SHRI D. SEN :** That I would not be able to say. The investigating officer always takes a complete explanation of the accused officer after all the information has become available.

**SHRI RAM JETHMALANI :** You sent the report to the Prime Minister and yet you did not have the elementary simple fairness to ask the officer.

**SHRI D. SEN :** I am telling you that because the investigation was in progress. That can only be after the investigation is complete.

**SHRI RAM JETHMALANI :** What prevented you in asking the officer to give this ? Was there anything to prevent you

from calling the officer to tell you how he got the car.

**SHRI D. SEN :** You are asking more than what an Investigating Officer can do. I can only tell you the procedure we have.

**SHRI RAM JETHMALANI :** Investigating Officer is not expected to call for the explanation of the officer.

**SHRI D. SEN :** That is done only after collection of the evidence. That is the usual practice.

**SHRI RAM JETHMALANI :** All right. A TV set was purchased on 29th January 1975 for Rs. 3,085. Did you find out as to how the payment had been made for this ?

**SHRI B. SHANKARANAND :** Mr. Sen is not an investigating officer. How can he answer this ?

**SHRI RAGAVALU MOHANARANGAM :** Whenever he comes before us he must come with all particulars.

**SHRI RAM JETHMALANI :** Why did you not indicate to the person to whom the note was supposed to go that we had not yet been able to seek the officer's explanation as to how he had come to acquire the asset ?

**SHRI D. SEN :** This is a tentative thing. There is nothing else given in this note.

**SHRI RAM JETHMALANI :** Nobody would understand this as to why the officer's explanation has not yet been available.

**SHRI D. SEN :** If the officer's explanation were taken, it would have been included in this note.

**SHRI RAM JETHMALANI :** I am suggesting it to you that you knew that there was nothing disproportionate about the assets. There can be explanation. You were not interested in looking for any explanation.

**SHRI D. SEN :** This is not correct. It is the duty of the investigating officer and the S.P. In fact these things do not come to me at all. As far as I remember, it might have come to me at the last stage.

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**SHRI RAM JETHMALANI :** Can you tell me whether, as a result of investigation, at any stage, it was discovered that the assets were disproportionate to the known sources of income ?

**SHRI D. SEN :** As a result of the investigation, it was found that the assets were not disproportionate to the known sources. He was found guilty of favouring these two firms. That is all.

**SHRI RAM JETHMALANI :** When was it found that his assets were not disproportionate to his known source ?

**SHRI D. SEN :** I do not have the date of completion of the investigation.

**SHRI RAM JETHMALANI :** Approximately.

**SHRI D. SEN :** The case was registered in April 1975. It might have taken six or seven months to complete the investigation.

**SHRI RAM JETHMALANI :** Do I take it that it might be about November ?

**SHRI D. SEN :** I can only say that approximately it might be in November or December.

**SHRI RAM JETHMALANI :** Approximately, it was after about six or seven months from the date of the FIR.

**SHRI B. SHANKARANAND :** Tell us from memory.

**SHRI D. SEN :** I cannot tell from memory. I can only make a guess because I do not have the date of completion of the investigation with me.

**SHRI RAM JETHMALANI :** You are not making a guess about the fact that the assets were not found disproportionate to his known source of income.

**SHRI D. SEN :** That I know after the result of the investigation.

**SHRI RAM JETHMALANI :** Tell me whether the fact that the assets were not disproportionate to his income was, as a matter of fact, ascertained by some officer. And you did not go further. He was

in a position to explain it if you had asked for the explanation.

**SHRI D. SEN :** That I will not be able to say because it will be possible by the Investigation Officer or the S.P. Probably the final decision was taken by the Joint Director.

**SHRI RAM JETHMALANI :** I am not asking about who took the final decision. I am asking you about the nature of the material on which it was ultimately determined that there was no case of disproportionate assets. Was this conclusion arrived at after the officer appeared before the CBI and explained each and every asset satisfactorily ?

**SHRI D. SEN :** That is what I am telling you. The investigation reports in the case of these officers do not come to me. I pointed out at what stage, it was done. I know the final result of the investigation.

**SHRI RAM JETHMALANI :** I am not asking you at what stage was it done. Is it or is it not true that the officer on being called, was able to give a satisfactory account of all the assets ?

**SHRI D. SEN :** It will be only after consideration of all the facts. Consideration of the facts as to the possession of assets disproportionate to the income is one thing. Investigation of the same is another thing.

**SHRI RAM JETHMALANI :** The allegation is made in the FIR that the officer possessed assets disproportionate to his known source.

**SHRI D. SEN :** I am telling you again and again that the investigation report does not come to me in the case of all the officers. In the case of Shri Rajan, Development Officer, the investigation report will not come up to my level.

**SHRI RAM JETHMALANI :** At least you know it now. You must study the file.

**SHRI D. SEN :** I have not studied the case. I only said that I knew only the final result. That is all.

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SHRI RAM JETHMALANI : So far as allegations of favouritism to two firms is concerned you did not find sufficient evidence to send it up to trial.

SHRI D. SEN : Not for trial. Only for departmental action.

SHRI RAM JETHMALANI : When you are frustrated in your design to get this man before a court you decided upon recommending a departmental enquiry.

SHRI D. SEN : This is not correct. We are not the final authority. It is the CVC. He is the final authority.

SHRI RAM JETHMALANI : Where is that material on the basis of which you recommended the departmental action ?

SHRI D. SEN : It will be with the investigating officer or the S.P. In this case the final decision was taken by the Joint Director.

SHRI RAM JETHMALANI : Please look at para 4 of the note. You have referred to four pieces of immovable property. This allegation was found to be wholly non-existent. The only asset which came out was that he had a wooden garage behind his rented apartment.

SHRI D. SEN : Please try to understand my position. I cannot say about it because the investigation report did not come to me. The final report did not come to me. So, I will not be able to give any details. Only the final result became known to me. That too I checked when I was called before the Shah Commission.

SHRI RAM JETHMALANI : I take it that you did find the allegations with which Mr. Dhawan asked you to start the enquiry to be false. Favouritism to two firms was an old pending thing since 1969.

SHRI D. SEN : The allegation of disproportionate assets was specific and the allegation about the firms was not specific.

SHRI RAM JETHMALANI : Did Mr. Dhawan refer to these two firms ?

SHRI D. SEN : He did not refer to any firm.

SHRI RAM JETHMALANI : Throughout the investigation you did not come across a single instance in which any favouritism was shown.

SHRI D. SEN : Except these two. These were investigated.

SHRI RAM JETHMALANI : Therefore, no part of Mr. Dhawan's allegation against Mr. Rajan was found to be correct.

SHRI D. SEN : I will say specific allegation that he gave to me was not found to be correct.

SHRI RAM JETHMALANI : He told you about favouritism to firms.

SHRI D. SEN : Favouritism to firms he did say.

MR. CHAIRMAN : Mr. Sen, in the beginning of your deposition you said that Mr. Dhawan only mentioned to you about certain complaint and certain allegations. Now, you are disclosing that he mentioned about showing favouritism.

SHRI D. SEN : May I repeat what I said earlier ? I will tell the whole thing. That the Prime Minister had received certain complaints from certain MPs that these officers were corrupt. They were in possession of large assets and they had shown favours to some firms. Firms were not named.

*(The witness withdrew)*

The Committee re-assembled at 15.00 Hours.

MR. CHAIRMAN : Mr. Sen, you have to take the oath.

SHRI D. SEN : "I swear in the name of God that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false."

SHRI RAM JETHMALANI : Will you kindly produce the First Information Report which was caused to be recorded against Mr. Cavale ?

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SHRI D. SEN : Yes, Sir.

SHRI B. SHANKARANAND : Have you got the original ?

SHRI D. SEN : No, Sir. This is for the P.E., but for the R.C. it will be the same : I don't think it will make any difference.

SHRI RAM JETHMALANI : You have got two ?

SHRI D. SEN : No, I have got only one.

SHRI RAM JETHMALANI : Now, all the information that you have got here is from a source the identity of which you do not know ; nor is it possible to discover the identity of the source. For example, some information here has been received by watching : he was seen going to hotels, restaurants etc.

SHRI D. SEN : Information has been received that Shri Cavale, Marketing Manager of so and so, is a corrupt officer and is living beyond his means, which is evident from excessive use of an imported car which he owns and from his frequent visits to restaurants etc.

SHRI RAM JETHMALANI : Now, the contents of para 1 are the result of the watch kept by CBI officers ?

SHRI D. SEN : No, but by the Intelligence unit, because they have a number of Watch officers.

SHRI RAM JETHMALANI : This watch must have been kept between 15th April and 25th April, which is the date of the report ?

SHRI D. SEN : Yes, Sir.

SHRI RAM JETHMALANI : I take it that you consider the contents of para 1 of this Information Report as relevant, as well as important, to the enquiry ?

SHRI D. SEN : This shows that he was living rather lavishly and so it has a bearing on it.

SHRI RAM JETHMALANI : So, you consider these facts relevant to the question of determination of disproportionate assets. Therefore, after the preliminary enquiry was ordered, the statements of all those who had observed these things before the preliminary enquiry must have been formally recorded ?

SHRI D. SEN : They would not have been recorded because the statements of the Intelligence Unit officers are not recorded.

SHRI RAM JETHMALANI : Now, on what date was the First Information Report recorded against Shri Cavale ?

SHRI D. SEN : The S. P. recommended the conversion of the P.E. into R.E. on 1st May 1975.

SHRI RAM JETHMALANI : Now, if these facts were relevant—viz. that the person was living beyond his means and was making excessive use of an imported car and was making frequent visits to restaurants and hotels—then, at least after the regular FIR was registered, you must have tried to obtain confirmation of the same facts because, if the case goes to court, you will find it necessary to prove the facts.

SHRI D. SEN : As I have explained, these things will be taken as part of the investigation of a disproportionate assets case.

SHRI RAM JETHMALANI : Unless you say how many times he has gone to hotels etc. and unless you say what excessive use was made of the imported car, you cannot prove your case. Therefore, why is it that no attempt was made to record the statements of those who had observed these facts, or to depute people to observe these facts again ?

SHRI D. SEN : The point is that the Intelligence Unit officers had observed these things.

SHRI RAM JETHMALANI : So, throughout the investigation, no attempt was made either to record formally the

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statements of these people or to depute anybody else to verify these facts ?

SHRI D. SEN : As far as I can make out, their statements would not have been recorded.

SHRI RAM JETHMALANI : The Intelligence Unit, I suppose, does only 'intelligence' work and not manual work. Did you depute any officer to observe some of the activities of the officers which you considered relevant ?

SHRI D. SEN : After the registration of a case no watch is kept.

SHRI RAM JETHMALANI : Is there any law which says that no watch should be kept ?

SHRI D. SEN : There is no use in keeping a watch once everybody comes to know that the case is under investigation.

SHRI RAM JETHMALANI : Therefore, would I be right in saying that the net result is that this information was never verified by any evidence ?

SHRI D. SEN : The details of this information were given by the people who were keeping watch : they had reported this.

SHRI RAM JETHMALANI : I have understood that—that you had some 'intelligent' officer who told you these things. But, ultimately, the information was not verified so that, now or later, it cannot be used if the case goes to court. As a matter of fact, no attempt was made to translate this source information into concrete material which could be useful either in investigation or in court.

SHRI D. SEN : This material was only useful for registration of case ; it would not be useful for investigation of the case.

SHRI RAM JETHMALANI : Please tell me, whether any material was collected to corroborate this information.

SHRI D. SEN : No. This is for the Intelligence Unit.

SHRI RAM JETHMALANI : Now come to para 4 of the FIR, where it is alleged that Cavle had not given any explanation for certain items of assets. Between the date of preliminary enquiry, i.e. 25th April and 1st May, 1975 when the RC was recorded, was any attempt made to find corroboration of these facts ?

SHRI D. SEN : We tried to find out if he had a flat and the report of the Intelligence unit was. . .

SHRI RAM JETHMALANI : You ordered this preliminary enquiry after the secret enquiry by the Intelligence Unit.

SHRI D. SEN : During the preliminary enquiry, we tried to check if he had any flat, but we could not get any information.

SHRI RAM JETHMALANI : During the preliminary enquiry, no admissible material was found to show that he was in possession of any immovable property. Is that correct ?

SHRI D. SEN : Yes, Sir.

SHRI RAM JETHMALANI : What was the material collected between the preliminary enquiry and the registration of RC for the purpose of showing that he had disproportionate assets ?

SHRI D. SEN : The Intelligence can continue to collect information.

SHRI RAM JETHMALANI : Did you collect any tangible material which could be used for the purpose of assisting the investigation ? To be precise, between 25th April and 1st May, did you obtain any proof of the story that this man had immovable assets in his possession, which could be called disproportionate to his known sources of income ?

SHRI D. SEN : No, whatever intelligence report was there, they again confirmed that.

SHRI RAM JETHMALANI : Your RC took the shape of seeking a repetition of what they had said before the preliminary enquiry.



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**SHRI D. SEN :** It also took the form that some of the records in the department were seen, some other things were seen, but the regular investigation was not started.

**SHRI RAM JETHMALANI :** What is the difference between a secret enquiry and the preliminary enquiry ?

**SHRI D. SEN :** In a secret enquiry, we do not go through the records of the department, but during a preliminary enquiry, we can go and see the record. That is the only difference. Sometimes, we can also take statements of persons in the Government department, not outsiders.

**SHRI RAM JETHMALANI :** Is it possible ever to find out what disproportionate moveable assets a man possesses by examining any file in any Government department ?

**SHRI D. SEN :** Generally, it is not possible.

**SHRI RAM JETHMALANI :** Did any person within the department throw any light about the moveable assets of these officers ?

**SHRI D. SEN :** I do not have the preliminary enquiry case diaries with me.

**SHRI RAM JETHMALANI :** You have ordered the FIR to be recorded after a preliminary enquiry. It is your duty to satisfy this Committee that you got some material on which this PE was converted into RC. If you are not able to tell us that there was some additional material, speaking for myself, I am willing to say that your action was thoroughly dishonest.

**SHRI D. SEN :** The SP recommended that it was very necessary to do that, because he had in his possession according to reliable information, a flat which was benami. The Joint Director who is of the rank of Inspector General of Police supported this.

**SHRI RAM JETHMALANI :** You converted the PE into RC not because you received any additional information, but

you found that RC was the only method for further investigation.

**SHRI D. SEN :** Yes ; this could be investigated by an open enquiry.

**SHRI RAM JETHMALANI :** Between 25th April and 1st May, no additional information was recovered, but you found it necessary to convert the PE into RC to have a formal investigation.

**SHRI D. SEN :** Yes, Sir.

**SHRI RAM JETHMALANI :** During the course of the formal investigation, what was the evidence discovered in support of para 2 and the immoveable property, disproportionate to the known sources of income ?

**SHRI D. SEN :** It was found that in ten years, he had acquired assets worth Rs. 1.6 lakhs.

**SHRI RAM JETHMALANI :** Roughly 16,000 a year, or Rs. 1,200 to Rs. 1,500 a month. What efforts did you make to find out his source of income ?

**SHRI D. SEN :** During investigation, it was revealed that his assets were disproportionate. . .

**SHRI RAM JETHMALANI :** Disproportionate to warrant a charge under the Prevention of Corruption Act.

**SHRI D. SEN :** That is true.

**SHRI RAM JETHMALANI :** When was this conclusion arrived at ?

**SHRI D. SEN :** When the investigation was completed.

**SHRI RAM JETHMALANI :** After 6-7 months.

**SHRI D. SEN :** It was in February, 1976.

**SHRI RAM JETHMALANI :** It was discovered by February, 1976 that his assets were not disproportionate to the sources of income.

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**SHRI D. SEN :** In February, 1976 the final report came to Head Office.

**SHRI RAM JETHMALANI :** Against this officer there was no other allegation of any kind except that he has disproportionate assets.

**SHRI D. SEN :** Disproportionate assets supported by the fact that he was living in a lavish manner.

**SHRI RAM JETHMALANI :** What steps did you take to get him exonerated and when was this report sent ?

**SHRI D. SEN :** The report was sent within a month or two.

**SHRI RAM JETHMALANI :** That means by April, 1976.

**SHRI D. SEN :** It should have gone by then. After the final orders were passed, this went to S.P. He prepared his report. All that goes to CVC and Ministry concerned.

**SHRI RAM JETHMALANI :** Do you have the practice of obtaining summary from the court ?

**SHRI D. SEN :** When a case is not established, as required under Section 173, we send a final report to the court.

**SHRI RAM JETHMALANI :** When was this final report sent and where is the report ?

**SHRI D. SEN :** It must have been sent by the branch. We do not keep a track of it.

**SHRI RAM JETHMALANI :** According to the established procedure the report should have gone.

**SHRI D. SEN :** It is the duty of the S.P. to send a final report.

**SHRI RAM JETHMALANI :** Your source of information was, so far as this officer was concerned, that he has received bribe from M/s. Batliboi and Co.

**SHRI D. SEN :** Yes.

**SHRI RAM JETHMALANI :** When was this information received ?

**SHRI D. SEN :** This was before the registration of the case.

**SHRI RAM JETHMALANI :** After the preliminary enquiry or before the preliminary enquiry.

**SHRI D. SEN :** Before the preliminary enquiry.

**SHRI RAM JETHMALANI :** If you received it before the preliminary enquiry, why was it not incorporated as an allegation in the F.I.R.

**SHRI D. SEN :** As I informed you this morning it was a failure on the part of S.P.

**SHRI RAM JETHMALANI :** What were you doing ?

**SHRI D. SEN :** I do not see every F.I.R.

**SHRI RAM JETHMALANI :** This was a very important case and it had come from the Prime Minister.

**SHRI D. SEN :** After the registration of the case it goes to the appropriate officer.

I do not look into every F.I.R.

**SHRI RAM JETHMALANI :** Are you aware in this case it was alleged by the Prime Minister that these officers were harassing Batliboi and Co. ?

**SHRI D. SEN :** I do not know about it. I know it only when evidence was produced in the Shah Commission.

**SHRI RAM JETHMALANI :** I am suggesting to you that you found out that this source of information was also false, inconsistent with the original case and that is why it was dropped out from the first information report. I am saying about the bribe and harassment.

**SHRI D. SEN :** No, Sir. I will not say that because this information was given by the Inspector.

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You can summon those officers. I had no hand at any stage in the F.I.R. The whole file goes to the Branch and then they dropped it.

SHRI RAM JETHMALANI : How do you know why it was dropped ?

SHRI D. SEN : I do not know.

SHRI RAM JETHMALANI : Shall I take it that this information was not known to you ?

SHRI D. SEN : Before the evidence in the Shah Commission, I never discovered that this was dropped.

SHRI RAM JETHMALANI : This is very strange. Let us go to Shri Bhatnagar's case. Please give me three material dates—

1. Date of preliminary enquiry being ordered.
2. The date of R.C.
3. Final date of exoneration.

SHRI D. SEN : There was no preliminary enquiry in this case. There was only a secret enquiry or verification.

SHRI RAM JETHMALANI : What is the date of R.C. ?

SHRI D. SEN : It was registered on 17th April.

SHRI RAM JETHMALANI : 17th April is the date of F.I.R. Please send me a copy of the F.I.R.

SHRI D. SEN : I do not have a copy of F.I.R. in this file.

SHRI RAM JETHMALANI : Can you deny that the F.I.R. against Shri Bhatnagar was exactly in the same terms as against Shri Cavale ?

SHRI D. SEN : Branch records the F.I.R. They might have recorded in the same form. \*

SHRI RAM JETHMALANI : I mean to say that the substance, the contents, were exactly the same as in the case of

Shri Cavale, i.e. he has disproportionate assets and luxurious living.

SHRI D. SEN : The use of imported car was only in the case of Shri Cavale.

SHRI RAM JETHMALANI : Please tell me why is it that in the case of the other two officers about whom we have just finished there was a preliminary enquiry, in the case of this officer, there was not even a preliminary enquiry ?

SHRI D. SEN : I will explain it to you. In the case of Shri Rajan, there is a contemporaneous record in the Delhi Branch file. I think that on the 16th itself, somebody telephoned to me from which it became obvious that the fact of the secret enquiry had leaked out.

SHRI RAM JETHMALANI : By some unidentified person.

SHRI D. SEN : By some person whom I know. I cannot recollect now. He must be an officer.

SHRI RAM JETHMALANI : You got the other papers.

SHRI D. SEN : No enquiry was made about Shri Rajan. When he said this, I telephoned to Shri Rajpal and told him to collect some information about Shri Rajan. He said all right and he collected some information about Shri Rajan and others. I asked him to send both the files to me. I have got this. On page 2(c) of the Delhi DIG file. He had immediately recorded that there has been some leakage of information.

SHRI RAM JETHMALANI : Have we got the FIR ? It is taken as part of the record.

SHRI D. SEN : There is leakage of information about Shri Rajan.

SHRI RAM JETHMALANI : I am seeking some sensible explanation.

SHRI D. SEN : I am coming to that. After he said that he had collected information both about Shri Rajan and Shri

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Bhatnagar, I said that he might send the file. When the file came, in the case of Shri Bhatnagar, it was noted there he was suspended the previous day. Then I thought that in this case also there was a fear of leakage because he must be fearing a CBI enquiry. When an officer knows that a CBI enquiry is going to take place, there is a fear of loss of evidence. In these two cases—Shri Bhatnagar and Rajan's case—I considered it necessary that we must record the FIR immediately. That is my explanation.

SHRI RAM JETHMALANI : There was a preliminary enquiry in the Rajan's case.

SHRI D. SEN : No, Sir.

SHRI RAM JETHMALANI : In the case of Shri Rajan you did not order a preliminary enquiry.

SHRI D. SEN : No, Sir.

SHRI RAM JETHMALANI : Rajan's case is also on the 17th April.

SHRI D. SEN : In Rajan's case there was a leakage and in this case of Bhatnagar there was fear of leakage.

SHRI RAM JETHMALANI : I cannot understand what has the leakage got to do with the preliminary enquiry ?

SHRI D. SEN : When there is leakage, when you start an investigation there is loss of evidence, you do not get it.

SHRI RAM JETHMALANI : You wanted to take quick steps.

SHRI D. SEN : Yes, Sir.

SHRI RAM JETHMALANI : Will you kindly confirm that this is the First Information Report ?

SHRI D. SEN : This is the FIR.

SHRI RAM JETHMALANI : Now you have found that it is exactly in the same terms as you have in the case of Shri Cavale.

SHRI D. SEN : It is in the same terms.

SHRI RAM JETHMALANI : I take it that having recorded an FIR you proceeded to conduct the enquiry.

SHRI D. SEN : I may clarify it. I do not record that. It is the S.P. who records it.

SHRI RAM JETHMALANI : When I say 'you' it means your Department. When did you come to that conclusion that there was nothing wrong with his assets ?

SHRI D. SEN : I do not have the date of completion of the investigation with me.

SHRI RAM JETHMALANI : Tell me approximately.

SHRI D. SEN : Approximately, it must have taken five or six months. It would be a rough estimate. Do not hold me on this.

SHRI RAM JETHMALANI : We do not hold people on such flimsy grounds.

MR. CHAIRMAN : On 1st September, 1976 he was reinstated.

SHRI RAM JETHMALANI : Now take the case of Shri Krishnaswamy. Now what has happened in the case of Shri Krishnaswamy ? You ordered a preliminary enquiry.

SHRI D. SEN : Are you asking about preliminary enquiry or secret verification ?

SHRI RAM JETHMALANI : First I am talking about the preliminary enquiry. Secret verification is in all cases.

SHRI D. SEN : Preliminary enquiry was agreed on 27th April, 1975.

SHRI RAM JETHMALANI : R.C. ?

SHRI D. SEN : R.C. was on 2nd May.

SHRI RAM JETHMALANI : I take it that you have got the F.I.R. and R.C. information.

SHRI D. SEN : I have got the FIR of PE. FIR of RC must be the same. Namely, that he has shares of 18 to 20 companies and he is heavily insured and

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paying considerable amount towards his G.P. Fund.

**SHRI RAM JETHMALANI :** All these allegations were found to be unsubstantiated.

**SHRI D. SEN :** The branch investigating officer recommended prosecution. SP recommended departmental action. The Head Office scrutinised it and we found the extent of disproportionality was not such as to warrant action. My decision was that no prosecution should be launched.

**SHRI RAM JETHMALANI :** In fact, the net result of the entire investigation was that there was not even a case for departmental enquiry.

**SHRI D. SEN :** Not in our opinion.

**SHRI RAM JETHMALANI :** In all these four cases you are not in a position to tell us who gave the information which ultimately turned out to be unsubstantiated.

**SHRI D. SEN :** I do not know who in the beginning gave this information.

**SHRI RAM JETHMALANI :** Did you at any time apply your mind to this problem that four names have come from the common source, that is, Prime Minister's Secretariat. In the case of all these four the allegations turned out to be unsubstantiated. Did you ever apply your mind as to how this information came to be given to you in the first instance?

**SHRI D. SEN :** In the case of two officers—Mr. Rajan and Bhatnagar—the files did not even come to me for final action. About the other two officers the files did come to me as they were senior officers. At that distance of time I did not remember that all these four officers were reported at the same time. I did not apply my mind at that time. I may also add that there is a distribution of work and after a case is registered then the normal procedure takes over and we do not after that interfere with the normal procedure.

**SHRI RAM JETHMALANI :** Did you at least try to find out whether investigations in these cases were proceeding on the right lines.

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**SHRI D. SEN :** There are 1,500 cases which are investigated every year. It is not physically possible for me to keep an eye on all the cases.

**SHRI RAM JETHMALANI :** Fifteen hundred cases are not coming from the Prime Minister's house. These were the only four cases which came from the PM's house.

**SHRI D. SEN :** After the cases are instituted then the normal procedure takes over. It is for the Joint Director and D.I.G. to bring it to my notice.

**SHRI RAM JETHMALANI :** You know from the beginning that there was no investigation to be done in these cases. The sole object was to harass these officers and prevent them from doing their duty. When you found that any further tinkering with these officers will lead to the uncovering of the cases of Maruti you promptly exonerated these officers.

**SHRI D. SEN :** It is not at all correct.

**SHRI RAM JETHMALANI :** Did you at any stage try to know yourself as to what these four officers had to say in their defence?

**SHRI D. SEN :** If the four officers had come to me I would have certainly listened to them.

**SHRI RAM JETHMALANI :** Did you instruct your subordinates to go and find out what these officers are to say?

**SHRI D. SEN :** We have got so many cases against officers of this rank.

**SHRI RAM JETHMALANI :** Up to the last you did not know what those officers had to say?

**SHRI D. SEN :** Whatever their defence was, it came in the investigation.

**SHRI RAM JETHMALANI :** Did you come to know what their defence was?

**SHRI D. SEN :** They explained various things. In the case of Cavale, he explained his source of income. Mr. Krishnaswamy also explained his source of income. Apart from that, I do not remember.

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**SHRI RAM JETHMALANI :** Are you suggesting that none of those officers told you or the CBI : we were enquiring into Maruti affairs and that is why we are being harassed ?

**SHRI D. SEN :** At least it did not come to my notice ; it did not come on any file which came to me.

**MR. CHAIRMAN :** It is inexplicable why you did not take interest in the progress of the case. You say that you know that the complaint came from the house of the Prime Minister. Why did you not inform the Prime Minister the result of your investigations ?

**SHRI D. SEN :** In the case of Krishna-swamy, because he was a high ranking officer, the progress report used to come to me and I used to see that and I used to make some notes on that. In the case of Cavale only the final report was put up to me. Procedures vary. In the case of Rajan and Bhatnagar, even the final report did not come to me.

**MR. CHAIRMAN :** Because the matter came up from the Prime Minister's house and you were asked to expedite it, you acted speedily. But you did not communicate to the Prime Minister your findings.

**SHRI D. SEN :** We communicated our findings to the Ministry and also to the Department of Personnel.

**SHRI KRISHAN KANT :** When the Prime Minister sent you a case, was it not your duty to report back to the Prime Minister ?

**SHRI D. SEN :** We do not report unless we are asked to report. We reported to the Department of Personnel, to the Ministry, because so many things come from the Prime Minister. In a year at least 70 or 80 things may be coming from the Prime Minister, some complaint or some enquiry.

**SHRI KRISHAN KANT :** Yesterday when the Chairman asked you this question you were not able to remember ; you said that there was one complaint during the days of Shastriji.

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**SHRI D. SEN :** They were all minor matters, not important.

**SHRI O. V. ALAGESAN :** You have been director of CBI for 3 or 4 years ?

**SHRI D. SEN :** Six years.

**SHRI O. V. ALAGESAN :** Can you remember any particular case of corruption you investigated which ended in conviction ?

**SHRI D. SEN :** Every year there are 10 or 12 cases of senior officers which end in conviction ; but I do not remember the names now ; I have been out of touch for a year and four months now.

**SHRI O. V. ALAGESAN :** What are the various ways by means of which the CBI takes up cases for investigation ? We know about this case.

**SHRI D. SEN :** The most common way is that our officers get information. I have never enquired about the source of information ; mostly their source of information are government servants.

**SHRI O. V. ALAGESAN :** What is the time lag, approximately, between starting investigation and filing the case in court and the final act of conviction ?

**SHRI D. SEN :** Between the start of investigation and going to court, generally it will be from one to two years. Conviction may take two or three years ; there are cases pending for 15 or 16 years.

**SHRI O. V. ALAGESAN :** In the present case, what exactly did Mr. Dhawan tell you ?

**SHRI D. SEN :** As far as I could recollect, he said that there were complaints from some M.Ps. about those officers that they were corrupt and that they were having assets disproportionate to their known sources of income and that they have been favouring some firms.

**SHRI O. V. ALAGESAN :** You got information in your office.

**SHRI D. SEN :** He came to my office.

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**SHRI O. V. ALAGESAN :** Suppose I had told you : complaints had been received against those officers ; please have their antecedents checked. Supposing he had told you only that, what would you have done ?

**SHRI D. SEN :** As far as I am concerned, I would have said that their antecedents are not checked by the CBI and that they may be sent to IB.

**SHRI O. V. ALAGESAN :** Then you would have been out of court and there would have been no room for you to take action. He did not simply say : "have their antecedents checked", but he narrated the allegation and he gave the names of the Officers correctly with initials and also their designation.

**SHRI D. SEN :** He gave their surnames and their designation except in case of Mr. Cavale because it took sometime to find out that in his case, his name and the unit where he was working was given.

**SHRI O. V. ALAGESAN :** Because it came from the PM's Secretariat, you felt a greater sense of urgency than you would have otherwise felt.

**SHRI D. SEN :** That is true.

**SHRI O. V. ALAGESAN :** Though that is true, the way in which you did not take cognisance of how these cases ended is rather difficult to explain. Isn't it ?

**SHRI D. SEN :** A case may come from any source and we may be particular that the investigation should be completed quickly. As far as the investigation is concerned, whatever was done, was done according to the normal practice.

**SHRI O. V. ALAGESAN :** In other words, are we to understand that you play your part only when a case is inaugurated and you do not bother about how it ends ? You have no means of knowing that.

**SHRI D. SEN :** We know that this is a very important case from the beginning. But it is the duty of the Joint Director or the DIG who deals with it, to deal with it expeditiously.

**SHRI O. V. ALAGESAN :** You have been the Director of CBI for six years. You should have some idea as to how your victims feel when you start an inquiry.

**SHRI D. SEN :** Whenever an inquiry is started against anybody, he feels bad about it.

**SHRI O. V. ALAGESAN :** Still more when it ends in the guiltlessness of your victim.

That feeling should have been accentuated several times.

**SHRI D. SEN :** We investigate about 700 or 800 cases, against Govt. Officers every year and only in seventy cases we go to Court and in the remaining cases only some departmental action may be recommended.

**SHRI O. V. ALAGESAN :** In this case everything ended in the exoneration of the Officers.

**SHRI D. SEN :** Not complete exoneration. There were certain things on which departmental action was recommended. There was exoneration on the charge of disproportionate assets.

**SHRI O. V. ALAGESAN :** In the course of your Directorship, have you received any direct information from any MP with reference to such cases ?

**SHRI D. SEN :** Yes, Sir. We have received some information, but not this. About some Corporation Engineers, one MP came and gave information. This kind of information we do receive.

**SHRI O. V. ALAGESAN :** Earlier, to this or subsequent to this, did you receive any direct information from the PM's Secretariat ?

**SHRI D. SEN :** Yes, Sir. Subsequently about two bank people it came from Mr. Dhawan, stating that they were getting money from the clients of the bank.

**SHRI O. V. ALAGESAN :** Was it from PM or Mr. Dhawan himself ?

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**SHRI D. SEN :** This I do not remember. It came from Mr. Dhawan.

**SHRI O. V. ALAGESAN :** The information about the four Officers came from PM through Mr. Dhawan.

**SHRI D. SEN :** I always thought that when Mr. Dhawan gives, he must have brought it to the notice of the PM. Mr. Dhawan also said before the Shah Commission that he used to send such information to me.

**SHRI O. V. ALAGESAN :** Mr. Dhawan has gone on record to say that these four cases were directly conveyed to him by PM and he conveyed what she told him. In the subsequent cases, you mentioned that Mr. Dhawan, on his own or in the strength of the information that his secretariat has received, communicated to you. Is that right?

**SHRI D. SEN :** Sometimes something will come in writing and sometimes they come orally.

**MR. CHAIRMAN :** You categorically stated that you do not remember any other case where you had got information directly from the PM.

**SHRI D. SEN :** That was about the Government servants.

**SHRI O. V. ALAGESAN :** We are restricting ourselves to Government servants. Earlier to this, there was no such reference from the PM's Secretariat about Government servants.

**SHRI D. SEN :** I cannot say. But I do not remember any reference. I do not recollect.

**SHRI O. V. ALAGESAN :** Having got this information from the PM's Secretariat, did you think it necessary to send periodical reports to the PM's Secretariat?

**SHRI D. SEN :** To the P.M.'s Secretariat, we send reports only when called for. Otherwise we send it to Mr. Om Mehta or to the Secretary of the Department.

**SHRI O. V. ALAGESAN :** This was conveyed to you directly from PM through her Additional Private Secretary, Mr. Dhawan. Did you send periodical reports on these four cases to the PM's Secretariat?

**SHRI D. SEN :** No, not to the PM's Secretariat, as far as I remember.

**SHRI O. V. ALAGESAN :** Did you send periodical reports to any other Ministry or Minister?

**SHRI D. SEN :** There was one special report which was shown this morning. Any other reports, would have gone directly from my Joint Director to the Department of Personnel.

**SHRI O. V. ALAGESAN :** In other words, you did not evince any special interest in these four cases. Once they were registered and once the investigation was done, you almost forgot them and they got jumbled in your memory along with other cases.

**SHRI D. SEN :** They were treated just like other cases except that they were marked important.

**PROF. P. G. MAVALANKAR :** I think the CBI was established on 1st April 1963. Is that correct?

**SHRI D. SEN :** Yes.

**PROF. P. G. MAVALANKAR :** How long have you been associated with the CBI?

**SHRI D. SEN :** I came here in 1958 in CBI and after the CBI was established in 1963 in Shastriji's time I became the Joint Director.

**PROF. P. G. MAVALANKAR :** That means, you have been associated with it from the beginning.

**SHRI D. SEN :** From the very beginning I was associated with it. In fact, I was the one who prepared some of the schemes for the establishment of CBI.

**PROF. P. G. MAVALANKAR :** You have a substantial hand in creating this agency and its *modus operandi*?



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SHRI D. SEN : Yes.

PROF. P. G. MAVALANKAR : When did you become its head ?

SHRI D. SEN : In 1971.

PROF. P. G. MAVALANKAR : How was your appointment made ?

SHRI D. SEN : The Government made the appointment.

PROF. P. G. MAVALANKAR : It was made on the basis of the established procedure ?

SHRI D. SEN : Yes. In fact I was one of the seniormost officers in India when I was made Director of CBI.

PROF. P. G. MAVALANKAR : Can you tell us whether you possess any legal background or knowledge ?

SHRI D. SEN : None of the police officers possess any legal background. Law had been taught to us when we were in the Training College.

PROF. P. G. MAVALANKAR : Whatever knowledge of law you possess, it is based on your own experience ?

SHRI D. SEN : Yes.

PROF. P. G. MAVALANKAR : Could you tell something about your contact with the Prime Minister's Secretariat and how frequent was it ?

MR. CHAIRMAN : This question was already asked.

PROF. P. G. MAVALANKAR : You have given so many hours to my colleague to ask questions. Why are you impatient with me ? I was absent yesterday and I asked from the office whether any record was being made available to me, but they could not supply the record. So, in the absence of answers being made available, I am bound to ask the questions. If you do not want me to ask the questions, I will stop. Of course, I will put such questions very quickly in order to understand the position.

Shri D. Sen

Mr. Sen, tell me about your contacts with the Prime Minister's Secretariat.

SHRI D. SEN : I had to go to the Prime Minister's Secretariat quite often in discharge of my duties. Suppose there is something about the extension of service of an officer or about his appointment or his promotion, the matter goes to the Prime Minister's Secretariat and in most cases there are delays and so, I had to go there and expedite the things.

PROF. P. G. MAVALANKAR : During the six years as Head of the CBI how many times during a week would you have to go to the Prime Minister's Secretariat personally ?

SHRI D. SEN : It is like this. Sometimes I did not go there for two weeks and sometimes I had to go 5 or 6 times in a week. For example, in Tulmohan Ram's case I had to go twice or thrice a week. On an average I used to meet her twice or thrice a month. But sometimes when there was something important, I might have called more often.

PROF. P. G. MAVALANKAR : You have said in paragraph 39 of your statement, and I quote :

"In the end it may also be noted that nobody brought to my notice and I had no idea at all that these officers had anything to do with Maruti affairs."

But I want to ask you, in the same note you have also mentioned on page 10 about a certain case referred by Pandit Jawaharlal Nehru.

SHRI D. SEN : That I have quoted because of the expeditious action taken.

PROF. P. G. MAVALANKAR : Apart from that case which you have mentioned in your note, did you come across any important cases which the Prime Minister personally asked you to look into ?

SHRI D. SEN : As I have said, I do not remember any at this time, but there may be some cases.

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**PROF. P. G. MAVALANKAR :** You don't remember, you said ?

**SHRI D. SEN :** Yes, I don't remember.

**PROF. P. G. MAVALANKAR :** Apart from these cases of four officers, are there any other cases which the Prime Minister or the Prime Minister's Secretariat referred to you just before the Emergency ?

**SHRI D. SEN :** About the Prime Minister's Secretariat, they do refer cases to us quite often, but when it comes from the Prime Minister's Secretariat in writing, I do not know at what level the order has been passed there.

**PROF. P. G. MAVALANKAR :** Are there any cases, Mr. Sen, in which informants were not identified, because at one point you said, informants were not identified ? Are there any cases in which informants were not identified even by you ?

**SHRI D. SEN :** For example, if it is from an M.P., he sends something in writing.

**PROF. P. G. MAVALANKAR :** Informants' names are not revealed to general public, but to you as Head of CBI, surely they must have been identified.

**SHRI D. SEN :** Sometimes yes, but sometimes not. Sometimes it is only said that this information has been received.

**PROF. P. G. MAVALANKAR :** Apart from you, had any one of your associates in the CBI access to the Prime Minister ?

**SHRI D. SEN :** I don't think because whenever there was anything, I was called, but if I was not available, my next man, Mr. Hingorani could be called. I think only two of us used to go.

**PROF. P. G. MAVALANKAR :** On the basis of what you said in reply to several questions by my colleague, Mr. Jethmalani, have I understood you correctly that any M.P., according to you, can give information to CBI and you start inquiries straight-way ?

**SHRI D. SEN :** This is because of a Supreme Court ruling. In one case when

information was received and we delayed, then the ruling was that because the information had come from M.P., on that basis the case was to be registered without delay. Many times when the M.P.s wrote letters that somebody had been kidnapped and CBI should make investigations, we did not take up that case for investigation.

**PROF. P. G. MAVALANKAR :** But if it is referred directly to the CBI, will the CBI start investigation ?

**SHRI D. SEN :** If it is directly referred to me, we will start investigations straight-way, but before that we consult the Department of Personnel.

**PROF. P. G. MAVALANKAR :** In paragraph 39 of your note you said that at no point of time you had any idea at all that these four officers' names were referred to you by Shri Dhawan in connection with Maruti affairs and questions in Parliament ?

**SHRI D. SEN :** As I have said again and again, I have no idea at all.

**PROF. P. G. MAVALANKAR :** Once you started inquiries, then also you had no indication ? Did you smell anything ?

**SHRI D. SEN :** No. In two cases the investigation reports did not come to me at all.

**PROF. P. G. MAVALANKAR :** About these two which did not come to you at all, why did you not satisfy yourself ? Since all the four jointly had come from the Prime Minister through Shri Dhawan, at least you should have satisfied yourself that they were properly looked into.

**SHRI D. SEN :** This is our procedure. When it comes from the Prime Minister, it is marked "Important" and it is the duty of the officer concerned to ensure that there is no delay.

**PROF. P. G. MAVALANKAR :** You have mentioned in the same paragraph :

"I would have, as stated already, gone to the then Prime Minister and requested that CBI should not be involved."

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On what basis do you say this ?

**SHRI D. SEN :** I say this because I know that if somebody is collecting information for a Parliamentary question, then the C.B.I. should not step into it. If I knew this I would have gone, if it was within my knowledge I should have gone, although, as I have said, whatever the Prime Minister would have ordered would have been final.

**PROF. P. G. MAVALANKAR :** Have you seen copy of the Prime Minister's reply to Mr. Pai dated May 7th ?

**SHRI D. SEN :** No, I have not seen. It was read out. So, I remember vaguely.

**PROF. P. G. MAVALANKAR :** I will read out only five lines :

"I have made enquiries and find that the C.B.I. received information that some officers of your Ministry were in possession of a large number of shares and were living rather lavishly. According to the normal practice, the C.B.I. made a confidential verification and the information was found to have some basis. During the course of the preliminary enquiry, it also came to the notice of the C.B.I. that some industrialists were regularly visiting their offices. The C.B.I. registered a case and obtained the permission of the court to search the houses on the basis of the fact which had already come to notice of the C.B.I."

This is what the Prime Minister wrote to Mr. Pai on May 7th. Is this all correct ?

**SHRI D. SEN :** This is on the basis of the note.

**PROF. P. G. MAVALANKAR :** I want you to tell me whether what the Prime Minister wrote to Mr. Pai which I just now read out is all correct.

**SHRI D. SEN :** This is correct. There was a secret verification, there was a preliminary enquiry, there was a R.C.

**PROF. P. G. MAVALANKAR :** She says enquiries were made with the C.B.I. With

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whom ? With you directly ? With whom, when and in what manner ?

**SHRI D. SEN :** The Prime Minister did not make any enquiry directly from me, but I may have been asked to send a note by...

**PROF. P. G. MAVALANKAR :** The Prime Minister is replying to a Minister, her own colleague in the Cabinet, about the organisation of which you were at that time the head. Therefore, I am asking you a simple question. Did the Prime Minister make any enquiry with you or with your senior colleagues or associates ?

**SHRI D. SEN :** No. As I said, we were asked to send a note, but I do not remember at this distance of time...

**PROF. P. G. MAVALANKAR :** Mr. Chairman, I can understand the witness not remembering details, but I am asking him a very simple question, a straight question.

**SHRI D. SEN :** The Prime Minister did not make any enquiry from me directly.

**PROF. P. G. MAVALANKAR :** The Prime Minister writes this to her colleague, a Cabinet Minister. Therefore, on that basis I want to ask you if she made any enquiries with you or with your senior colleagues.

**SHRI D. SEN :** She did not make any enquiry directly from me.

**PROF. P. G. MAVALANKAR :** Or your colleagues ?

**SHRI D. SEN :** Or my colleagues. But if she made an enquiry even through Mr. Om Mehta, she might have meant that.

**PROF. P. G. MAVALANKAR :** Mr. Om Mehta could reply to the Prime Minister without reference to you ?

**SHRI D. SEN :** Mr. Om Mehta will ask me.

**PROF. P. G. MAVALANKAR :** Did Mr. Om Mehta ask you ?

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**SHRI D. SEN :** Mr. Om Mehta must have asked me.

**PROF. P. G. MAVALANKAR :** If you do not remember, say so.

**SHRI D. SEN :** I do not remember.

**PROF. P. G. MAVALANKAR :** Even in this important case you do not remember ?

**SHRI D. SEN :** When this note was brought to my notice, I thought this note must have been sent to either Mr. Om Mehta or the Secretary or somebody, but it would have been very important if the Prime Minister had personally asked me.

**PROF. P. G. MAVALANKAR :** You said you are no longer in Government service, you have retired. With your long experience, what is your answer to this question ? Am I to understand that the C.B.I. enquiries and searches were conducted several times on a political motivation and without any actual proof or evidence or basis ?

**SHRI D. SEN :** No, Sir, because the main safeguard against that is this. We take very few cases which have a political bearing, most of our cases are either economic offences . . .

**PROF. P. G. MAVALANKAR :** Not political bearing. When there is no evidence whatsoever, political pressure is put on C.B.I. or the C.B.I. is used as an agency to intimidate, harass and threaten.

**SHRI D. SEN :** This is not correct at all. We rarely make a search—it has been done in some cases now—under our own powers, although we are entitled to do it. We always go to a magistrate for a search warrant.

**PROF. P. G. MAVALANKAR :** When you were head of the C.B.I., you were going to the Prime Minister's Secretariat sometimes five times a week. At the Secretariat, apart from the senior people and the Prime Minister herself, whom else did you meet, particularly during the emergency ?

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**SHRI D. SEN :** The only people whom I used to meet were Mr. Dhawan, because Mr. Dhawan used to give my papers, the Prime Minister herself, Mr. Seshan, Mr. B. N. Tandon and Mr. Ramchandran.

**PROF. P. G. MAVALANKAR :** Is there any non-official at whose instance you also conducted searches and enquiries ?

**SHRI D. SEN :** No.

**PROF. P. G. MAVALANKAR :** Absolutely sure ?

**SHRI D. SEN :** Absolutely sure.

**PROF. P. G. MAVALANKAR :** Do you say that you never conducted a search or enquiry or investigation under the C.B.I. at the instance of a non-official ?

**SHRI D. SEN :** No.

**PROF. P. G. MAVALANKAR :** Are you quite sure ?

**SHRI D. SEN :** Quite sure.

**MR. CHAIRMAN :** Mr. Rajan, in his evidence before this Committee, stated that the charges against him, that he showed favouritism to R. K. Machine Tools and Daulat Ram, were departmentally enquired into and his department pronounced that there was no *mala fide* on his part. Either in your preliminary enquiry or regular case, did you enquire anything about this departmental enquiry ?

**SHRI D. SEN :** We made a regular investigation and as I said this morning, we said he had shown favour and this was agreed to by the highest authority, the Central Vigilance Commissioner. After that, I do not know what happened.

**MR. CHAIRMAN :** He says that seven or eight years ago his case was cleared by his departmental head and yet you proceeded against him.

**SHRI D. SEN :** According to our file, one matter was in correspondence, and in the other matter . . .

**MR. CHAIRMAN :** Does it not look odd that his department exonerated him and yet you revived the case ? He has

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categorically stated that. I want to know whether it was brought to your attention that his department several years ago had said that there was no *mala fide* on the part of Mr. Rajan.

SHRI D. SEN : If it was so, the Central Vigilance Commissioner would not have agreed.

MR. CHAIRMAN : I want to know whether it was brought to your notice that his department had pronounced that there was no *mala fide* on his part.

SHRI D. SEN : As I have pointed out, the matter was in correspondence and no final decision was taken. In the other case...

MR. CHAIRMAN : I want to know whether you enquired from the department concerned in which Mr. Rajan was working. I want to know whether Mr. Rajan made a correct deposition before this Committee. He said that eight years ago this matter was enquired into by his department and they said there was no *mala fide* on his part. Therefore, it was an old case. There was no charge against him, and yet it was revived only because a complaint came from the house of the Prime Minister.

SHRI D. SEN : This is the noting on 16-4-1975. About R. K. Machine Tools, this matter has been referred to ...

MR. CHAIRMAN : I want to know specifically from you whether in the course of the secret enquiry or the preliminary enquiry this information was communicated to you that his department had found that there was no *mala fide* on his part.

SHRI D. SEN : If the Intelligence Unit had communicated it to me, that he had been completely exonerated, I would not have proceeded with it, but the Intelligence Unit did not communicate to me. They said it was still under consideration, and a final decision had not been taken.

SHRI KRISHAN KANT : Is it because that finally you did not find much against these four persons and therefore you thought it better not to inform the Prime Minister because she might become angry ?

SHRI D. SEN : It is not that because if I were to do it, then when action was recommended by the investigating officer, I would have agreed to it very easily. There was no difficulty. But I did not agree to it. I don't think that was a fit case for action. In fact, the hon. Chairman was a member of that committee when this question was asked and I said : it is within the Prime Minister's right to give any matter for investigation and whether who should investigate it and how to investigate it and what will be the final result, that is entirely left to us.

MR. CHAIRMAN : Did you see Mr. Pai in connection with the charges against Mr. Sondhi in giving a licence to Premier Automobile for his expansion ?

SHRI D. SEN : I saw him in connection with Bokaro and probably there might have been some information about Premier Automobiles and I might have mentioned to him.

MR. CHAIRMAN : He told us—if you remember, I do not know who is telling the truth or untruth—that he had met you and discussed it with Mr. Sondhi and Mr. Krishnaswamy.

SHRI D. SEN : You can call Mr. Pat and I am willing to face him. This is a matter of record. This has been recorded in the files about Bokaro.

MR. CHAIRMAN : Do you know whether Mr. Sondhi was under surveillance ?

SHRI D. SEN : I cannot recollect. When the Bokaro Report came may be that something might have been changed.

MR. CHAIRMAN : You do not recollect.

SHRI D. SEN : Like this, Mr. Jagjivan Ram was under surveillance. We were not concerned with it because but our misfortune is that CBI is often confused with IB. In fact, when I became the Director in 1971, Mr. K. C. Pant asked me to give a talk on the TV. That was the only time when I appeared on the TV. I explained the working of the CBI and the very next day Mr. K. C. Pant told me that

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I gave a very good talk. But the confusion still remained there. Somebody came and asked me some information about the CBI. I said : it related to IB. He said : Have you prepared a report ? It was actually about the IB. I said : It was not we who had prepared the report but it was IB who had prepared the report.

**SHRI B. SHANKARANAND :** A reference was made about sections 154 and 157. You said that mostly the action was taken under section 160 itself. Is it correct ?

**SHRI D. SEN :** Yes, under section 157. Cr. P.C.

**SHRI B. SHANKARANAND :** You have said that they are handling about 1500 cases every year.

**SHRI D. SEN :** There may be a thousand new cases.

**SHRI B. SHANKARANAND :** Is it the practice of the CBI that mostly cases are handled under section 157 ?

**SHRI D. SEN :** It is based on our own information. The name of the informant is not given in the F.I.R. I will give you the actual wording.

**SHRI B. SHANKARANAND :** I want to know whether in 1975 only these four cases were dealt with under section 157 or there were many other cases also.

**SHRI D. SEN :** There might be hundred of other cases.

**SHRI B. SHANKARANAND :** During 1975, when you received information, did you delay the investigation or collection of some information or did you take prompt action so that no leakage was done ?

**SHRI D. SEN :** Generally, we take prompt action when there is a specific case.

**MR. CHAIRMAN :** He has answered this question many times.

**SHRI D. SEN :** Generally, we take very prompt action when the allegation comes from a reliable source and a specific offence is indicated.

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**SHRI B. SHANKARANAND :** There was no leakage in these particular cases.

**SHRI D. SEN :** In the case of Mr. Rajan, I got some ring on the 16th April. Somebody rang up. It must be some officer. I do not remember his name.

**SHRI B. SHANKARANAND :** In spite of your prompt action, there was some leakage.

**SHRI D. SEN :** Yes.

**SHRI B. SHANKARANAND :** So, it requires some more prompt action so that you could stop leakage.

**SHRI D. SEN :** In these two cases, I took an immediate action.

**SHRI B. SHANKARANAND :** What was the purpose ?

**SHRI D. SEN :** All the assets were in excess of . . . . .

**SHRI B. SHANKARANAND :** Do you delay search or conduct search to avoid leakage ?

**SHRI D. SEN :** Some delay is unavoidable because generally we take a warrant from the Magistrate.

**SHRI B. SHANKARANAND :** You could have arrested these four persons and still there would have been no harassment.

**SHRI D. SEN :** Under section 157 itself.

**SHRI B. SHANKARANAND :** I want to know whether the same persons were investigating in the case of these four persons or there were different persons.

**SHRI D. SEN :** There was a different officer in different case and they were from different branches also. Two cases went to Delhi branch and two to CIA.

**SHRI B. SHANKARANAND :** In the Delhi Branch and in CIA II the investigating officers were entirely different ?

**SHRI D. SEN :** As far as I remember, they would be different. For example, in the case of Rajan the investigating officer was Taneja, Deputy S. P. In Krishnatwamy's case the investigating officer was

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A. K. Malhotra of CIA II. In the case of Cavale the investigating officer was Chandrabhan, Deputy S. P. of the Delhi Branch. In Bhatnagar's case I am sorry I do not have the name. It may be a different officer because, when a case is marked 'Important' and its investigation has to be completed quickly, the case is given to a different officer because, if it is given to the same officer, more time will be taken.

SHRI B. SHANKARANAND : Under these officers, are there any other officers for collecting secret information ?

SHRI D. SEN : Not under these officers. The Intelligence Unit is an entirely different Branch which has no police functions.

SHRI B. SHANKARANAND : Who was the investigating officer in the case of Bhatnagar ? Is it K. Vijayan ?

SHRI D. SEN : No, Mr. Vijayan is an Intelligence Officer.

SHRI B. SHANKARANAND : Is it R. N. Mukherjee ?

SHRI D. SEN : No. The FIR will indicate the name.

SHRI B. SHANKARANAND : Is it R. N. Sinha ?

SHRI D. SEN : No. He is the S.P. who signed the FIR.

SHRI B. SHANKARANAND : Is it K. C. Das ?

SHRI D. SEN : Yes.

SHRI B. SHANKARANAND : Now, in all these four cases, was the FIR filed by the same officer or by different officers ?

SHRI D. SEN : The procedure is that, after the Intelligence Unit file is sent, it is discussed with one of the officers and they prepare a draft FIR. . .

SHRI B. SHANKARANAND : Is it done by one and the same officer in all the 500 cases ?

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SHRI D. SEN : No, Sir : it is done by different officers. It is the responsibility of the S.P. of the Branch.

SHRI B. SHANKARANAND : He signs the FIR ?

SHRI D. SEN : Yes.

SHRI B. SHANKARANAND : Now tell me whether the FIR was filed in all the four cases on one and the same day.

SHRI D. SEN : No, it was not. In two cases—I think in Bhatnagar's and Rajan's case—it was on seventeenth April, although they were in different Branches . . .

SHRI B. SHANKARANAND : They were in different Branches and the officers who signed the FIR were different ?

SHRI D. SEN : Yes. In the other two cases—i.e. Cavale's and Krishnaswamy's—they were on different dates.

SHRI B. SHANKARANAND : And the persons who signed the FIR were also different ?

SHRI D. SEN : Yes. In Krishnaswamy's case it was R. N. Sinha, S.P. and in Cavale's case it was the S.P. of the New Delhi Branch, so it should be R. P. Sharma.

SHRI B. SHANKARANAND : Now, under Sec. 157 of the CPC a police officer is empowered to take action even on mere suspicion of commission of an offence ?

SHRI D. SEN : Yes, Sir. If there is any reason to suspect. . .

SHRI B. SHANKARANAND : That is what I am saying. Even on suspicion of an offence having been committed, a police officer can take action ?

SHRI D. SEN : Not only 'can' he take action but he 'should' take action.

SHRI B. SHANKARANAND : If he does not take action, it will amount to dereliction of duty ?

SHRI D. SEN : Yes Sir, it will.

SHRI B. SHANKARANAND : Now, you said yesterday that about 1,500 cases are handled every year. How many are

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sent to court for trial? What is the percentage?

SHRI D. SEN : About 150 against government servants.

SHRI B. SHANKARANAND : That is, about 10 per cent?

SHRI D. SEN : Yes; that is a very rough estimate.

SHRI B. SHANKARANAND : And how many are convicted?

SHRI D. SEN : Out of the cases sent to court conviction has been done in about 80 per cent or more cases because we make a very careful scrutiny and even if there is the slightest missing link, we do not send it to court.

SHRI B. SHANKARANAND : How many cases go up for Departmental action?

SHRI D. SEN : It is very much more: about 500 a year.

SHRI B. SHANKARANAND : What is the percentage?

SHRI D. SEN : Of the cases investigated, the rough percentage will be about 70% i.e. including both the minor penalty and major penalty cases.

SHRI B. SHANKARANAND : There are still some cases left where no action at all is proposed?

SHRI D. SEN : Yes, there are some cases like that.

SHRI B. SHANKARANAND : Is it the responsibility of the CBI to know with regard to the cases which are reported for departmental action whether the department concerned has taken any action against them.

SHRI D. SEN : Yes, Sir. The department always reports to us. Till that action is found out, the file cannot be closed.

SHRI B. SHANKARANAND : Have the files in respect of all these officers closed?

SHRI D. SEN : I do not have any access to these files now.

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MR. CHAIRMAN : If the cases instituted against certain officers are not closed, can they be reinstated or suspension order revoked?

SHRI D. SEN : If the suspension is at our instance, then we would be consulted, but if the suspension is not at our suggestion, we would never be consulted. For example, in Bhatnagar's case, we never suggested the suspension.

MR. CHAIRMAN : You did not recommend any cases to be filed against these officers. You considered these as minor offences.

SHRI D. SEN : Yes, Sir. We did not file any cases in courts.

MR. CHAIRMAN : It was upto the Government whether they would have themselves done it. CBI did not report to the Government for instituting any cases against them.

SHRI D. SEN : We did not.

SHRI B. SHANKARANAND : My question is different. I want to know whether the cases on the CBI files are closed.

SHRI D. SEN : A CBI file is closed after (i) if we recommend any departmental action, it should be known what action has been taken; (ii) in regular cases, we also have to send a report under Sec. 173 Cr. P. C.—final report—that we did not find enough evidence for prosecution and after the court has accepted that report. I do not know whether all these formalities have been completed.

MR. CHAIRMAN : In reply to a question by Shri Jethmalani you said that this has been done.

SHRI D. SEN : I said, these must have been sent, otherwise it would be a failure.

SHRI B. SHANKARANAND : In these cases, the police officers would have straightaway arrested the officers under the law, but they did not do so.

SHRI D. SEN : Yes, Sir.



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**SHRI B. SHANKARANAND** : Is it that there was even delay in certain cases as far as the search is concerned.

**SHRI D. SEN** : In one case, Rajan's case, there was some leakage, there was some delay. In the other cases, Krishnaswamy and Cavle's case, I cannot say if there was any leakage, but sometimes there is a certain lapse of time between the registration of the case and the search.

**SHRI B. SHANKARANAND** : I find from the CBI record that in all these four cases, the investigating officers have not given any attention to the spending aspect of these four officers.

**SHRI D. SEN** : They would have taken that into consideration, but the point of spending lavishly is the most difficult point to investigate, whereas disproportionate assets is a specific offence. A vast majority of cases do not go to courts merely because in the case of even the officers who are living lavishly, we are unable to prove that. But I cannot say whether there was any failure on the part of the investigating officers in this respect. In fact, the officers who are corrupt and spend lavishly are not caught, but it is only those who live in a frugal manner are caught.

**SHRI B. SHANKARANAND** : The investigating officers would have found that they were living beyond their means as they were spending lavishly.

**SHRI D. SEN** : I cannot say anything ; this may be in the case diaries.

**SHRI B. SHANKARANAND** : The CBI were guided by the advice of the CVC as far as the action proposed to be taken in these four cases was concerned

**SHRI D. SEN** : Whatever C.V.C. says is binding on us. If we wish we can make a protest.

**SHRI B. SHANKARANAND** : What was the advice and findings given by the C.V.C. in respect of each of these officers ?

**MR. CHAIRMAN** : He had spelt it out clearly.

**SHRI D. SEN** : In the case of Rajan it was said—

“Central Vigilance Commission is rather surprised that only minor penalty proceedings have been recommended against Shri Rajan. Probably that means that they have not been able to gather adequate evidence to prove active collusion of Shri Rajan. In these circumstances Commission agree to institution of minor penalty proceedings.”

In the case of Shri Bhatnagar the recommendation was for major penalty but they said minor penalty action should be taken.

In the case of Shri Krishnaswamy we have recommended major penalty on one allegation and suitable action on another. They recommended that no action should be taken.

In the case of Shri Cavale we did not make any recommendation for any action because by the time this investigation was completed he had resigned.

**SHRI B. SHANKARANAND** : Who was Central Vigilance Commissioner and is he in service now ?

**SHRI D. SEN** : His name was Shri B. K. Acharya. He has since retired.

**SHRI B. SHANKARANAND** : Why did he recommend major penalty for Shri Rajan ? Can you give reasons which he entertained in his mind ?

**SHRI D. SEN** : He suspected corruption in this case. Rest I have already read from his note. The reasoning must be in his note. I do not have a copy of the entire note.

**SHRI B. SHANKARANAND** : Taking prompt action in such cases generally is a must for the CBI.

**SHRI D. SEN** : Yes, but we have to ascertain the reputation of the officer.

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**SHRI B. SHANKARANAND :** But there is a fear of leakage.

**SHRI D. SEN :** That is there. But when we are dealing with Government servants we have to see all these things.

**SHRI B. SHANKARANAND :** Expediting means 'prompt action'. It does not necessarily mean making delay. Taking prompt action is required under the law.

**SHRI D. SEN :** That is true. That also is under the law that we should make quick verification.

**SHRI B. SHANKARANAND :** Did you do any part of the job with any motivation ?

**SHRI D. SEN :** We did not.

**MR. CHAIRMAN :** Is it not a hypothetical question ?

**SHRI B. SHANKARANAND :** If you feel so, I shall withdraw it.

**MR. CHAIRMAN :** I said so because this is your second round of examination.

**SHRI D. SEN :** In this case I shall give one specific fact. If I had any motivation I would have been in day-to-day touch with all these four cases. In two cases I did not have any touch at all.

**SHRI B. SHANKARANAND :** You have said that CBI works under the Department of Personnel. The progress report of the cases not only in these four cases but generally in all the cases go to the Department of Personnel. The Department of Personnel works under the Prime Minister's Secretariat.

**SHRI D. SEN :** Under the Prime Minister, I should say.

Now it has come to the Home Ministry.

**SHRI B. SHANKARANAND :** Who is the head of the CBI at present ?

**SHRI D. SEN :** Mr. John Lobo.

**SHRI B. SHANKARANAND :** What was he when you were the Chief of the CBI ?

*Shri D. Sen*

**SHRI D. SEN :** He was a D.I.G. in the C.B.I. Then he went to the Intelligence Bureau and then he became a security officer of P.M.

**SHRI B. SHANKARANAND :** Why ?

**SHRI D. SEN :** Because I took over in 1971. He might have gone in 1972 or 1973. I do not remember the exact date.

**SHRI B. SHANKARANAND :** When did you retire ?

**SHRI D. SEN :** I retired in 1977 March.

**SHRI B. SHANKARANAND :** After completion of full tenure.

**SHRI D. SEN :** After extension, I got two extensions. I also got the third extension.

**SHRI KRISHAN KANT :** I just want to ask two to three questions. You told us that sometimes ministers and secretaries used to refer certain cases to you either in writing or orally and you used to take action accordingly.

**SHRI D. SEN :** Yes, Sir.

**SHRI KRISHAN KANT :** After that were you informing them of the action taken ?

**SHRI D. SEN :** We used to inform the ministry concerned.

**SHRI KRISHAN KANT :** Not the officer concerned or the Secretary of the Ministry.

**SHRI D. SEN :** Sometimes this may be shown to the Minister also. We do not inform the ministers directly.

**SHRI KRISHAN KANT :** Once something was referred by a high person, secretary of the ministry or the minister. You gave an example of Mr. Bhatt of U.P. Is it not incumbent upon you when a high official or minister refers you a case that you inform him of the action, may be personally, that this is the result of your investigation ?

**SHRI D. SEN :** He gives some information to us. It is not incumbent on us to

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inform him. If he asks us to inform him, we shall inform him certainly. Otherwise, normal channel is that we inform the ministry concerned.

**SHRI KRISHAN KANT :** You inform the minister directly also.

**SHRI D. SEN :** Suppose the Minister of Communications gives some information to us. In the final report which relates to an officer of the Ministry of Communications, we inform the ministry concerned, that is, the Ministry of Communications ; they will show the result to the Minister concerned.

**SHRI KRISHAN KANT :** For certain immediate prompt action which was required to be taken, Nehru sent you some papers at that time.

**SHRI D. SEN :** At that stage whatever action was to be taken that we informed.

**SHRI KRISHAN KANT :** After you had taken action you also informed the Prime Minister or not.

**SHRI D. SEN :** I do not know that. At that time Director, C.B.I. was one Mr. Kohli. I can't say whether he informed him or not. He must have informed because it was raised in Parliament and there was some Parliament debate going on. That is why I say that he must have informed him.

**SHRI KRISHAN KANT :** If the Prime Minister referred you a case he would normally be informed of the action taken and your findings.

**SHRI D. SEN :** I will put it this way. If the Prime Minister wants to be informed, we certainly inform him.

**SHRI KRISHAN KANT :** Do you inform him of the action taken ?

**SHRI D. SEN :** We inform him of the final result of the investigation.

**SHRI KRISHAN KANT :** After you come to the final result of investigation you inform the person concerned or the ministry concerned.

**SHRI D. SEN :** We inform the ministry concerned about the action taken.

*Shri D. Sen*

**SHRI KRISHAN KANT :** The Prime Minister may refer it to you directly. Suppose there is some corruption in some private firms. That is referred to you. Is it not courteous or proper that the Chief of the CBI informs the Prime Minister about it ?

**SHRI D. SEN :** The procedure is this. We inform in these cases only the Department of Personnel. We do not inform the Prime Minister.

**SHRI KRISHAN KANT :** You write that the Prime Minister may be informed.

**SHRI D. SEN :** Sometimes we do and sometimes we do not. In very important matters we do write about it.

**SHRI KRISHAN KANT :** How many times Shri Dhawan used to come to you ?

**SHRI D. SEN :** I would not be able to say that. He used to come twice or thrice a month. He also used to call and tell me that there are some papers. Sometimes on my way I will go and I will take them.

**SHRI KRISHAN KANT :** How many times Shri Dhawan used to come to you and how many times Shri Tandon used to come to you.

**SHRI D. SEN :** Formally Shri B. N. Tandon was coming to me. As I said Mr. Dhawan started coming to me. I discussed with Mr. Tandon also.

**SHRI KRISHAN KANT :** Was Mr. Tandon coming to you ?

**SHRI D. SEN :** Shri Tandon was concerned with promotions and getting information required.

**SHRI KRISHAN KANT :** You told the Committee yesterday that you used to meet Shri Ramachandran, Tandon and Shri Seshan.

**SHRI D. SEN :** He was in that room next to him. I used to meet.

**SHRI KRISHAN KANT :** How many times Shri Ramachandran and Tandon used to come to you.

**SHRI D. SEN :** Shri Ramachandran and Tandon came to me rarely. They used to talk to me on phone quite often.

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Shri D. Sen

**SHRI KRISHAN KANT :** They were not coming to you quite often.

**SHRI D. SEN :** Mr. Tandon used to come in office because he was dealing with vigilance matters.

**SHRI KRISHAN KANT :** Later on Dhawan was coming to you. Since when Mr. Dhawan started coming to you ?

**SHRI D. SEN :** I do not remember. But, I think since 1974 or so he used to come more than Shri Tandon.

**SHRI KRISHAN KANT :** Was it the system that the CBI chief used to come quite often to the Prime Minister's Secretariat to get papers ? You said yesterday that you used to carry papers. Was there a system that confidential papers from the Prime Minister's Secretariat would reach you directly ?

**SHRI D. SEN :** I think I have been misunderstood. I will clarify it. In many cases papers used to come to us. In some cases I was informed that when I was going from Office, I might please drop in and take some papers.

**SHRI KRISHAN KANT :** Because you had very good relations with Mr. Dhawan and so you used to go and take the papers.

**SHRI D. SEN :** That is quite incorrect. I have no social relations with him. You can find it out from him if I have ever gone to him even for a meal.

**SHRI KRISHAN KANT :** Is it that you have got a very intimate relationship with Mr. Dhawan ? And, as head of the CBI, you used to go the Prime Minister's House and take the papers ?

**SHRI D. SEN :** It is quite incorrect.

**SHRI KRISHAN KANT :** It was said that you used to go and take the papers. CBI chief never goes there to take the papers unless of course you have got the familiarity. Otherwise no one will go to the residence for taking the papers.

**SHRI D. SEN :** There is one more thing which you have forgotten. May be some files relate to the ministries and they might

have got stuck up there. I will ask Shri Tandon to clear it up. I will tell him that there is a file in the Prime Minister's office which he may get expedited.

**SHRI KRISHAN KANT :** Do you think that an IB Chief goes to the Prime Minister's Secretariat to take files as some of the Secretaries of the Ministries or IAS Officers used to do ?

**SHRI D. SEN :** I am very sorry. I did not say I went there to take the files. Suppose there are certain files connected with promotions of someone, I would have made some recommendation. Mr. Tandon would say that that file is in the Prime Minister's House. I used to ask him that since the matter is there pending, that particular file may be cleared quickly.

**SHRI KRISHAN KANT :** You can talk about it on phone instead of going there and getting the matter expedited from the Prime Minister's House. The only person with whom you are dealing is Mr. Dhawan.

**SHRI D. SEN :** Sometimes I won't be able to get Mr. Dhawan for three or four days. I would say that the file is there. It should be cleared. I told you that I had no social relation with him at all. I have been here for 20 years. You can find out. I am proud of this.

I have not gone to any businessmen or even any official's house excepting to the house of my close personal friends. I was with Mr. Shastriji. His son-in-law is here. You can find from him about my character. When my officer's interests are involved then I have to pursue. Even Mr. Tandon told me that I should tell Mr. Dhawan to get the file cleared.

**SHRI KRISHAN KANT :** Were you also going to Mr. Om Mehta's house ?

**SHRI D. SEN :** I was going to Mr. Om Mehta's house also but I was meeting him every second day in office.

**SHRI RAM JETHMALANI :** Now, tell me the CBI is not concerned with checking of the antecedents of Government servants because that is done at the time of the first appointment.

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**SHRI D. SEN :** Yes. But if later on anything has to be checked it has to be checked by IB and not by us.

**SHRI RAM JETHMALANI :** So, CBI has nothing to do with the checking of the antecedents. You remember one of the reasons you gave before in refutation of Mr. Dhawan's story that he merely asked you to check the antecedents of the officers was that this cannot be true because the antecedents are checked at the time of the first appointment.

**SHRI D. SEN :** I have said this.

**SHRI RAM JETHMALANI :** You did call frequently at the Prime Minister's office and residence in connection with your official business.

**SHRI D. SEN :** Yes.

**SHRI RAM JETHMALANI :** You had direct access to the Prime Minister over the head of Mr. Dhawan.

**SHRI D. SEN :** No. I could meet her when I asked for appointment. Appointments were fixed by Mr. Shesham.

**SHRI RAM JETHMALANI :** It also happened that Prime Minister called you not through Dhawan but through others also.

**SHRI D. SEN :** Yes. Both through Dhawan and others.

**SHRI RAM JETHMALANI :** It also happened that sometimes you directly talked to the Prime Minister on phone.

**SHRI D. SEN :** I do not remember having talked directly to her on phone. If I wanted to say something I would seek appointment.

**SHRI RAM JETHMALANI :** Did the Prime Minister ever talk to you on the telephone ?

**SHRI D. SEN :** No, Sir.

**SHRI B. SHANKARANAND :** Do you do verification of the returns of assets of the officers ?

**SHRI D. SEN :** That is not antecedent; that will be investigation.

*Shri D. Sen*

**SHRI B. SHANKARANAND :** Verification of the returns submitted by the officers regarding their income, assets, through the department ?

**SHRI D. SEN :** For that the department can be asked.

**SHRI B. SHANKARANAND :** Suppose a return is submitted by an officer of his assets, income. For that verification you are asked, that is, the CBI is asked. Will not the CBI do it ?

**SHRI D. SEN :** For us, verification will mean investigation and we will make only investigation.

**SHRI B. SHANKARANAND :** For verification, you will make investigation ?

**SHRI D. SEN :** Quite right.

**MR. CHAIRMAN :** Thank you ; for two days you have come and appeared before us.

**SHRI D. SEN :** Thank you. May I with the permission of the Chairman say that I get an impression and if I could get about five minutes to mention what I did during the emergency, you will be able to judge better.

**MR. CHAIRMAN :** We have not formed any opinion about you.

**SHRI D. SEN :** It will also show that I have represented certain things to the P.M. and she had taken correct decisions also in those cases. He raised the point of extension; I have refused even promotion, what to say of extension. Even the last extension I was not willing to take. I have been here for 20 years; I have not gone to anybody for a cup of tea; I have had an ascetic's life.

**MR. CHAIRMAN :** Nobody reflected on your character. But if you are so exercised, you can write to us a note on what you did during the Emergency, about your personal conduct, personal life when you were Director of CBI and it will be recorded.

*(The witness then withdrew)*

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(ii) Evidence of Shri R. K. Dhawan

MR. CHAIRMAN : Mr. Dhawan, you have been asked to appear before this Committee to give evidence in connection with the question of privilege against Smt. Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officers who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd. I hope you will state the factual position and your version of the events freely and truthfully. You may no doubt be aware that the evidence you may give before the Committee is to be treated by you as confidential till the report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute breach of privilege. The evidence which you give before the Committee may be reported to the House. Now you may take the oath or make an affirmation.

(The witness took the oath.)

SHRI R. K. DHAWAN : I have written a letter and it reads as follows. This is in continuation of my letter of 21st January 1978 wherein I had requested for extension of time for filing my reply with regard to the above-mentioned subject by one week. As far as I am concerned, the motion in this connection has been adopted on the basis of notice of privilege, question of privilege raised by Shri Kanwar Lal Gupta, M.P. It has been alleged by the hon. M.P. that I participated in the alleged obstruction, intimidation, harassment and institution of false cases against four officers mentioned in the notice. I wish to deny emphatically the allegations made against me as these are false and are based upon erroneous Press reports. I wish to state as follows.

The then Prime Minister had received some reports against certain officers from M.Ps. and others and she desired me to pass on those names to the concerned department for checking their antecedents. At that time nobody else was present. I passed on these names to Shri D. Sen, former Director of CBI, and told

Shri R. K. Dhawan

him that the Prime Minister had received complaints about these officers and she wanted their antecedents to be checked. This was the only direction given to me by the Prime Minister.

I did not suggest any course of action to Shri D. Sen.

Any message that was conveyed by me to the Director, CBI was in the discharge of my official duties and I did not contact any other officer in this connection.

After just passing on the information to Shri D. Sen regarding checking of antecedents of the concerned officials, no follow-up action was taken by me nor any intimation and/or report was received by me from the Director, CBI.

The action, if any, was taken independently by Shri D. Sen.

I did not know if any question(s) regarding Maruti were put and they were to be answered in the Parliament on 16th April 1975.

Consequently, I did not know that there were some officers in the Government who were collecting information on the Maruti affairs.

I may be permitted to say that the hon. M.P. has based himself on the reports appearing in a section of the Press.

I also wish to point out, for the information of the hon. Committee, that the reports appearing in a section of the Press and referred to by the hon. M.P. that all the officers against whom cases were filed in the courts were, however, acquitted, are not true. The cases are still pending and consequently are *sub judice*.

I wish to further invite the attention of the hon. Committee for its consideration the question whether a subsequent Parliament can take cognizance of alleged breach of privilege, during the period previous Parliament and that too in the case of a person who discharged his official duties and was not a Member of the house. This is a moot question because such a view of law might expose the citizen to unpredictable hazards and is against the rule of law.

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Shri R. K. Dhawan

I have the highest respect for Parliament and I never intended any disrespect to the House. In fact, I strongly feel that every citizen of this country is morally and legally bound to uphold the dignity of this highest democratic Institution in our country.

It is accordingly prayed that proceedings against me be dropped, since I am not at all involved in the aforesaid alleged breach of privilege of Lok Sabha.

MR. CHAIRMAN : Along with your statement you have also submitted two enclosures, in which you have mentioned that these are the reports of your deposition before the Shah Commission. We are not concerned. . .

SHRI R. K. DHAWAN : I did not send any enclosure with this latter. I sent enclosures with the subsequent letter.

MR. CHAIRMAN : Leter, on 14th March you have sent us some kind of a note.

Would you read out the preamble of the note ? There is no necessity for reading out the whole thing.

SHRI R. K. DHAWAN : "This has reference to your letter No. 18/3/CI/77, dated 14th February 1978 on the above-mentioned subject. As desired, I enclose the following :—

1. Copy of my deposition on solemn affirmation before the hon. Shah Commission on 30th September, 1977. (Enclosure I).
2. Copy of examination-in-chief on solemn affirmation by the Counsels of the hon. Commission, the Government and my Counsel. (Enclosure II).

In addition to the above-mentioned deposition and examination-in-chief, I also brought to hon. Commission's notice certain facts which had come to light while going through the records. I have not been supplied with a copy of these yet by the hon. Commission. I may be permit-

ted to bring these to the notice of the hon. Committee.

As per case history prepared by the hon. Commission, it is mentioned that I forbade Shri Bhatnagar and Shri Rajan from collecting information regarding M/s. Maruti Limited. I quote an extract from the case history : —

"On 15th April 1975, Shri R. K. Dhawan, Shrimati Indira Gandhi's Private Secretary contacted Shri A. S. Rajan and Shri P. S. Bhatnagar on telephone and forbade them for collecting information on Maruti Pvt. Limited."

I have told the hon. Commission that there is no truth in this and I did not contact these Officers.

It may be interesting to point out that as per official records, the answer to the said question had already been approved on the 14th April. When the reply had already been finalised on the 14th April, it is not understood what information the said Officers were collecting on the 15th April. The statement of Shri Bhatnagar and Shri Rajan is totally false and they were not collecting any information.

Shri Bhatnagar in reply to a question by my counsel has stated that he was collecting information on the basis of a letter which had been received by Shri Cavale from the Ministry of Industry. The relevant extract is reproduced below :—

"There was a letter from the Ministry of Heavy Industry addressed to Mr. Cavale, that letter was marked to me and Mr. Cavale, gave me verbal instruction to collect this information."

I wish to point out for the information of the hon. Committee, that the Ministry of Industry had asked Shri Cavale for information regarding names and addresses of the various dealers in the country dealing with imported machinery for stock and sale. This letter was sent on the 9th April and the information was to be given per

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bearer. Such information is always available with the PEC and there was no question of collecting it. The said letter is reproduced below :—

“Dear Shri Cavale,

In connection with a Parliament question we require information regarding names and addresses of the various dealers in the country dealing with imported machinery for stock and sale during the last four years. I shall be grateful if you kindly make available the above information to the bearer of this letter.”

This was signed by Mr. V. P. Gupta and addressed to Mr. Cavale—In fact, the Industry Ministry had asked for this information from Maruti itself and had deputed an Officer by the name of Shri S. S. Khosla to Maruti factory on the 9th April to collect this information as per copy of the enclosed letter at Annexure ‘A’. Therefore the plea of Shri Bhatnagar that he was collecting information regarding Maruti on the 15th April is not tenable.

I also wish to add that the Government were not collecting any information as is clear from the final reply given to the Parliament on 16th April 1975. The reply given was :—

“Government does not collect nor is any industrial unit required to furnish detailed information with regard to machines purchased locally, Government has, as such, no information.”

As is clear from the above reply, given to the Parliament, Government were not collecting any information. Shri Pai has now stated before hon. Shah Commission that his officers were collecting information. It is for the hon. Committee to decide whether Shri Pai misled the Parliament at that time or, is now misleading the hon. Shah Commission.

I may reiterate that I did not suggest any course of action to Shri Sen. It may be pointed out that Shri D. Sen has at no stage

Shri R. K. Dhawan

stated that I had conveyed anything regarding investigations, searches etc. To quote him, I reproduce the following relevant extract from the testimony on oath of Shri D. Sen before the hon. Shah Commission.

“I think there is some misunderstanding on this point, because I was not asked to start any investigation.”

MR. CHAIRMAN : As enclosures; you have given a report of your deposition before the Shah Commission and cross-examination. We are not concerned with it. If need be, you may refer to them. We do not know whether you got it from the Commission itself officially.

SHRI R. K. DHAWAN : The Commission did not give it officially. They said that they are short of staff and that we can copy it ourselves. I have copied it myself.

MR. CHAIRMAN : All right, we shall take it as a document produced by you.

SHRI R. K. DHAWAN : Because in the letter which I received from the honourable Committee there is no mention. Otherwise, I would have applied to the Shah Commission to give me an attested copy.

MR. CHAIRMAN : We shall discuss the merits of this letter because he copied it himself. He said that he copied it himself. That is not attested. Therefore, the merit of it we shall discuss later.

Mr. Shankaranand, can you sit for 15 minutes more today ?

SHRI B. SHANKARANAND : Tomorrow we shall do it. Heavens are not going to fall.

MR. CHAIRMAN : Mr. Dhawan, you have to come tomorrow and wait. Mrs. Gandhi will be examined first, and then yourself.

SHRI R. K. DHAWAN : At what time ?

MR. CHAIRMAN : At 10.00 a.m.

(The witness withdrew)

(The Committee then adjourned)



Wednesday, the 21st June, 1978

**PRESENT**

Professor Samar Guha—*Chairman*

**MEMBERS**

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Ram Jethmalani
6. Shri Krishan Kant
7. Professor P. G. Mavalankar
8. Shri R. Mohanarangam
9. Shri Narsingh
10. Shri Narendra P. Nathwani
11. Shri B. Shankaranand
12. Shri Madhav Prasad Tripathi
13. Shri Ravindra Varma

**SECRETARIAT**

Shri I. Pershad—*Chief Legislative Committee Officer*

Shri M. P. Gupta—*Senior Legislative Committee Officer*

**WITNESS**

Shri R. K. Dhawan (*former Additional Private Secretary to the then Prime Minister*).

(*The Committee met at 10.00 hours*)

**Evidence of Shri R. K. Dhawan**

SHRI R. K. DHAWAN : I, R. K. Dhawan, swear in the name of God that the evidence that I shall give in this case shall be true and I will conceal nothing and on part of my evidence shall be false.

MR. CHAIRMAN : When did you join Mrs. Indira Gandhi as her Private Secretary ?

SHRI R. K. DHAWAN : I joined her in 1962 and became Additional Private Secretary in 1972. I was never her Private Secretary.

*Shri R. K. Dhawan*

MR. CHAIRMAN : Up to what time did you continue to serve her as her Additional Private Secretary ?

SHRI R. K. DHAWAN : I was with her from 1962 onwards. I became her Additional Private Secretary in 1972 and was with her till 20th March, 1977.

MR. CHAIRMAN : You drew your salary from the exchequer of the Central Government.

SHRI R. K. DHAWAN : I would not know the technicalities, but I was drawing my salary from the Government.

MR. CHAIRMAN : That means your salary was being paid by the Government.

SHRI R. K. DHAWAN : Yes.

MR. CHAIRMAN : What are you doing now ?

SHRI R. K. DHAWAN : Nothing particular for the moment. I am not in service of anybody.

MR. CHAIRMAN : Do you even now meet frequently Mrs. Gandhi ?

SHRI R. K. DHAWAN : Yes.

MR. CHAIRMAN : In what connection ?

SHRI R. K. DHAWAN : Well, she was the Prime Minister. I worked with her.

As a human being I go and meet her. I was not a time server.

MR. CHAIRMAN : Do not try to be over smart. I did not ask that.

SHRI R. K. DHAWAN : Well, I withdraw it. I was asked the question why I went there.

MR. CHAIRMAN : Do not try to create any position which may....

SHRI R. K. DHAWAN : That was not my intention.

MR. CHAIRMAN : You even nowadays receive telephone calls addressed to Mrs. Gandhi or to her office.

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*Shri R. K. Dhawan*

**SHRI R. K. DHAWAN** : If I happen to be there, I do receive calls. But normally I do not attend the telephone.

**MR. CHAIRMAN** : Did you consult Mrs. Gandhi in preparing your statement in regard to the privilege motion ?

**SHRI R. K. DHAWAN** : I had no discussion with her.

**MR. CHAIRMAN** : How do you account for saying or in reasoning that this Committee has no competence to deal with the matter—the stand taken by her ?

**SHRI R. K. DHAWAN** : I do not know that Mrs. Gandhi had also taken the same stand. Till to-day I do not know whether Mrs. Gandhi had also taken stand on the same lines or similar to what I have said.

**MR. CHAIRMAN** : You want to make this Committee believe that you never discussed the privilege issue with Mrs. Gandhi.

**SHRI R. K. DHAWAN** : I never discussed Privilege Issue because I got letter in my own capacity.

**MR. CHAIRMAN** : Do not try to be over smart. Everybody knows that you will be getting letter in your own capacity. Try to reply in a simple form.

What were your functions as an Additional Private Secretary to the Prime Minister ? What were the tasks entrusted to you ?

**SHRI R. K. DHAWAN** : There were no specific duties assigned. There was no distribution of work among the Private Secretary, Additional Private Secretary, P.As and people on duty. No work had been assigned by the Prime Minister or the senior officers of the Secretariat.

**MR. CHAIRMAN** : Did officials get verbal or written instructions ?

**SHRI R. K. DHAWAN** : Prime Minister never gave written instructions to the staff. I never received any written

instructions from her.

**MR. CHAIRMAN** : Do you remember the date when Mrs. Gandhi asked you to inform CBI to conduct enquiry pertaining to corruption of officers ?

**SHRI R. K. DHAWAN** : I do not remember the date.

**MR. CHAIRMAN** : Any approximate date.

**SHRI R. K. DHAWAN** : It is a matter of three or four years ago. I do not remember that.

**MR. CHAIRMAN** : Before the Shah Commission you gave the date as 13th or 14th.

**SHRI R. K. DHAWAN** : There also I said I do not remember the date.

**MR. CHAIRMAN** : Do you now recollect what were the exact wordings of the instructions that you received from Mrs. Gandhi ?

**SHRI R. K. DHAWAN** : She said that some M.Ps had complained about these officers. This has to be got checked up.

**MR. CHAIRMAN** : Did she mention the names of those officers ?

**SHRI R. K. DHAWAN** : Yes.

**MR. CHAIRMAN** : What are the names that she spelt out to you ?

**SHRI R. K. DHAWAN** : I have already deposed before the Shah Commission. They were S/Shri Krishnaswamy, Rajan, Cavale and Bhatnagar.

**MR. CHAIRMAN** : Did she give you only the names or other particulars of the officers ?

**SHRI R. K. DHAWAN** : She gave only the names.

**MR. CHAIRMAN** : Did she mention the designation ?

**SHRI R. K. DHAWAN** : I never knew the designations till I appeared before the Shah Commission.

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Shri R. K. Dhawan

MR. CHAIRMAN : Did it not strike you that there will be hundreds of Cavale, Rajan, Bhatnagar in the Central Government and how one has to identify which Rajan was in her view.

SHRI R. K. DHAWAN : Well, the names were given to the Director, CBI. He, as a Director, I thought, knew that and in case he did not know he would find that out.

MR. CHAIRMAN : Who gave the names to the Director, CBI ?

SHRI R. K. DHAWAN : Names were given by me. It was in a very ordinary manner that I mentioned about this to get the matter checked up whether there was any truth in that.

MR. CHAIRMAN : You sent a note.

SHRI R. K. DHAWAN : I never sent a note.

I mentioned that some M.Ps had complained about these officers. You get it checked up.

MR. CHAIRMAN : Did it not strike you how he will be able to identify who Krishnaswamy, Rajan or Bhatnagar was ? There are hundreds of people by these castes or names.

SHRI R. K. DHAWAN : I thought CBI will make an enquiry.

MR. CHAIRMAN : Did you believe that without giving designation, they will be able to do something ? There are so many Bhatnagars.

SHRI R. K. DHAWAN : If they would not have been able to get proper persons, they would come to us.

PROF. P. G. MAVALANKAR : Witness may be asked to be slow to enable us to get the thread of arguments.

MR. CHAIRMAN : Did you know that in the case of two officers against whom complaint was made, the preliminary enquiry was made within a day and the regular case was also instituted thereto ?

The preliminary enquiry was made within a day or so and the regular case was also instituted.

SHRI R. K. DHAWAN : I knew nothing about that till I appeared before the Shah Commission.

MR. CHAIRMAN : Mr. Sen yesterday categorically told us that at least in the case, perhaps of two officers against whom a complaint was made, preliminary enquiry was made within a day. His version was the complaint was made on the 15th—he could not say exactly whether it was in the afternoon or in the evening—and by the evening of 15th he got the identification of the officers and by the 16th at least in the case of the two officers, preliminary enquiries were completed. How do you account for this ?

SHRI R. K. DHAWAN : Sir, I was not dealing with that. I only mentioned the names to Mr. Sen. I did not know whether he was making a preliminary enquiry or a regular enquiry. I did not follow it up. I had been asked to send the names to him. I would not know what he was doing.

MR. CHAIRMAN : Do you mean to say that Mr. Sen has given a concocted story and he did not tell the truth ? He categorically was saying that—you mentioned the designation of the officers.

SHRI R. K. DHAWAN : Mr. Sen is totally wrong; he is failing in his memory. I only mentioned the names and not the designations. I shall produce a copy of the extract of the CBI file which I was given officially in the Shah Commission. I would just, with your permission, read it out. This is from the CBI file No. R. 975 dated 17th April, 1975. The official desires verification of the instructions at page 1, correspondence. He would like to have a report within five days. I would suggest that the S.P. may depute a good officer for the verification of the informations—Paragraph 2 : The line of verification should be only on the following lines :

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1. Immediately and before 3 P.M. to-day we must find out the exact name of this officer, where he is working and what is his residential address.

This is an extract from the CBI File. If I had given the names and designation of these officers to Mr. Sen, then why is the note signed by Mr. Rajpal, D.I.G. on the 16th April, 1975? I would leave this to the judgment of the honourable Committee. If I had given the name and designation to Mr. Sen, will the DIG record such a note?

SHRI KRISHAN KANT : Will you please read it out again?

SHRI R. K. DHAWAN : The line of verification should be on the following lines :

1. Immediately and before 3 P.M. to-day, that is, on the 16th, we must find out the exact name of this officer, where he is working and what is his residential address.

This is what I said. Probably Mr. Sen has failed in his memory. If you like to have a copy of this, I would be happy to put it on record.

MR. CHAIRMAN : I do not know if anyone has premonition or such a will power. We have to apply our mind. This is how the verification is being done by them.

SHRI R. K. DHAWAN : Well, Sir, this is the working of the CBI.

MR. CHAIRMAN : We will find out who spoke the truth—yourself or Mr. Sen.

SHRI R. K. DHAWAN : Then, you should ascertain from what the file says.

MR. CHAIRMAN : I have not asked the question. It is our job to do. We shall find that out.

What exactly the words she used which you communicated to Mr. Sen?

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SHRI R. K. DHAWAN : Some M.Ps. have complained about these officers. Get their antecedents checked.

MR. CHAIRMAN : Did she disclose to you the names of the M.Ps.?

SHRI R. K. DHAWAN : No. She did not.

MR. CHAIRMAN : What do you mean by the word 'antecedent'?

SHRI R. K. DHAWAN : Whether there is any truth in the allegation, what sort of a person he was and whether he is corrupt, good or bad. This is my interpretation of the word 'antecedent'. But, I did not say all these things to Mr. Sen. But, since Mr. Sen asked me what I meant by that I said that I meant by that what sort of persons they are.

MR. CHAIRMAN : Is it not a fact that the antecedent is enquired into mostly at the time of appointment?

SHRI R. K. DHAWAN : Sir, it is the prerogative of the Government to get the antecedents checked up any time. Government has been getting that done in my own case three times or four times.

MR. CHAIRMAN : Was it a confidential report of a person?

SHRI R. K. DHAWAN : There may be a difference of opinion on the word. It is Government's prerogative to get the antecedents checked. There are rules. For the persons dealing with the sensitive jobs, their antecedents are checked every three years and for those dealing with less sensitive jobs, their antecedents are checked up every five years. Government servants antecedents are checked after about ten years to see what sort of political affiliations they are having and what sort of reputation they enjoy. This is the normal practice and in Government service that is being done in the case of government servants.

MR. CHAIRMAN : But, Mr. Sen categorically said that that was not the job of the CBI to enquire into the antecedents of any officer.

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**SHRI R. K. DHAWAN :** That is so for Government servants. I think Mr. Sen has been failing in his memory.

**MR. CHAIRMAN :** That is the job of the Intelligence Bureau.

**SHRI R. K. DHAWAN :** I do not know what his interpretation of the word is. But, so far as we are concerned, the CBI is the machinery which deals with the government servants.

**SHRI RAVINDRA VARMA :** Mr. Chairman, please ask him not to answer before you complete your questions.

**SHRI R. K. DHAWAN :** I did not mean any disrespect to the Committee.

**SHRI RAVINDRA VARMA :** Sir, I think your questions should be completed before he answers.

**SHRI R. K. DHAWAN :** I shall be careful.

**MR. CHAIRMAN :** I have been asking you to be slow. Please try to be slow. I was telling you that the Director of the Central Bureau of Investigation in his evidence categorically stated before us that the Bureau had nothing to do with checking up of the antecedents or the confidential reports of any officer whatsoever. Their function is to enquire into or investigate into the matter relating to the charges of corruption or showing some kind of favouritism thereby acquiring assets disproportionate to his income. These are more or less the functions of the CBI. This was stated by him. You are saying that it is their duty also to check up the antecedents of certain persons.

**SHRI R. K. DHAWAN :** I would not say no. Whether, there are any written instructions to this effect or not, at that time, I thought that since we are Government servants, CBI is the person to deal with them. He said that he did not deal with the thing. And so the matter ended there. If he says something else to-day, I cannot say anything on that.

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**MR. CHAIRMAN :** He categorically told this Committee that you communicated to him not only the designations and names of the four persons. And you categorically mentioned to him that enquiries and investigations should be made against certain charges of corruption against those officers.

**SHRI R. K. DHAWAN :** Well, I totally deny it. It is not true. Mr. Sen has said before the Shah Commission that he was not asked to start any investigation.

**MR. CHAIRMAN :** We have either to believe you or Mr. Sen. Although we are not concerned with the Shah Commission yet in a similar report of CBI the words are there that the officers were instructed to conduct enquiry into the charges of corruption and favouritism shown to certain firms.

**SHRI R. K. DHAWAN :** I did not say all these things to Mr. Sen.

**SHRI NARENDRA P. NATHWANI :** Do you want us to accept everything what Mr. Sen said before the Shah Commission ?

**SHRI R. K. DHAWAN :** I am nobody to suggest that. Let me explain. I have already said that I deny it. I have referred to it because Mr. Chairman referred to it that in the Shah Commission I referred the date.

**SHRI KRISHAN KANT :** Mr. Dhawan, that was referred to by the Chairman because that particular part of deposition of Mr. Sen before the Shah Commission is part of the record of the Committee. Mr. Nathwani's point is that your adding is going against you.

**SHRI R. K. DHAWAN :** If there is something to my knowledge I must bring it to the notice of the Committee.

**MR. CHAIRMAN :** Mr. Sen's deposition before the Shah Commission is not before us. So, you need not refer to it. Please, do not harm your cause.

**MR. R. K. DHAWAN :** I have already brought it on record through my letter dated 14th March that Mr. Sen has said

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so. I will read it out with the permission of the Chair. It is the last para. I quote :

"I may reiterate that I did not suggest any course of action to Shri D. Sen. It may be pointed out that Shri D. Sen has at no stage stated that I had conveyed anything regarding investigations, searches etc. To quote him, I reproduce the following relevant extract from the testimony on oath of Shri D. Sen before the Hon'ble Shah Commission :

"I think there is some misunderstanding on this point, because I was not asked to start any investigation."

I have already brought this to the notice of the Hon'ble Committee.

MR. CHAIRMAN : This may be your view but Mr. D. Sen gave a different view. My question is : Did the former Prime Minister—apart from these four names—asked you at any time to communicate to Mr. D. Sen to have some complaints checked up ? Do you recollect any such instance ?

SHRI R. K. DHAWAN : This is not the solitary occasion.

MR. CHAIRMAN : Give one instance.

SHRI R. K. DHAWAN : The one instance which comes to my mind immediately is that of Mr. Pai. I gave the name of Mr. Pai to Mr. D. Sen.

MR. CHAIRMAN : Can you tell of any instance in your memory of such complaints against officers emanating from the source of Prime Minister ?

SHRI R. K. DHAWAN : On a number of times I did pass on names to Mr. D. Sen but I do not remember the names. It used to be about some MPs and Ministers. I do not remember about government servants.

MR. CHAIRMAN : If this matter did not figure in some Commission outside or in this Privileges Committee perhaps

you would have forgotten this instance also.

SHRI R. K. DHAWAN : If I had not appeared before Shah Commission, I would have forgotten about it. In fact, I have already forgotten about it. In the Shah Commission they read out the summary and I recollected it.

MR. CHAIRMAN : Was it your function that if you have got any instructions from the Prime Minister to communicate to Mr. D. Sen or others you did not care to know the follow-up action ?

SHRI R. K. DHAWAN : I never followed it up. If any report is to be made or follow-up action is to be taken it used to be dealt with directly by the CBI or the concerned Minister. If I am allowed to make the submission I would like to say that no Private Secretary is able to follow-up any action.

MR. CHAIRMAN : You say that you always received verbal instructions from the former Prime Minister ?

SHRI R. K. DHAWAN : Verbal, official instructions.

MR. CHAIRMAN : Are you so sure of your memory ?

SHRI R. K. DHAWAN : I am sure about my memory; I do not remember the former Prime Minister ever gave to me anything in writing.

MR. CHAIRMAN : Did you take down those instructions ?

SHRI R. K. DHAWAN : Always, either on a slip book or shorthand note book.

MR. CHAIRMAN : Could you produce them ?

SHRI R. K. DHAWAN : They are not here; they are all destroyed, after some-time; we never maintain them; about two or three slip books per month would be completed.

MR. CHAIRMAN : What are your academic qualifications ?

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SHRI R. K. DHAWAN : I am a graduate.

MR. CHAIRMAN : What are your subjects ? What were your marks ?

SHRI R. K. DHAWAN : I do not remember my marks; the subjects were : Economics, Political Science, Sanskrit, English and Hindi.

MR. CHAIRMAN : Did you get first class, 60 per cent marks ?

SHRI R. K. DHAWAN : I got a third division.

MR. CHAIRMAN : Did you pass the school final or the higher secondary ?

SHRI R. K. DHAWAN : I passed the Higher Secondary examination with 392 marks, in second division.

MR. CHAIRMAN : From higher secondary you went for graduation ?

SHRI R. K. DHAWAN : I passed various stages in difficulties, as I am passing now.

SHRI KRISHAN KANT : This type of remark should not be made; they are derogatory to the Committee.

MR. CHAIRMAN : You cannot change human nature. Did you do any preuniversity course in Delhi ?

SHRI R. K. DHAWAN : I did my higher secondary from Delhi; then Intermediate from Punjab University; I did honours in Hindi Prabhakar, I appeared for B.A. English, for political science and in others like this. I got the degree then. I did it while in service.

MR. CHAIRMAN : What was your division in intermediate ?

SHRI R. K. DHAWAN : Third division.

MR. CHAIRMAN : You did not show any academic brilliance but you say you have an unailing memory and on the basis of that unailing memory you are saying that what you say is right and what Mr. Sen says is wrong.

SHRI R. K. DHAWAN : I am not saying that what Mr. Sen says is right or wrong. I am only saying what I know.

MR. CHAIRMAN : Did you go to the office of Mr. Sen to communicate the instructions given to you by Mrs. Gandhi ?

SHRI R. K. DHAWAN : I do not remember whether I went to his office or he had come to P.M.'s house; I do not remember where and when the instructions were given to him.

MR. CHAIRMAN : I shall refresh your memory. Mr. Sen said that you went to his office to communicate the instructions of the former Prime Minister. Would you accept it ?

SHRI R. K. DHAWAN : I would not accept it; at the same time I would not like to dispute it because I do not remember.

MR. CHAIRMAN : Did you know that Mr. T. A. Pai was called by Mrs. Gandhi to see her immediately ?

SHRI R. K. DHAWAN : It is not to my knowledge.

MR. CHAIRMAN : Do you know that Prof. D. P. Chattopadhyaya was also called ?

SHRI R. K. DHAWAN : It is not to my knowledge.

MR. CHAIRMAN : Mr. T. A. Pai told this Committee that when he visited the house of the former Prime Minister, when he was present, you were called in and in your presence she communicated certain instructions to Mr. Pai. Whom are we to believe, you or Mr. Pai ?

SHRI R. K. DHAWAN : It is not true.

MR. CHAIRMAN : When Mrs. Gandhi told you to communicate to Mr. Sen to have 'their antecedents checked up', to quote your words, was she in her residence or office ?

SHRI R. K. DHAWAN : In her residence.

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MR. CHAIRMAN : Did you notice anything unusual in her demeanour ?

SHRI R. K. DHAWAN : Nothing unusual.

MR. CHAIRMAN : Did you know that after having had talks with Mrs. Gandhi, Mr. Pai and Prof. Chattopadhyaya, immediate steps were taken against Bhatnagar and Krishnaswami ?

SHRI R. K. DHAWAN : I did not know anything till I appeared before the Shah Commission.

MR. CHAIRMAN : After meeting Mr. Sen and communicating to him what you were instructed to communicate, did you report back to the Prime Minister ?

SHRI R. K. DHAWAN : No.

MR. CHAIRMAN : Is it a fact that Mr. Sen used to visit the residence as well as the office of the ex-Prime Minister very frequently ?

SHRI R. K. DHAWAN : Yes. I do not know about his visits to the Office of the Prime Minister because I have never gone to the Office. I know only about his visits to her residence.

MR. CHAIRMAN : Can you give any reason as to why Mr. Sen used to visit the residence of the Prime Minister frequently ?

SHRI R. K. DHAWAN : He never told me that. He only used to exchange greetings. He would not tell me what for he has come.

MR. CHAIRMAN : Is it a fact that Mr. Sen had frequent talks with you on several occasions ?

SHRI R. K. DHAWAN : Yes. Whenever he came to see the Prime Minister, he used to see me. At times he actually waited in my room to see me.

MR. CHAIRMAN : Did you also visit Mr. Sen's Office ?

SHRI R. K. DHAWAN : At times I did go to his office and pass on some

information. If I happen to go to see Mr. Om Mehta in his room, I will drop in to see Mr. Sen just to say 'hello' to him, because Mr. Sen was in a room nearby.

MR. CHAIRMAN : Did you at any time ask Mr. Sen to see you ?

SHRI R. K. DHAWAN : No, I did not have any authority to do that.

MR. CHAIRMAN : When did you come to know that these four Officers, against whom certain complaints were made, were involved in collecting information regarding a question on Maruti that has to be answered in the Lok Sabha ?

SHRI R. K. DHAWAN : This I came to know when the case history was read in the Shah Commission.

MR. CHAIRMAN : Not before.

SHRI R. K. DHAWAN : Yes.

MR. CHAIRMAN : On page 2 of your statement that was sent to this Committee on 28th January 1978, you have said :

"I also wish to point out for the information of the hon. Committee that the reports appearing in a Section of the press and referred to by the hon. MP that all the officers against whom cases were filed in courts were, however, acquitted, are not true. The cases are still pending and consequently are *sub judice*."

How did you arrive at this conclusion ?

SHRI R. K. DHAWAN : When I appeared before the Shah Commission, my Counsel asked this question in cross-examination of Mr. Sen and we had seen the files of CBI before appearing before the Shah Commission and according to the files of CBI, the cases have not been closed and this came to my knowledge at that time.

MR. CHAIRMAN : No cases are pending. Otherwise, Mr. Bhatnagar and others would not have been taken back.



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No action was taken against them and most of them got back to their own post.

**SHRI R. K. DHAWAN :** According to me, CBI probably made a mistake and the RCs have not been cancelled and the Police have no powers to cancel them on their own.

If they make enquiries, conduct searches, register a case take any action and if they come to the conclusion that no action is called for, they have to go to the Magistrate to get the RCs cancelled. They have not done so. Even when the cases are pending, the persons can be taken back. But the cases have not been cancelled by the Magistrate and they are *sub judice*.

**MR. CHAIRMAN :** Mr. Sen categorically told this Committee that the concerned departments must have sent 'No-action' report to the Magistrate concerned.

**SHRI R. K. DHAWAN :** CBI should have sent the FIR to the Magistrate. The cases have not been cancelled and they are *sub judice*.

Since the police or any other department has no powers to cancel the cases without the approval of the Special Judge or the Magistrate, to whom a copy is immediately endorsed in such cases, the cases remain *sub judice* and I have seen the files myself before appearing before the hon. Shah Commission. The cases have not yet been cancelled and if CBI has not done this, they are wrong.

**MR. CHAIRMAN :** I quote from the document that you have sent to us with your letter of 14th March, from the depositions you made before the Shah Commission :

"Mr. Sen : Sometime you telephoned that I should get some papers ?

Witness : I will not telephone you to come and collect the papers. You were coming, so there was no need of my telephoning to

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you. But whenever you came I gave you some papers at times."

**SHRI R. K. DHAWAN :** That is true.

**MR. CHAIRMAN :** That means, Mr. Sen was wrong and you were right. You claim to be so.

**SHRI R. K. DHAWAN :** I have stated the factual position. Mr. Sen used to come to the PM's house to meet her quite often and this I have already said. When he comes, if some papers are to be given to him, certainly I used to give them. I would not ring up and ask him to come and collect the papers. He was the Director of CBI and had I done so, he would have felt offended. This was not done by us at least.

**MR. CHAIRMAN :** Again I quote from that document.

"Mr. Sen : Then you said you gave me only the names of these people.

Witness : Yes.

Mr. Sen : And not initials.

Witness : Initials I did not give, because I did not know the initials."

You also said that you did not know the designations.

You said : "I did not give you."

Mr. Sen asked that there would be hundreds of officers with the surname of Bhatnagar. You did not answer that question.

**SHRI R. K. DHAWAN :** I do not know at what stage I was interrupted. I have categorically answered that I did not give the initials and the designations.

The files of the CBI prove that I did not give the initials and the designations. If the CBI Director has been given the initials and designations, when the joint Director refers to his discussion with the Director in this regard, he records in his note on 16th April that they should check the exact name and designation of the four Officers. Is it believable now that I gave the initials and the designations ?

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Sir, if I give the names, is it believable that they must make first enquiries about this matter—about what is the full name of the officer, what is his designation, where he is residing etc. In fact, they would mount that attack on him immediately. It is noted in the files that "By 3 p.m. we should first check this information". My point before you is based on documentary evidence.

**MR. CHAIRMAN :** All this checking of designations and everything was done within a few hours ?

**SHRI R. K. DHAWAN :** The CBI files say so. That is why they fixed the time limit as 3.00 p.m.

**MR. CHAIRMAN :** That is not the only file. He mentioned other things also. We will take up those points not now, but at a suitable time later on.

You told that you asked Mr. Sen only to check up the antecedents of these four officers without giving their initials and designations. In reply Mr. Sen said : "Even if the antecedents are checked, CBI are not concerned with the checking of antecedents. It is checked by either the State Police or the I.B." You replied : "I thought for the Government servants CBI was the more appropriate authority." Mr. Sen said : "I think this much is known that CBI is mainly concerned with allegation of corruption, only allegations of corruption."

**SHRI R. K. DHAWAN :** Mr. Sen is saying these things now. At that time he did not say anything. I can't help it. He is just saying all these things now. He promptly took the names at that time. If Mr. Sen says these things today, Sir, what can I do ?

**MR. CHAIRMAN :** Do I have to believe whatever your views are and you insist with your unflinching memory that Mr. Sen is incorrect ?

**SHRI R. K. DHAWAN :** I only said to Mr. Sen that P. M. received complaints about these officers from M.Ps. He said

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not a single word about anything else. He only said : "Do you know who they are ?" and he did not say that about such things the Intelligence Bureau should find out. Mr. Sen did not discuss these things with me.

**MR. CHAIRMAN :** You did not record the wordings of the complaint that was made to you by Mrs. Gandhi to be communicated to Mr. D. Sen. You only said that their antecedents were to be checked up. But then you said you gave neither the designations nor the initials of these Officers. Mr. Sen says that you gave him the surnames and designations also.

**SHRI R. K. DHAWAN :** He is wrong, Sir.

**MR. CHAIRMAN :** Then about antecedents, you said you asked him to check up the antecedents, but Mr. Sen said categorically before this Committee and according to your record also it is clear that CBI had nothing to do with checking the antecedents of any officer. They only deal with the charges of corruption. Am I to believe from the very beginning of the whole case in whatever you said, and you insist with your unflinching memory that you are right, but everything of what Mr. Sen said on this vital matter is wrong ?

**SHRI R. K. DHAWAN :** As I said before, I am right. But Mr. Sen is saying false things. He was dealing with the cases of the officers and he was reporting to the Prime Minister direct. Mr. Sen is very unfair to me if he says these things.

**MR. CHAIRMAN :** He has his own conscience. He has 30 years of service. . .

**SHRI R. K. DHAWAN :** I also have 22 years of service.

**MR. CHAIRMAN :** And you say he is wrong. But you don't say 'he is unfair'. You say you are right in everything and he is wrong in everything. Do not make this kind of observation. This is absolutely wrong. You say, 'I am right', but don't make any observation like that before others.

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**SHRI R. K. DHAWAN :** If you say all this is objectionable, I withdraw. But I do not know whether such a word is allowed. If the word is not allowed, then I withdraw it.

**MR. CHAIRMAN :** Did you mention to Mr. Sen that through the CBI or Delhi Police or any other agency this investigation has to be made ?

**SHRI R. K. DHAWAN :** I did not say any word beyond what I said that some M.Ps. complained about these officers and their antecedents were to be checked. I did not say any single word beyond that.

**MR. CHAIRMAN :** You said : "So far as I remember, she (Mrs. Gandhi) did not mention any other agency."

**SHRI R. K. DHAWAN :** I thought that these are Government servants and Mr. Sen would be able to find out what sort of persons they are.

**MR. CHAIRMAN :** If Mrs. Gandhi did not mention any other agency, how could you rush to Mr. Sen like that ? How did you immediately say that the CBI agency has to find this out ?

**SHRI R. K. DHAWAN :** My mind worked that way at that time.

**MR. CHAIRMAN :** Did Mrs. Gandhi specifically ask you to communicate this to Mr. Sen ?

**SHRI R. K. DHAWAN :** She did not.

**MR. CHAIRMAN :** You on your own communicated the matter to Mr. Sen ?

**SHRI R. K. DHAWAN :** So far as I remember, when Mrs. Gandhi mentioned about this, I thought I should communicate it to Mr. Sen.

**MR. CHAIRMAN :** She did not ask you to forward it to CBI ?

**SHRI R. K. DHAWAN :** She did not say anything.

**MR. CHAIRMAN :** In such a vital matter as this inquiry or checking up of

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the antecedents, you on your own go to CBI ?

**SHRI R. K. DHAWAN :** There are hundreds of cases like this throughout the day.

**MR. CHAIRMAN :** At that time Mr. Sen did not say that they had nothing to do with the antecedents of any officers ?

**SHRI R. K. DHAWAN :** He did not utter a single word. Sir, he did not say anything that he was not concerned. If he said so, I would have certainly made some research and communicated it to the proper authority. But he did not utter a word like that.

**MR. CHAIRMAN :** I want to draw your attention about a few facts. Mr. A. S. Rajan stated in his statement before this Committee that on 15th April, 1975 he got a ring from Mr. R. K. Dhawan who enquired about the information given either to Shri Krishnaswamy or to Shri Bhatnagar about Maruti and whether he had threatened PEC of the consequences if the required information was not supplied by them. Mr. Rajan asked you to contact the Department of Heavy Industry in this connection. Is this statement of Mr. Rajan correct or incorrect ?

**SHRI R. K. DHAWAN :** Totally false.

**MR. CHAIRMAN :** Mr. L. R. Cavale informed this Committee that Shri Bhatnagar told him that he had a telephone call from Shri R. K. Dhawan of the Prime Minister's Secretariat asking whether he was collecting information from Bafilbol ; if so, why was he collecting it ; and it was not necessary, and you told him that he should not collect that information. Is it a fact ?

**SHRI R. K. DHAWAN :** It is totally false. I never telephoned to Bhatnagar and Rajan.

**MR. CHAIRMAN :** Not to Cavale ?

**SHRI R. K. DHAWAN :** Mr. Cavale did not refer it to me. Mr. Cavale only said that Mr. Bhatnagar told him, but I

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have no knowledge of what Mr. Bhatnagar said.

**MR. CHAIRMAN :** He said that there was a telephone call from you to Mr. Bhatnagar stating that there was no necessity of collecting information and he should stop collecting the information. Is it not correct ?

**SHRI R. K. DHAWAN :** This is what Mr. Cavale said that Mr. Bhatnagar told him. I have no knowledge of what Bhatnagar told Cavale.

**MR. CHAIRMAN :** Mr. Bhatnagar told this Committee that he got a telephone call from you and that you enquired whether he was collecting any information in regard to the supply of machine tools to Maruti Limited. In the afternoon, after lunch, he received another telephone call from him advising him not to collect that information, stop collecting it. Mr. Bhatnagar asked you to contact his higher officer, Mr. Cavale, under whose instructions he was collecting the information. Is this statement truthful ?

**SHRI R. K. DHAWAN :** Totally false. I will seek your indulgence to . . .

**MR. CHAIRMAN :** This is all part of one single question.

Mr. Mantosh Sondhi informed this Committee during evidence that he did not know Mr. R. K. Dhawan, but on being asked whether he contacted you, he said you had contacted him and asked why the licence was not being issued when the trials on Maruti had been carried out. In reply Mr. Sondhi told you that the whole thing was under consideration and that after taking a decision, he would let you know.

Do you think there is any truth in this statement of Mr. Sondhi ?

**SHRI R. K. DHAWAN :** There is no truth, but I would seek the indulgence of this hon. Committee that I may be allowed to explain certain points. My simply saying "yes" or "totally false" will not be helpful, because I know certain facts and I must be allowed to explain.

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**SHRI NARENDRA P. NATHWANI :**

Answer the questions first. As the Chairman has pointed out, don't say even "false", say "it is not true". Then, you can add your clause if it is relevant and pertinent. This is what is permissible. Even after giving your evidence, if you have to make any observations, you are welcome. Bear this in mind.

**SHRI R. K. DHAWAN :** That is why I am restricting my replies, but I submit I may be allowed to explain my position also. If I have to explain at the end of the whole thing, I may forget.

**MR. CHAIRMAN :** Mr. T. A. Pai informed this Committee that Mrs. Gandhi called Mr. Dhawan in his presence and told him to ask Mr. Sen to start CBI enquiries against all these four officers against whom she had received some complaints of their being corrupt and also causing harassment to the management of Batliboi. Mr. Pai further informed this Committee that Mr. Dhawan telephoned him a few days prior to these complaints and he named the officers also. He also stated that Mr. Dhawan must have carried to Mrs. Gandhi the impression that these officers were corrupt and Batliboi was being harassed in the name of a Parliamentary question. Do you think this statement is correct or incorrect ?

**SHRI R. K. DHAWAN :** Totally incorrect, totally false.

**MR. CHAIRMAN :** According to your opinion, Rajan's statement is totally false, that you asked him not to collect the information. Krishnaswamy's statement is also false.

**SHRI R. K. DHAWAN :** Krishnaswamy does not refer to me at all.

**MR. CHAIRMAN :** Mr. Cavale's statement is also false.

**SHRI R. K. DHAWAN :** He does not refer to me.

**MR. CHAIRMAN :** Mr. Bhatnagar's statement is also false. Cavale says

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Bhatnagar told him. So, double corroboration was there. Then, Mr. Mantosh Sondhi also told this about the Maruti licence affair, you say that is also totally false. On top of all this, about Mr. D. Sen also you say that from the beginning to the end his statements are all wrong.

In regard to Mr. T. A. Pai, who was a very responsible Minister and who had very good relations with Mrs. Gandhi, you not only refute his statement, but you say that his statement is totally false. These are the most vital witnesses before this Committee. Am I to understand that your statement is the only true version and the statements of others, where they particularly mention about you, are totally false?

SHRI R. K. DHAWAN : Totally false. I seek the indulgence of the Committee to explain certain points.

I will take the last point first. You said that Mr. T. A. Pai was very responsible and he was very close to Mrs. Gandhi, he would not tell a lie, why should he depose against me ?

I would like to submit before this hon. Committee one thing. I would not like to comment whether Mr. Pai was very responsible and I was irresponsible, because that is not my job. Mr. Pai might have been very close to Mrs. Gandhi, I do not know, but he was very unhappy on my personal account, that I know to my personal knowledge. This is a fact which can be borne out and Mr. Sen will be able to hear me out that some complaints had been received . . .

MR. CHAIRMAN : That is a different matter.

SHRI R. K. DHAWAN : I should be allowed, I seek your indulgence.

MR. CHAIRMAN : We are not enquiring into personal equations. All Ministers were bound to be close to the Prime Minister. I had asked certain questions. In

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your statement you have said that you do not know about the personal equation.

SHRI R. K. DHAWAN : I will take up my personal equation with Mr. Pui.

SHRI NARENDRA P. NATHWANI : If the witness wants to say that Mr. Pai has given false evidence against him from a motive, he may be allowed to say that.

MR. CHAIRMAN : All right.

SHRI R. K. DHAWAN : There was a complaint against Mr. Pai, and those papers also were referred by me to Mr. Sen. Somehow or other Mr. Pai came to know about it. I had never spoken to Mr. Pai, I never spoke to him on the telephone, never discussed any official matter with him.

One day he rang me up on the RAX telephone and said : "I want to see you". I was a little taken by surprise that a Cabinet Minister wanted to see me. I told him, "Sir, why do you want to see me. I will come". He said : "You come and have breakfast with me". I said : "I go to duty by 8 O'clock, I cannot. It is very good of you to invite me. Let me come and see you some time". He said, "No, you come to my house on the way to your duty. By 7.30 we will be ready".

So, I went to his house. He and his wife were there. They gave me a lavish breakfast. He asked me : "You know we have been very close to the Prime Minister and all that. Certain persons, it appears, have complained to the Prime Minister. That, you know, goes on". He was trying to build up a case. He said : "I understand that the CBI is also making an enquiry against me". I said : "I do not know". He said : "Don't try to hide. It is perfectly all right. It is the prerogative of the Prime Minister to make an enquiry. I am told you have referred the complaint. Who has complained, I would like to know".

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I knew what the complaint was, I know also who had made the complaint because by chance on the morning that this complaint was made I happened to be in the room of the Prime Minister when the particular M.P. came and gave that sheet of paper against Mr. Pai.

In order to discharge my duty as Private Secretary to the Prime Minister, it is necessary that secrecy has to be maintained. Howsoever a Minister is close to the Prime Minister, how can I disclose secret information to him. He became angry with me. He said: look, you know such and such firm in Bombay was raided by the Income Tax Department and I had some shares in that firm. It appeared that some report had gone from the Income Tax Department to the Prime Minister alleging something against me. Although I knew it, I said: I do not know. Then he said: I am told that Shri S. R. Mehta is handling it. Then he said: Why don't you tell Mr. S. R. Mehta and try to help me? Sir, I could not put a word to Shri S. R. Mehta. I was all surprised. When I left his house I got the impression that he was very unhappy with me.

**SHRI NARENDRA P. NATHWANI :** When did this conversation take place?

**SHRI R. K. DHAWAN :** In the morning. I think this was happened in 1976. I do not remember the month. But if you want, I will check up the record and let you know the date when the firm was raided. It was definitely after that. He was talking about those shares and that report came to me. It must be definitely after that. When I left his house, I got the impression that he was very unhappy with me. This is my submission. That is why, Mr. Pai has chosen to involve me for nothing.

**MR. CHAIRMAN :** Did you have any other experience with Mr. Pai?

**SHRI R. K. DHAWAN :** I do not know. Then you referred about Mr. Rajan and Mr. Bhatnagar. I never knew that they were collecting any information and the

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Parliamentary question was pending. If I had to ask for some such information. I knew that senior officers were there and I would have spoken to them. Why should I speak to Mr. Bhatnagar and Mr. Rajan? Then Mr. Bhatnagar said something about giving a ring. I did not give a ring. Similarly, Mr. Rajan also says in his statement that Mr. Dhawan rang up and wanted to get in touch with Mr. Krishnaswamy. I never got in touch with Mr. Krishnaswamy without knowing what they were and what was their telephone no. If I had to do something, then certainly I would go to the next officer and ask him to do it. I did not go there. I do not go to Mr. Krishnaswamy. How is it that I rang up those officers finding out whether any question was pending, whether any reply was pending and all that? I never knew about it and I never gave them any ring.

My letter is with you regarding the question. It was stated that the question had already been finalised. They were not collecting any information. If one goes through the history one will find that a question was received and a view was taken in the Ministry at the level of Mr. T. A. Pai, Mr. Krishnaswamy, Mr. Sondhi, Mr. Ghosh and Mr. Pai were saying that this information could not be passed on to Parliament because Government had no right to collect this information. A letter was sent by the Lok Sabha Secretariat. Assuming for the sake of argument, they thought that the question might be admitted. So they started collecting information. What was the information that had been collected? Mr. Krishnaswamy wrote a letter to Mr. Cavale saying please let us know the list of the firms who imported machinery on stock and sales basis. This was the letter that had gone from Mr. Krishnaswamy to Mr. Cavale. This information, my submission is, was always available, because they issued imports licence. If they did not know even the names of the firms which used to sell such machinery, then I have no comments to make, because I cannot use any words for them. They were not collecting any information. That

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was supplied by Mr. Bhatnagar on the very day to Mr. Krishnaswamy. It is on the file. It contains the names of 8 firms. Then a question was prepared and a note for supplementary was also prepared on the 12th which went to Mr. Ghosh. This was approved by Mr. Krishnaswamy. Mr. Ghosh said: the answer to the supplementary is not good. We should have a discussion and then re-draft it. The whole day discussion took place.

MR. CHAIRMAN: How do you concern yourself with all these things?

SHRI R. K. DHAWAN: All these things are on the file. If you want, I can produce them. I may be allowed to make my submissions. I am prepared to hear any charge. The file No. is 10(57)/75-AE1(1), Government of India, Ministry of Industrial and Civil Supplies, Department of Heavy Industries. It says: "We may communicate facts in respect of above question to Lok Sabha Secretariat as per draft O.M. put up for approval. This was signed by Shri V. P. Gupta (7-4-75). This was approved by 7th April, 1975." There is another letter which says: "The undersigned is directed to refer to the Lok Sabha Secretariat notice of provisional Starred Question D. No. 11785 proposed to be asked by Shri Jyotirmoy Bosu on 16th April, 1975 on the above subject and to say that as per the condition of the industrial licence granted to M/s. Maruti Limited on 25th July, 1974, for the manufacture of passenger cars, no imports of capital goods have been allowed to them. As regards indigenous equipment, the company are free to procure such equipment from within the country on such terms as may be found mutually acceptable. This is a matter primarily between M/s. Maruti Ltd. and the indigenous manufacturers/suppliers of machinery with which Government of India are not concerned at all. Government have, therefore, no information in regard to the various sources from which machines and equipments have been purchased by M/s. Maruti Ltd. for undertaking manufacture of passenger cars. In this connection, it may also be stated that the

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Government have not provided any import assistance at all for the import of capital goods to M/s. Maruti Limited as per the condition stipulated in the industrial licence granted to them. The details sought for in the above question relate to a matter which is not the concern of the Government of India. It is, therefore, submitted that it will attract the provision of rule 41(2)(vi) of Rules of Procedure and Conduct of Business in the Lok Sabha. The above facts may kindly be brought to the notice of Speaker, Lok Sabha while considering the admissibility or otherwise of the above question. This issues with the approval of M(T&CS)."

This was the reply sent. They thought that a Starred Question No. 11785 had been admitted and was due for answer in the Lok Sabha on 16th April, 1975.

'The Qn. is No. 9 in the order of preference. A draft reply and a note for supplementaries are placed below.'

This was signed on the 12th.

'I have amended the draft reply and note for supplementaries submitted.'

This was signed by Mr. Krishnaswamy on the 12th. Then followed the noting of Mr. Ghosh:

'Neither the answer nor the note for supplementaries is satisfactory. This will have to be re-drafted. Please bring up'

That means, there was to be a discussion. That was on 12th April, 1976.

'Re-drafted on the lines of the discussion.'

That means the discussion was held. This was by Mr. Krishnaswamy on the 14th.

'The answer and the note prepared may be approved as re-drafted.'

This goes to Mr. Ghosh, Mr. Sondhi and Mr. Pal and they all approved it on the 14th.

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So, my submission is that, throughout, it maintains that the Government does not collect such information, Government cannot collect such information and it should not collect such information. If all this had been finalised on the 12th and 14th at the level of the Minister after a discussion and all that, I would submit that the statement of Mr. Bhatnagar that he was collecting some information on this question on the 15th is totally incorrect. It is just to involve me. They were not collecting any information: there was no reference to the fact.

And then, my submission is that, if they were collecting the information and if they had the information, what is the final reply they have given to Parliament, the highest authority in the country?

MR. CHAIRMAN: You are going too far. It is not for arguing that we have called you here. We will ask you some questions and you can explain them. These were the persons who had some kind of malice against you or some kind of...

SHRI R. K. DHAWAN: My submission is that nothing was being collected.

MR. CHAIRMAN: Your conclusions are not required. You can only explain your position.

SHRI NARENDRA P. NATHWANI: In regard to Mr. Pai you have suggested some motive. In regard to other persons, can you suggest any personal motive?

SHRI R. K. DHAWAN: Since I do not know Mr. Bhatnagar I would not say that he had any motive at all.

SHRI NARENDRA P. NATHWANI: As far as the others are concerned, they have said you gave them a telephone ring. Were they giving false evidence against you? Can you suggest any motive for it?

SHRI R. K. DHAWAN: I would not suggest any motive in their case since I did not know them. The thing I can suggest is not allowed...

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SHRI NARENDRA P. NATHWANI: Therefore, so far as the others are concerned, you cannot suggest any motive?

SHRI R. K. DHAWAN: No, I do not know of any motive.

MR. CHAIRMAN: Yes, Mr. Shankaranand?

SHRI B. SHANKARANAND: Mr. Chairman, I would like to know if the rest of the Members have no questions at all to ask because, when you asked them, they did not say anything.

SHRI NARENDRA P. NATHWANI: I have said I am reserving my questions.

SHRI O. V. ALAGESAN: We might not want to put any questions now and we might put them later. Are we bound in any way or are we barred from putting questions later? Is that what Mr. Shankaranand means?

SHRI B. SHANKARANAND: I have not said that. I just wanted to know because when the Chairman asked the other Members if they have any questions, they just kept quiet.

MR. CHAIRMAN: They had come prepared to examine Mrs. Gandhi first.

SHRI B. SHANKARANAND: I would like to know whether we are completing the evidence of this witness today.

MR. CHAIRMAN: No.

SHRI B. SHANKARANAND: Why? I must know: let the record be straight.

MR. CHAIRMAN: If you have something to discuss about the procedure of this Committee, I will request Mr. Dhawan to withdraw for sometime and then call him back.

SHRI B. SHANKARANAND: Yes.

MR. CHAIRMAN: Mr. Dhawan, will you please withdraw for sometime?

(The witness then withdrew)

(The Committee then adjourned)



Thursday, the 22nd June, 1978

**PRESENT**

Professor Samar Guha—*Chairman*

**MEMBERS**

2. Shri Halimuddin Ahmed.
3. Shri O. V. Alagesan.
4. Shri Hitendra Desai.
5. Shri Krishan Kant.
6. Professor P. G. Mavalankar.
7. Shri Narsingh.
8. Shri Narendra P. Nathwani.
9. Shri Meetha Lal Patel.
10. Shri B. Shankaranand.
11. Shri Madhav Prasad Tripathi.
12. Shri Ravindra Varma.

**SECRETARIAT**

Shri I. Pershad—*Chief Legislative  
Committee Officer*

Shri M. P. Gupta—*Senior Legislative  
Committee Officer*

**WITNESS**

Shri R. K. Dhawan (*former Additional  
Private Secretary to the then Prime  
Minister*).

(*The Committee met at 10.00 hours  
and again at 15.00 hours*).

**Evidence of Shri R. K. Dhawan**

**MR. CHAIRMAN** Mr. Dhawan, you have to take oath again.

(*The witness then took oath*)

**SHRI RAM JETHMALANI** : Mr. Dhawan, now, having worked with Mrs. Gandhi for quite a few years, I take it that you had established a fair reputation for efficiency as an Officer.

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**SHRI R. K. DHAWAN** : It is difficult for me to say. My confidential record will show.

**SHRI RAM JETHMALANI** : Did you try to keep in touch with various public questions and controversies in which the Prime Minister was involved in these days ?

**SHRI R. K. DHAWAN** : Not at all. Only in those cases or matters in which I was asked to do anything.

**SHRI RAM JETHMALANI** : Were you an intelligent reader of newspaper in those days ?

**SHRI R. K. DHAWAN** : If I get time, I used to read. Well I cannot say whether I was an intelligent reader or not.

**SHRI RAM JETHMALANI** : Were you a habitual reader ?

**SHRI R. K. DHAWAN** : Well, I was. I used to have one newspaper in the morning.

**SHRI RAM JETHMALANI** : Which one ?

**SHRI R. K. DHAWAN** : First I had Hindustan Times for a number of years and then I had Indian Express.

**SHRI RAM JETHMALANI** : From 1971 onwards, from time to time and at times, very frequently, you heard about controversies in connection with Maruti Limited and the Prime Minister's son, Sanjay Gandhi.

**SHRI R. K. DHAWAN** : I did not hear any controversy. I heard about certain matters pertaining to Maruti.

**SHRI RAM JETHMALANI** : When did you for the first time hear about these matters and please tell us the nature of the matters that you heard about ?

**SHRI R. K. DHAWAN** : Well, the nature of the matters, I cannot remember exactly.

**SHRI RAM JETHMALANI** : Nobody is expecting you to be exact.

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**SHRI R. K. DHAWAN :** I have heard something about the allotment of land to Maruti by the Haryana Government and there was some debate in the House about the land having been allotted near Air-Force Station and at times questions having been asked in the Parliament, if at all, I happened to be in the official gallery then. Sometimes, some paper might have to come to the PM's secretariat and I might have seen it.

**SHRI RAM JETHMALANI :** Is it right that you were hearing about these things roughly from 1971 to about 1975 ?

**SHRI R. K. DHAWAN :** I would say that I was hearing about it even earlier to 1971.

**SHRI RAM JETHMALANI :** Is it right that in February, March and April 1975, this kind of controversy regarding Maruti was raging both in the Parliament and outside the Parliament ?

**SHRI R. K. DHAWAN :** Not to my knowledge.

**SHRI RAM JETHMALANI :** Mr. Dhawan, I would request you to have a look at this statement by Mrs. Gandhi and tell us if you know anything about either the statement or its contents.

**SHRI B. SHANKARANAND :** Is it a newspaper report ?

**SHRI R. K. DHAWAN :** Yes, it is a newspaper report.

*(The witness was given the press clipping to read)*

**SHRI R. K. DHAWAN :** I might have come across and seen it, but I do not remember at this stage. I might have seen it in the *Hindustan Times*.

**SHRI RAM JETHMALANI :** This is the *Hindustan Times* report of which date ?

**SHRI R. K. DHAWAN :** 27th December, 1973.

**SHRI RAM JETHMALANI :** Forget about whether you came across this exact statement or not, but about the matters which are referred to in that statement, you knew that these controversies were raging at that time ?

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**SHRI R. K. DHAWAN :** I still maintain that I might have heard about certain matters about Maruti, but whether they can be branded as controversies, I cannot say.

**SHRI RAM JETHMALANI :** You are not willing to admit that there were allegations of corruption about Maruti, and on behalf of the Government and particularly of the Prime Minister, there were denials.

**SHRI R. K. DHAWAN :** The subject of Maruti was not dealt with by me.

**SHRI RAM JETHMALANI :** I am talking, as you were being an Additional Secretary to the Prime Minister and as a citizen of the country, did you or did you not know that this matter was a public controversy, that corruption charges were being made against Maruti and the Prime Minister was denying it ?

**SHRI R. K. DHAWAN :** I was not Additional Secretary, but I was Additional Private Secretary. Then, of course, I am a citizen of the country. But I did not know about the controversy, but matters were raised. If the matter is raised, I cannot say whether it is a controversy or not.

**SHRI RAM JETHMALANI :** Are you or are you not willing to admit that you know perfectly well that a large number of people in those days made allegations in this connection against Maruti ?

**SHRI R. K. DHAWAN :** Not to my knowledge.

**SHRI RAM JETHMALANI :** Nor do you know that the Government and particularly the Prime Minister had denied the existence of any corruption in Maruti ?

**SHRI R. K. DHAWAN :** I was not present when such a matter was denied.

**SHRI RAM JETHMALANI :** I am asking you whether you came to know.

**SHRI R. K. DHAWAN :** I do not remember. I might have read in the papers. I do not remember now.

**MR. CHAIRMAN :** First you said that you have no opinion about the controversy.

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Then you said that you might have heard.

**SHRI R. K. DHAWAN :** First he was referring to a controversy. Now, he says that I might have known the allegations or might not have known them.

**SHRI RAM JETHMALANI :** What is your impression now when you are deposing before the Committee? Did you or did you not know that in 1975 allegations of corruption and favouritism in Maruti were publicly brandished about and denied?

**SHRI R. K. DHAWAN :** Of course I know that some questions had been asked about Maruti in Parliament. Whether they were allegations or soliciting information, I do not know. But certain questions had been raised on it, when I was in the Official Gallery.

**SHRI RAM JETHMALANI :** Do I take it that to your knowledge there was no allegation of corruption in Maruti at all?

**SHRI R. K. DHAWAN :** To my knowledge there was no corruption in Maruti at all.

**SHRI RAM JETHMALANI :** To your knowledge, were there allegations of corruption in Maruti, inside or outside Parliament?

**SHRI R. K. DHAWAN :** I do not know any such thing about it.

**SHRI RAM JETHMALANI :** Mr. Dhawan, it is fair to tell you that suppressing information or making a false statement even before this Committee is a very serious offence.

**SHRI R. K. DHAWAN :** I am fully aware of it.

**SHRI RAM JETHMALANI :** You told us that there were occasions when sometimes you were present in the Official Gallery when questions about Maruti were raised. Now, what kind of questions do you recollect had been put?

**SHRI R. K. DHAWAN :** I do remember at one time the discussion was going on in Parliament about the allotment of land near the Air Force Station. This I

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remember, but certainly after 3 years of lapse of time, I do not remember the particular question.

**SHRI RAM JETHMALANI :** So far as this allotment of land is concerned, at least it stepped into your memory?

**SHRI R. K. DHAWAN :** Because I happened to be in the Official Gallery at that time.

**SHRI RAM JETHMALANI :** Do you admit that the allegation was that favouritism was shown by giving land to Maruti because Mr. Sanjay Gandhi is Prime Minister's son?

**SHRI R. K. DHAWAN :** This was being discussed at that time.

**SHRI RAM JETHMALANI :** Please tell us roughly when would it be—1973, 1974 or 1975.

**SHRI R. K. DHAWAN :** I do not remember that.

**SHRI RAM JETHMALANI :** Could it be 1973, or 1974 or 1975?

**SHRI R. K. DHAWAN :** I do not remember that.

**SHRI RAM JETHMALANI :** Now, I would like you to see another press clipping.

*(The witness was given the press clipping to read)*

**SHRI RAM JETHMALANI :** What is the date of this?

**SHRI R. K. DHAWAN :** 2nd June, 1975.

**SHRI B. SHANKARANAND :** What is this?

**SHRI R. K. DHAWAN :** This is a press report.

**SHRI B. SHANKARANAND :** What press report?

**SHRI R. K. DHAWAN :** This is a press cutting from *Tribune*, dated 2nd June, 1975.

**SHRI B. SHANKARANAND :** It is a press clipping?

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SHRI R. K. DHAWAN : Yes.

SHRI RAM JETHMALANI : Please tell us whether you did know in 1975 that often the Prime Minister's name was being taken in public in connection with the favour shown to Maruti ?

SHRI R. K. DHAWAN : As I said earlier, I might have seen these press reports. It did not come to my knowledge otherwise.

SHRI RAM JETHMALANI : Might have seen ?

SHRI R. K. DHAWAN : Might have seen.

SHRI RAM JETHMALANI : You know that frequently questions were asked about Maruti in Parliament ?

SHRI R. K. DHAWAN : Yes.

SHRI RAM JETHMALANI : And you also knew that whenever questions were asked about Maruti in Parliament, somebody or the other . . .

PROF. P. G. MAVALANKAR : Please read out the contents of these press reports.

SHRI RAM JETHMALANI : I will read them out. The first one is from *Hindustan Times*, New Delhi, dated 27th December, 1973. It reads as follows :

"P.M. rules out Maruti probe

New Delhi, December 26 (PTI) : The Prime Minister, Mrs. Indira Gandhi has turned down a demand of Mr. Jyotirmoy Bosu, M.P. (CPI-M) that there should be a probe by a Parliamentary Committee into the affairs of Maruti Limited.

Mr. Bosu today released to the press the correspondence which he had with the Prime Minister on the subject. Mrs. Gandhi is reported to have described the letters written by Mr. Bosu in this connection as part of the politics of slander which he had adopted for quite sometime.

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Matters pertaining to Maruti Limited had been fully discussed in Parliament on several occasions and a large number of questions were being answered on the subject in every Session of the Parliament. Mrs. Gandhi said : "The Government has thus at no stage withheld any information."

Mrs. Gandhi said that she did not, therefore, understand what was there to be looked into by a Parliamentary Committee. "No useful purpose will be served by prolonging this correspondence," she added.

Mr. Bosu who had in his letters demanded a Parliamentary probe "to clear the air" told the press that he was "utterly disappointed" by the Prime Minister's reply."

The second one is from *Tribune*, Chandigarh, dated 2nd June, 1975, which reads as follows :

"No special favour to Maruti : P.M.

Jamnagar, May 31 (UNI) : Prime Minister Indira Gandhi said here today that the Government had not shown any special favour to the Maruti Company.

Addressing a mammoth election meeting here, she said, if there was any flaw in the rules, then it was a different matter. No such favour was shown to the Maruti Company that was not available to others. She said there was nothing to conceal with regard to the Maruti. Thousands of questions have been asked about it in Parliament and their replies were given. . ."

SHRI B. SHANKARANAND : These are all press reports.

SHRI RAM JETHMALANI : She may deny or modify it when she comes here.

"She said, the whole thing was sought to be projected out of proportion and in a distorted manner.

Mr. Gandhi said, this gentleman (Pitoo Modi) was a great friend of Pakistan Prime

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Minister, Z. A. Bhutto. He had written a book about him (Bhutto). "He is of this type", she said amidst laughter.

"A boy had been working for 12 hours a day and that too in adverse weather conditions and had set up a factory," she said and added that it was no easy task to produce a wholly indigenous car.

She said, her family had been serving the nation for years. "We have made sacrifices. Whatever I had inherited from my father, I have given it to the nation" she added.

"I have no intention to amass wealth" Mrs. Gandhi asserted. Those who came from family without traditions of national service were too eager to level allegations against others, she added."

I drew your attention to these contemporaneous press reports of those times merely to find out if on reading these you are reminded that in early 1975 allegations that there was corruption in Maruti were being publicly made and they were being denied, that people were asking for a probe and a probe was being denied.

**SHRI R. K. DHAWAN :** Must have been made according to the reports, but not to my knowledge.

**SHRI RAM JETHMALANI :** I hope you are not being technical meaning that "to your knowledge" means that these allegations were not made in your presence. Just as you read in the newspapers, in that sense, as a fair reader of newspapers and being in touch with current affairs like any ordinary citizen, you knew at that time that this was in the air?

**SHRI R. K. DHAWAN :** I have already submitted that I might have seen such reports.

**SHRI RAM JETHMALANI :** I am not asking you whether you saw these reports.

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Did these reports come to your knowledge? Not necessarily that you saw them. In 1975 this was one of the public controversies which was raging.

**SHRI R. K. DHAWAN :** According to the newspaper reports, I might have seen these reports, but not to my knowledge.

**SHRI RAM JETHMALANI :** You are not willing to give a straight answer to this question, that to your knowledge this controversy was publicly being carried on?

**SHRI R. K. DHAWAN :** I did not know anything about it. According to these reports, this controversy seems to have been there.

**SHRI RAM JETHMALANI :** But did this controversy come to your knowledge at all in those days?

**SHRI R. K. DHAWAN :** No, I might have seen these reports, but this controversy did not come to my knowledge.

**MR. CHAIRMAN :** Does not reading from a newspaper amount to being brought to your knowledge?

**SHRI R. K. DHAWAN :** I might have seen these reports. If that can be taken as coming to my knowledge, then it has come to my knowledge.

**MR. CHAIRMAN :** That is what he was asking several times.

**SHRI R. K. DHAWAN :** I beg your pardon. The question was : "Did this controversy come to your knowledge?" If he says : "Did this come to your knowledge through newspapers?", say "Yes".

**SHRI RAM JETHMALANI :** But the controversy had come to your knowledge through these newspapers.

**SHRI R. K. DHAWAN :** I might have seen these reports, and it must have come to my knowledge if I had seen these reports.

**SHRI RAM JETHMALANI :** You just told us that you are aware that a large number of questions were being asked in Parliament. Do you also know that when-

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ever information is asked for—we are confining ourselves to Maruti—about Maruti and that answer has to be given, then the information has to be collected for the purpose of giving that answer?

SHRI R. K. DHAWAN : That, I think, is the process for getting information.

SHRI RAM JETHMALANI : You know that process or not?

SHRI R. K. DHAWAN : I know that information is collected for giving answer to any question.

SHRI RAM JETHMALANI : The Prime Minister more than once had publicly claimed that there was no corruption in Maruti. At least are you aware of this?

SHRI R. K. DHAWAN : From the newspaper reports.

SHRI RAM JETHMALANI : Can you tell us please, if at all you know, whether the Prime Minister for this purpose was keeping herself in close touch with Maruti affairs?

SHRI R. K. DHAWAN : I would not know anything about it.

SHRI RAM JETHMALANI : Mr. Sanjay Gandhi was living with the Prime Minister in those days?

SHRI R. K. DHAWAN : Yes.

SHRI RAM JETHMALANI : In the same house?

SHRI R. K. DHAWAN : Yes.

SHRI RAM JETHMALANI : How friendly were you with him?

SHRI R. K. DHAWAN : I was not at all friendly.

SHRI RAM JETHMALANI : Did you ever talk to him, chat with him?

SHRI R. K. DHAWAN : If he came to my room, I have to respect him, he is the Prime Minister's son. I might have talked to him a number of times.

SHRI RAM JETHMALANI : Did you ever discuss Maruti with him?

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SHRI R. K. DHAWAN : No, I have not discussed Maruti with him.

SHRI RAM JETHMALANI : Please tell us when the Prime Minister gave these four names, between your getting the names from the Prime Minister and your carrying out these instructions, how much time was taken?

SHRI R. K. DHAWAN : I do not remember now. This I submitted yesterday also, unfortunately you were not here.

MR. CHAIRMAN : Do not make this kind of observation. You simply say that you submitted it to the Committee yesterday.

SHRI R. K. DHAWAN : I do not remember the time gap.

SHRI RAM JETHMALANI : You are willing to admit that the time gap would not have been very long because, if it was very long, you would have recorded the dates somewhere?

SHRI R. K. DHAWAN : Should not be very long.

SHRI RAM JETHMALANI : You would not deny today from your memory that it was done immediately?

SHRI R. K. DHAWAN : I will not say, since I do not remember the date.

SHRI RAM JETHMALANI : I suggest it was done immediately. Would you deny it today that it could have been.

SHRI R. K. DHAWAN : When there is a question of a time gap I cannot say immediately or sometime later.

SHRI RAM JETHMALANI : You do not remember?

SHRI R. K. DHAWAN : I do not remember the time gap and I do not remember whether it was dealt with immediately.

SHRI RAM JETHMALANI : I take it that by reason of your long service with the Prime Minister, you are not very afraid of her.

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SHRI R. K. DHAWAN : No, not at all.

SHRI RAM JETHMALANI : If you wanted clarification on any topic, you would respectfully seek it ?

SHRI R. K. DHAWAN : As is permissible to a Private Secretary.

SHRI RAM JETHMALANI : If you thought that her instructions on any point were incomplete, there would be nothing to prevent you from asking a couple of questions and clarifying it ?

SHRI R. K. DHAWAN : Hardly any occasion arose, so I cannot say about it.

SHRI RAM JETHMALANI : I am talking of your mental attitude. You were not that terror-stricken that you would never ask a question of the Prime Minister to elicit information ?

SHRI R. K. DHAWAN : Normally, no Private Secretary asks. I would not ask. I will find out something and then might go to her.

SHRI RAM JETHMALANI : In other words, even if you do not understand any instructions, you would not go ?

SHRI R. K. DHAWAN : It happened a number of times. We discuss among ourselves.

SHRI RAM JETHMALANI : What ? When you did not understand what she told you, you did not seek any clarification.

SHRI R. K. DHAWAN : I did not seek.

SHRI RAM JETHMALANI : Any reason ? What was the reason for this strange conduct ?

SHRI R. K. DHAWAN : I cannot give any special reason. I might have felt that I might appear a dud before her.

SHRI RAM JETHMALANI : Unintelligent before her ?

SHRI R. K. DHAWAN : Yes.

SHRI RAM JETHMALANI : Even though you did not understand, you did not ask her ?

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SHRI R. K. DHAWAN : At times.

SHRI RAM JETHMALANI : Do you recall any occasion particularly on which you did not understand her instructions and yet, because you did not want to look unintelligent, you failed to seek clarification ?

SHRI R. K. DHAWAN : Once or twice she did ask me to call some persons, I did not get the name, so I kept quiet.

SHRI RAM JETHMALANI : So, instead of asking for clarification, you would rather not carry out the orders ?

SHRI R. K. DHAWAN : If the order was one where absolute clarification was needed, perhaps I might have asked.

SHRI RAM JETHMALANI : If the Prime Minister asks you to call someone, and you do not understand who that person is . . .

SHRI R. K. DHAWAN : At times she uses the buzzer, I do not know what it is.

SHRI RAM JETHMALANI : When the Prime Minister asks you to send for somebody and you don't understand whom she means, just because you want to look intelligent, you don't ask ?

SHRI R. K. DHAWAN : I did not ask for the details : that is what I am admitting. I said once or twice it happened with me.

SHRI RAM JETHMALANI : Did this happen on the day on which you got these four names ?

SHRI R. K. DHAWAN : I did not get your question.

SHRI RAM JETHMALANI : Did it happen on the day you got these four names that you did not find the instructions complete and yet, in order to look intelligent, you did not ask her ?

SHRI R. K. DHAWAN : I thought the instructions to be complete.

SHRI RAM JETHMALANI : On this particular occasion that we are talking of,

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you thought that the instructions were complete or that there was no question of asking for further particulars merely because you wanted to look intelligent?

SHRI R. K. DHAWAN : I did not think it necessary at that time to ask for further details.

SHRI RAM JETHMALANI : I am putting a slightly different question. Please try to understand.

SHRI R. K. DHAWAN : I have understood.

SHRI RAM JETHMALANI : You have not.

SHRI R. K. DHAWAN : Then, will you kindly repeat the question?

SHRI RAM JETHMALANI : On this occasion, did you consider her instructions to be complete or did it happen that, although you found they were incomplete, you did not try to get a clarification because of your desire to look intelligent?

SHRI R. K. DHAWAN : The instructions appeared to be a little bit vague. There was no question of my wanting to look intelligent, but I thought I would ask the Department concerned to find out . . .

SHRI RAM JETHMALANI : The instructions appeared a little vague?

SHRI R. K. DHAWAN : Yes, a little bit vague.

SHRI RAM JETHMALANI : In what sense did you find them vague?

SHRI R. K. DHAWAN : The initials of the persons concerned and the names of the Departments were not there. In that manner, the instructions appeared to me to be vague.

SHRI RAM JETHMALANI : Why is it that even then you did not ask the Prime Minister for the details?

SHRI R. K. DHAWAN : I did not ask. I have no valid reason for that.

SHRI RAM JETHMALANI : Now, please look at the CBI report on which you

relied yesterday :

"Immediately, before 3.00 p.m. today, we must find out the exact name of this officer, where he is working and what is his residential address . . ."

This is what you relied on yesterday.

SHRI R. K. DHAWAN : Yes.

SHRI RAM JETHMALANI : Now, is it right that the only information available with the Prime Minister on that day and, therefore, the information communicated by the Prime Minister to you was that officers bearing these names, who worked in two Ministries, were involved?

SHRI R. K. DHAWAN : I do not know what information the Prime Minister had. I was given the information that these are the names, some MPs and others are complaining and so the antecedents should be checked. What was the information available with the Prime Minister I do not know : what I was given, I know.

SHRI RAM JETHMALANI : Now, did it appear to you odd that if the Prime Minister wanted action to be taken against four officers or enquiries to be made about four officers, she should not have given any further particulars other than the names? Did it appear to you to be strange?

SHRI R. K. DHAWAN : The Prime Minister never wanted action to be taken and she never wanted enquiries to be made. She only wanted the antecedents to be checked.

SHRI RAM JETHMALANI : Now that we have come to the 'antecedents' part, let us assume that the Prime Minister wanted the antecedents of four officers to be checked. When she gave you these names and told you that the antecedents of these officers should be checked, did it appear to you somewhat curious that the Prime Minister was not willing to convey to you any further information?

SHRI R. K. DHAWAN : It did not appear curious at all because I thought I would give the names to the Director of CBI and he will find out, and if he cannot find out, he will go back to the Prime



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Minister. At that time, it was just mentioned in a casual manner and no importance was attached. So it did not appear to me curious at all.

**SHRI RAM JETHMALANI :** When you see this note on which you relied, you would assume that the CBI knew the designation of the officers but what they did not know was the exact place where they were working and the place they were living ?

**SHRI R. K. DHAWAN :** I cannot say anything about what the CBI assumed.

**SHRI RAM JETHMALANI :** You relied on this.

**SHRI R. K. DHAWAN :** I relied on the information available in the file.

**SHRI RAM JETHMALANI :** You pulled out this document to substantiate your allegation . . .

**SHRI R. K. DHAWAN :** Not my 'allegation', but my 'stand'.

**SHRI RAM JETHMALANI :** You relied on this to substantiate your story that you were given only the names. Now, I am suggesting to you that this note, far from substantiating your story, contradicts it because this story assumes that everything else was known about the officers but what was not known was the exact geographical location, viz., the exact address where they were working and residing.

**SHRI R. K. DHAWAN :** That is not so, according to my knowledge of the English language. The initials were not there . . .

**SHRI RAM JETHMALANI :** Don't talk about the initials. I agree that you did not convey the initials of the officers : may be, you did not know or the Prime Minister did not . . .

**SHRI R. K. DHAWAN :** I did not know, but I do not know whether the Prime Minister knew it or not.

**SHRI RAM JETHMALANI :** Now, you know that whenever a formal FIR is to be recorded or a formal statement is to

be taken, by the Police, they must have the name, father's name and surname. Therefore, these details which were missing were undoubtedly not supplied by you, but . . .

**SHRI R. K. DHAWAN :** All these details which are required for an FIR were not to be supplied by me at all. You have referred to the FIR, father's name, this name and that name . . .

**SHRI RAM JETHMALANI :** I am not asking you about these things.

I am merely asking you this question :

This, this is note on which you relied, but the police were not trying to find out either the official designation of the officers or the Ministry in which they were working, but were trying to find out the actual place where they worked and the actual place where they lived.

**SHRI R. K. DHAWAN :** No Sir. According to my interpretation of the note, they were trying to locate where he was working and what was his full name.

**SHRI RAM JETHMALANI :** Even if you had conveyed the information that these four officers by the name of Bhatnagar, Krishnaswamy etc. were working either in the Ministry of Industries or the Ministry of Commerce, such a note is perfectly possible. Even if the information conveyed by you to the CBI was four names, the Ministry in which they were working . . .

**SHRI R. K. DHAWAN :** That was not conveyed.

**SHRI RAM JETHMALANI :** You conveyed them four names and the Ministries in which these officers are employed . . .

**SHRI R. K. DHAWAN :** I did not convey this.

**SHRI RAM JETHMALANI :** You try to understand my question. Now, assume . . .

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SHRI R. K. DHAWAN : If you are assuming, then it is all right.

SHRI RAM JETHMALANI : Assuming even if you had given four names and given the Ministry in which they were working and had said that these people are harassing others and 'do something', still the CBI will be compelled to make this note.

SHRI R. K. DHAWAN : Not at all.

SHRI RAM JETHMALANI : Why ?

SHRI R. K. DHAWAN : Because the names will be there ; it will not be necessary to make any verification.

SHRI RAM JETHMALANI : If you had given the names, they would still like to get the exact names etc. . .

SHRI R. K. DHAWAN : They would only make enquiries from the Department concerned, whether such and such person is working there.

SHRI RAM JETHMALANI : Are you aware of the CBI procedures ?

SHRI R. K. DHAWAN : As far as my knowledge goes, no officer who is given full particulars, names, offices etc. will set a particular time to get this information. They will only make enquiries and this is what they have done.

SHRI RAM JETHMALANI : You gave only names without initials.

SHRI R. K. DHAWAN : You said, Sir, assuming . . . even then they would have recorded this note.

SHRI RAM JETHMALANI : I said, even if you gave the names of the officers and the names of the Ministries in which they were working, yet the CBI would be compelled to record this note. They may still have to determine the exact names : they may try to find out their places of residence, offices etc. This note is, therefore, consistent, but if you do not want to say that this note is consistent, then . . .

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SHRI R. K. DHAWAN : I did not give all this information.

MR. CHAIRMAN : You did not give the official designations.

SHRI R. K. DHAWAN : I did not give at all.

SHRI RAM JETHMALANI : *Prima facie*, it appears to me absurd that action is sought to be taken against four officers, enquiries are to be made about the antecedents of four officers and only four names should be passed on without any further particulars at all.

SHRI R. K. DHAWAN : But this was done.

SHRI RAM JETHMALANI : Does it or does it not strike you, if not absurd, at least unusual ?

SHRI R. K. DHAWAN : I simply passed on the message of the Prime Minister that I was given. It is for the Director, CBI to take any further action, whether to go to the Prime Minister or to come to me . . .

SHRI RAM JETHMALANI : I am suggesting to you my impression. What was passed on to the CBI was the four names, plus the information about the Ministry in which they were working plus the information that they were harassing Batliboi and Co.

SHRI R. K. DHAWAN : No, this was not.

SHRI RAM JETHMALANI : I am suggesting to you that the whole idea of seeing Mr. Sen was to see that by false raids on the houses of these officers, they are humiliated and the work of collecting information which they were engaged in frustrated.

SHRI R. K. DHAWAN : This is totally incorrect. Since this has been raised, I would like to state again which I have already said that I did not suggest any course of action. I have written about

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that also. Shri Sen himself accepts that he was not asked to start any investigation. According to me, the question does not arise.

**SHRI RAM JETHMALANI :** When you conveyed this information to Mr. Sen, did he at least ask you to tell him more about these four officers ?

**SHRI R. K. DHAWAN :** He did not say anything to me ; in fact, he took the names easily and quickly.

**MR. CHAIRMAN :** He might have gone to the Prime Minister.

**SHRI R. K. DHAWAN :** Not to my knowledge, nor did he gave any impression like that to me.

**SHRI RAM JETHMALANI :** Did you get any impression that Mr. Sen already knew these four names ?

**SHRI R. K. DHAWAN :** I did not get any impression.

**SHRI RAM JETHMALANI :** Did you report back to the Prime Minister that you had carried out her orders ?

**SHRI R. K. DHAWAN :** I did not ; I passed on the information and my duty ended there.

**SHRI RAM JETHMALANI :** Do you remember that after a few days, Shri Pai wrote a letter to the Prime Minister in connection with these raids ?

**SHRI R. K. DHAWAN :** I do not remember, but I have heard about this letter when it was read in the Shah Commission.

**SHRI RAM JETHMALANI :** If the Prime Minister wants any information from the CBI about these raids and about these four officers, what would be the normal channel of communication between the Prime Minister and the Director, CBI ?

**SHRI R. K. DHAWAN :** She might ask any member of her staff on duty. Or she might pass on the letter downward to

Secretary, Joint Secretary, Deputy Secretary etc.

**SHRI RAM JETHMALANI :** Supposing she wanted to contact the CBI on any working day and wanted some information, in connection with some enquiry which she herself had caused to be instituted, what would be the normal procedure or channel ?

**SHRI R. K. DHAWAN :** She might send for the Director, CBI, or ask the person on duty to get that information, or might ask this to some other senior officer in the Secretariat or pass on such papers or information to Shri Om Mehta ; the Minister concerned. That was the procedure ; it could be either way.

**SHRI RAM JETHMALANI :** When you heard about the letter of Mr. Pai, then did you recall that you ever saw the letter ?

**SHRI R. K. DHAWAN :** I do not recall even to-day.

**SHRI RAM JETHMALANI :** Was the letter entered in the register ?

**SHRI R. K. DHAWAN :** Letters received were not registered in the Prime Minister's House.

**SHRI RAM JETHMALANI :** What about letters from the Prime Minister under her signature to the Ministers ?

**SHRI R. K. DHAWAN :** They were entered in the register in the Prime Minister's house.

**SHRI RAM JETHMALANI :** In other words there was outward register and no inward register.

**SHRI R. K. DHAWAN :** Yes.

**SHRI RAM JETHMALANI :** You knew that the CBI deals with criminal offences.

**SHRI R. K. DHAWAN :** Yes.

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**SHRI RAM JETHMALANI :** And it investigates offences mainly committed by the officers.

**SHRI R. K. DHAWAN :** Yes.

**SHRI RAM JETHMALANI :** You knew that any suggestion of misconduct or corruption from the Prime Minister's house whether conveyed directly or through you would necessarily result in proceedings being taken by way of searches, etc.

**SHRI R. K. DHAWAN :** No, not at all. In most of the cases it would not.

**SHRI RAM JETHMALANI :** What would you expect ?

**SHRI R. K. DHAWAN :** I expected Mr. Sen would check up what sort of these people are.

**SHRI RAM JETHMALANI :** Did you expect CBI to find out their reputation when you conveyed these instructions ?

**SHRI R. K. DHAWAN :** To find out what sort of reputation they have and report the matter to P.M.

**SHRI RAM JETHMALANI :** Only reputation ?

**SHRI R. K. DHAWAN :** Yes.

**SHRI RAM JETHMALANI :** If the Prime Minister or you were concerned about finding out the reputation of people, information about reputation could be had more from their confidential records or from their immediate officers.

**SHRI R. K. DHAWAN :** It is wrong. Confidential Records are written in December. He may have changed after that.

**SHRI RAM JETHMALANI :** If you wanted to find out the reputation of the officers....

**SHRI R. K. DHAWAN :** Prime Minister wanted to know, not I.

**SHRI RAM JETHMALANI :** You were acting on behalf of the Prime Minister.

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**SHRI R. K. DHAWAN :** Yes.

**SHRI RAM JETHMALANI :** You intelligently understood what was being done.

**SHRI R. K. DHAWAN :** I understood that she wanted reputation aspect to be checked.

**SHRI RAM JETHMALANI :** You concede that there was a method of finding out reputation and that was by reference to their immediate superiors in office.

**SHRI R. K. DHAWAN :** Not necessarily. For the Prime Minister it should not be the immediate officer but the Minister concerned.

**SHRI RAM JETHMALANI :** If instructions were to check the antecedents, which you have now explained as reputation, the enquiry could be directed not to the C.B.I., but to the officers superior to them.

**SHRI R. K. DHAWAN :** If P.M. wanted something.....

**SHRI RAM JETHMALANI :** I heard you two minutes back that the latest information may not be available from the confidential records.

**SHRI R. K. DHAWAN :** Because you said that that could be checked from the confidential records.

**SHRI RAM JETHMALANI :** In this case please tell me instead of getting the confidential records or asking the officer under whom these officers were working, why did you go to the CBI ?

**SHRI R. K. DHAWAN :** I thought the best course will be to go to C.B.I.

**SHRI RAM JETHMALANI :** I am suggesting that you went to C.B.I. because such were the instructions from the Prime Minister.

**SHRI R. K. DHAWAN :** No, not at all.

**SHRI RAM JETHMALANI :** Have you in the past before this incident been

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ever asked to check the antecedents of officers?

**SHRI R. K. DHAWAN :** I might have been asked once or twice, about public servants. I did speak to Shri Sen to check up about Shri T. A. Pai.

**SHRI RAM JETHMALANI :** Once or twice you had instructions from Prime Minister to check up antecedents and you referred them to CBI. You never had an occasion to refer to the superior officers in respect of Government servants.

**SHRI R. K. DHAWAN :** No, never.

**SHRI RAM JETHMALANI :** You know for a fact that if you have to move C.B.I. for an investigation, it has got to be done by the First Information Report.

**SHRI R. K. DHAWAN :** No. It will not be done by the First Information Report. I only knew that he will check up whether there is any truth in the complaint or not before coming to any conclusion. It is not in that fashion that F.I.R. should be lodged.

**SHRI RAM JETHMALANI :** Do you know that if an accused is charged with corruption and you want the charge of corruption to be investigated, it will have to be done by lodging the F.I.R.?

**SHRI R. K. DHAWAN :** If it is to be investigated, but here no investigation was called for.

**SHRI RAM JETHMALANI :** If you want it to be investigated, then it will be done.

**SHRI R. K. DHAWAN :** But no such occasion arose.

**SHRI RAM JETHMALANI :** Sometimes you are familiar with the C.B.I. Procedure. Did you or not know that anybody who wants the charge of corruption to be investigated in respect of a public servant, he has to go to the police and make a report?

**SHRI R. K. DHAWAN :** My understanding is it is not a report of corruption.

*Shri R. K. Dhawan*

Shri Sen was asked to develop this information. It was not a complaint. Mr. Sen was asked to find out what sort of persons they are.

**SHRI RAM JETHMALANI :** Mr. Sen can develop information if some information is given and you did give some information to Shri Sen which he had to develop.

**SHRI R. K. DHAWAN :** I did give him some information and he had to develop. It was for him to check that up. I conveyed a message. I did not ask him to take any other action.

**SHRI RAM JETHMALANI :** You did not ask for any action. What information did you give?

**SHRI R. K. DHAWAN :** I conveyed that some Members of Parliament and other have complained to the Prime Minister....

**SHRI RAM JETHMALANI :** You were clear that Prime Minister had told you that some Members of Parliament and other have complained to her.

**SHRI R. K. DHAWAN :** Yes.

**SHRI RAM JETHMALANI :** Did you ever ask Members of Parliament or others?

**SHRI R. K. DHAWAN :** As a Private Secretary, I could not ask.

**SHRI RAM JETHMALANI :** Nor did you ask whether the information was oral or in writing and whether the information was recent or distant?

**SHRI R. K. DHAWAN :** No Private Secretary could ask. I did not ask.

**SHRI RAM JETHMALANI :** Did you ask whether the information was about harassment or bribes?

**SHRI R. K. DHAWAN :** No. There was no such thing. So, there was no question of my asking.

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SHRI RAM JETHMALANI : I am suggesting to you—it is fair to you—and you know how at least my mind is working, that all this did not happen because the truth of the matter is that you just wanted to use the machinery of the C.B.I. for the purpose of harassing these officers and preventing them from doing their duty.

SHRI R. K. DHAWAN : It is totally incorrect and I emphatically deny it.

Shri Krishan Kant in the Chair.

SHRI RAM JETHMALANI : Now, Mr. Dhawan, I take it that you have already denied any knowledge of the letters of the 5th and 7th—5th written by Shri T. A. Pai and 7th written by the Prime Minister.

SHRI R. K. DHAWAN : I said I do not remember any of these.

SHRI RAM JETHMALANI : Even now before the Shah Commission you say you were not reminded of these.

SHRI R. K. DHAWAN : Till to-day I was not reminded of these two letters.

SHRI RAM JETHMALANI : Now, I want you to see if you know anything of this document, about the C.B.I.'s note about Shri Krishnaswamy and Shri Rajan.

SHRI R. K. DHAWAN : I do not remember anything about this. As I said, I do not remember I have any knowledge about it.

SHRI RAM JETHMALANI : That is all.

SHRI NARENDRA P. NATHWANI : Mr. Dhawan, you stated that you started working with Mrs. Gandhi in 1962. Will you kindly tell us in what capacity you worked ?

SHRI R. K. DHAWAN : As P.A. to Chairman, New York World Fair Advisory Committee.

SHRI NARENDRA P. NATHWANI : She happened to be an Office-bearer.

SHRI R. K. DHAWAN : She happened to be Chairman of the Committee, Mrs. Gandhi was the Chairman of the New

York World Fair Advisory Committee—it is in America—of the Ministry of Commerce.

SHRI NARENDRA P. NATHWANI : You continued to work first in that capacity and later . . .

SHRI R. K. DHAWAN : I continued to work with her till 1965 as P.A. to Chairman. Then I was transferred as P.A. to Minister in the Ministry of Information and Broadcasting. She became the Minister for Information and Broadcasting, I think, in 1964. I continued to work against that post. In 1965 the term of the post which has been sanctioned—P.A. to Chairman—was expired. I was transferred as P.A. to Minister in the Ministry of Information and Broadcasting.

SHRI NARENDRA P. NATHWANI : You continued to work with her from 1962 to 1977 for fifteen years.

SHRI R. K. DHAWAN : My term is the shortest while others' term was thirty years !

SHRI NARENDRA P. NATHWANI : I want to frame my question. So, for 15 years you had worked with her. I am asking about your impressions. I know you would say 'you may ask Mrs. Gandhi'. That is why I say I have to frame my questions.

SHRI R. K. DHAWAN : You know my answers also !

SHRI NARENDRA P. NATHWANI : You worked ably and satisfactorily.

SHRI R. K. DHAWAN : Well, I tried to work satisfactorily. Whether it was or not I cannot say.

SHRI NARENDRA P. NATHWANI : I see the manner in which you are answering. She never complained; she never tried to tell you that your work was not satisfactory. Otherwise you would not have continued. According to you and, according to your impressions, you worked satisfactorily.

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SHRI R. K. DHAWAN : She did not tell me. If she had that impression that I cannot say.

SHRI NARENDRA P. NATHWANI : Did you win her confidence and trust also ?

SHRI R. K. DHAWAN : As any other member of the staff I was.

SHRI NARENDRA P. NATHWANI : Don't try to appear to be modest. My simple question is this. You yourself told us yesterday only that Mr. Pai sent for you. Please bear in mind. You also told that Mr. Pai was trying through you or tried to get some information from you. This was what you yourself said.

SHRI R. K. DHAWAN : Can I answer this ?

SHRI NARENDRA P. NATHWANI : Don't ask me. Give your answer to my question.

SHRI R. K. DHAWAN : I am answering your question.

SHRI NARENDRA P. NATHWANI : I am merely asking you this question.

SHRI R. K. DHAWAN : I will answer your question. I think your question is answered. Whether Mrs. Gandhi had confidence in me or not I do not know. Whether Mr. Pai won the confidence or not it is for Mr. Pai to tell.

SHRI NARENDRA P. NATHWANI : I told you that I am framing my question in this way. According to your impressions by this time you would have yourself won her confidence and trust by your satisfactory and able manner of working.

SHRI R. K. DHAWAN : I cannot say whether she had any confidence in me.

SHRI NARENDRA P. NATHWANI : What about your impressions ?

SHRI B. SHANKARANAND : Don't interrupt the ho. Member. Please answer his question.

SHRI NARENDRA P. NATHWANI : I am asking you—I do not want to enter

into discussion—you might not have been examined effectively—am I not entitled to ask about the impressions formed—that so far as you are concerned, your impression is concerned, you worked satisfactorily, and according to you, you won her confidence and trust.

SHRI R. K. DHAWAN : I tried to work according to my best ability. Whether I enjoyed her trust or not I cannot say.

SHRI NARENDRA P. NATHWANI : During the time you worked with her as Additional Private Secretary you can't say whether you won her confidence or not.

SHRI R. K. DHAWAN : As a government servant I was discharging my duties to the best of my ability.

SHRI NARENDRA P. NATHWANI : According to your impression you cannot say whether you won her confidence or you did not.

SHRI R. K. DHAWAN : I did not form any impression either way.

SHRI NARENDRA P. NATHWANI : Will it be correct to say that your personal relations are quite good with Mrs. Gandhi ?

SHRI R. K. DHAWAN : No. There are no personal relations.

SHRI NARENDRA P. NATHWANI : You have said that you are visiting her house frequently. That means your personal relations are good.

SHRI R. K. DHAWAN : I go frequently.

SHRI NARENDRA P. NATHWANI : That is why I am asking why don't you admit that your personal relations are good with her ?

SHRI R. K. DHAWAN : I do not know whether she wants me or not but I do go there. That is my wish.

SHRI NARENDRA P. NATHWANI : That means you go to her house for personal relationship.

SHRI R. K. DHAWAN : For respect.

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**PROF. P. G. MAVALANKAR :** Yesterday the witness said that he ceased to be the Additional Private Secretary of Mrs. Gandhi in March 1977. I would like to know from him whether he continues to be employed by Mrs. Gandhi since then in any other capacity ?

**SHRI R. K. DHAWAN :** No.

**MR. CHAIRMAN :** If a telephone goes to her residence do you receive it ?

**SHRI R. K. DHAWAN :** Not necessarily.

**MR. CHAIRMAN :** As you are frequently visiting her house, if a telephone comes and you attend it do you reply on behalf of Mrs. Gandhi.

**SHRI R. K. DHAWAN :** I do not reply on her behalf straightaway. If somebody asks anything I enquire and reply.

**MR. CHAIRMAN :** Do you know a message was communicated by the Lok Sabha Secretariat and you sought the information on the telephone ?

**SHRI R. K. DHAWAN :** I would like to clarify. Message from your Secretariat went. This was picked up by the person on duty. He asked me such and such person is there. Since I was there and I also wanted to tell about my coming I said that Mrs. Gandhi will be coming and I will also be coming.

**SHRI NARENDRA P. NATHWANI :** I will put this way. Does it not mean that even now you are giving your voluntary service to her ?

**SHRI R. K. DHAWAN :** Voluntary service I am giving.

**SHRI NARENDRA P. NATHWANI :** Is it not some kind of personal relation ?

**SHRI R. K. DHAWAN :** No. According to me it is not. By personal relation I mean to have social gatherings, dinners and lunches. I never had any such occasion. I do go there voluntarily and that is my wish.

*Shri R. K. Dhawan*

**SHRI NARENDRA P. NATHWANI :** So, I will put it this way that you have respect, admiration almost verging on reverence as a leader of the country.

**SHRI R. K. DHAWAN :** Yes.

**SHRI NARENDRA P. NATHWANI :** You look upon members of her family with almost same feeling.

**SHRI R. K. DHAWAN :** If they are there I talk to them. I have no personal equation with them. There is no feeling of friendliness.

**SHRI NARENDRA P. NATHWANI :** So, you are just a stranger to them.

**SHRI R. K. DHAWAN :** I know them better than a stranger but no personal equation with them.

**SHRI NARENDRA P. NATHWANI :** No friendliness.

**SHRI R. K. DHAWAN :** No.

**SHRI NARENDRA P. NATHWANI :** Is there any special reason that you could not develop a feeling of friendliness for her sons even though you have been working in the house and have got such a tremendous feeling of respect for her.

**SHRI R. K. DHAWAN :** I have no answer for this. I cannot explain why ?

**SHRI NARENDRA P. NATHWANI :** Now, I come to another point. Since the Shah Commission's work started, that is, towards the end of September 1977, at least from that day if not prior have you discussed this question so far as this aspect of your giving message with Mrs. Gandhi ?

**SHRI R. K. DHAWAN :** Never.

**SHRI NARENDRA P. NATHWANI :** Can you explain why you never thought it fit to discuss this question ?

**SHRI R. K. DHAWAN :** There was no need for it.

**SHRI NARENDRA P. NATHWANI :** Though you know that you are both involved and you go daily to her



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house. You must have been going to Shah Commission. She was also asked to go there. Still you never discussed. You do not forget that there is a charge in which both of you are involved. Even then you did not ?

**SHRI R. K. DHAWAN** : I did not.

**SHRI NARENDRA P. NATHWANI** : Does it not strike you, to use your own words, not absurd or ridiculous but, as unusual ?

**SHRI R. K. DHAWAN** : Certainly not. I know the facts.

**SHRI NARENDRA P. NATHWANI** : Can you give any explanation ?

**SHRI R. K. DHAWAN** : No explanation. I know that nothing was done. Only the message was conveyed. There was no need for me to consult her.

**SHRI NARENDRA P. NATHWANI** : Did you engage any lawyer or counsel for your appearance before the Shah Commission ?

**SHRI R. K. DHAWAN** : In the beginning I did ; I found that I could do much better.

**SHRI NARENDRA P. NATHWANI** : So you discharged him ?

**SHRI R. K. DHAWAN** : I requested him not to attend.

**SHRI NARENDRA P. NATHWANI** : Did he at all appear before the Shah Commission ?

**SHRI R. K. DHAWAN** : For two or three days.

**SHRI NARENDRA P. NATHWANI** : What was his name ?

**SHRI R. K. DHAWAN** : Shri Bhagat.

**SHRI SHANKARANAND** : Mr. Chairman, I think, since Mr. Bhagat is not here, his name should not be brought on record.

*Shri R. K. Dhawan*

**SHRI NARENDRA P. NATHWANI** : There is nothing in it ; it is there already on record.

**MR. CHAIRMAN** : What are the initials ?

**SHRI R. K. DHAWAN** : Shri K. G. Bhagat. My submission is that I thought I could do it better ; I was equipped with more details and I will not have to waste time in briefing him.

**SHRI NARENDRA P. NATHWANI** : You can say time and money. Do you know whether Mrs. Gandhi has engaged any lawyer ?

**SHRI R. K. DHAWAN** : I do not know. But I do know that Frank Anthony came there ; whether he is attending to this work or not, I do not know.

**SHRI NARENDRA P. NATHWANI** : Any other lawyer ?

**SHRI R. K. DHAWAN** : Not to my knowledge.

**SHRI NARENDRA P. NATHWANI** : You have not consulted any lawyer except consulting or being represented by Mr. Bhagat ?

**SHRI R. K. DHAWAN** : No ; I argued myself my case in the Shah Commission.

**SHRI NARENDRA P. NATHWANI** : On your being asked by Mrs. Gandhi to give information or to give a report—I do not quarrel with your words—on or about 13th April 1975, what happened ? You stated that you treated it as an ordinary, casual matter. Why do you say it was an ordinary casual matter when you were told that some M.Ps have complained ? You treat with utmost contempt the complaint of M.Ps. Did it not occur to you so ?

**SHRI R. K. DHAWAN** : It is not that.

**SHRI NARENDRA P. NATHWANI** : Therefore the matter was of some importance to you according to you ?

**SHRI R. K. DHAWAN** : The P.M. did not show any interest ; she only wanted

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it to be checked, whether there was any truth, just by the way.

**SHRI NARENDRA P. NATHWANI :** Having regard to the contents of the message and the information that you had to give, did you not consider it as an important matter ?

**SHRI R. K. DHAWAN :** No, it gave me the impression that she did not attach any importance to it, to the complaint.

**SHRI NARENDRA P. NATHWANI :** Apart from the contents of the information. . . .

**SHRI R. K. DHAWAN :** Hundreds of M.Ps used to complain about people, about M.Ps, Ministers, officials, etc.

**SHRI NARENDRA P. NATHWANI :** It was almost a trivial matter, a *mamooli* matter.

**SHRI R. K. DHAWAN :** Before the information is checked and the result is known definitely, it was an ordinary matter.

**SHRI NARENDRA P. NATHWANI :** The whole thing appeared to be a trivial matter to you on that day . . .

**SHRI R. K. DHAWAN :** May I answer . . .

**SHRI NARENDRA P. NATHWANI :** Certainly you can say anything you want, any explanation, on the conclusion of your evidence, I am going to ask the Chairman that you should be welcome to send any note or observation that you want. You have stated that the matter seemed to you almost *mamooli*, trivial.

**SHRI R. K. DHAWAN :** I will use the word *mamooli*, not trivial.

**SHRI NARENDRA P. NATHWANI :** You are a student of Sanskrit and English. What would be the exact equivalent of a very *mamooli* matter ? I will use the word trivial.

**SHRI R. K. DHAWAN :** I will not be able to suggest any other word.

*Shri R. K. Dhawan*

**SHRI NARENDRA P. NATHWANI :** It was a very *mamooli* matter. Admittedly you had forgotten all about it ?

**SHRI R. K. DHAWAN :** Yes, after speaking to Mr. Sen.

**SHRI NARENDRA P. NATHWANI :** Till the matter came up before the Shah Commission . . .

**SHRI R. K. DHAWAN :** I had completely forgotten about it.

**SHRI NARENDRA P. NATHWANI :** This incident happened in April 1975 ; proceedings before the Shah Commission started in September 1977 ; for about 2 and half years you had no occasion to remember this incident at all ? You had completely forgotten ?

**SHRI R. K. DHAWAN :** No, no occasion at all.

**SHRI NARENDRA P. NATHWANI :** Even after the matter was brought to your notice, even now, admittedly, you do not know when and where this message was given by you ?

**SHRI R. K. DHAWAN :** Yes.

**SHRI NARENDRA P. NATHWANI :** You do not know ?

**SHRI R. K. DHAWAN :** I do not know whether I went to Mr. Sen. I do not remember when and where this information was given. The date and place I do not remember.

**SHRI NARENDRA P. NATHWANI :** The date and place you do not remember as it was admittedly a *mamooli* matter ?

**SHRI R. K. DHAWAN :** That is the main reason ; I do not remember because it was a *mamooli* matter.

**SHRI NARENDRA P. NATHWANI :** Yesterday you admitted that to the best of your recollection, you were unable to say whether you had received similar messages in respect of any other officer from Mrs. Gandhi.

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**SHRI R. K. DHAWAN** : I said : "I had, but I do not remember". But I gave you the name of Mr. Pai.

**SHRI NARENDRA P. NATHWANI** : I am referring to Government officers.

**SHRI R. K. DHAWAN** : I had once or twice.

**SHRI NARENDRA P. NATHWANI** : What did you say yesterday ?

**SHRI R. K. DHAWAN** : I said yesterday also. "Yes, but I do not remember the names".

**SHRI NARENDRA P. NATHWANI** : You said you had, but you did not remember the names ?

**SHRI R. K. DHAWAN** : This is what I have said yesterday and I repeat it today.

**SHRI NARENDRA P. NATHWANI** : You now say that there were such cases about Government officers, but you do not remember their names, etc. This is what you said, according to you. But you have not said so yesterday. You said you cannot say whether there were any such cases or not.

**SHRI R. K. DHAWAN** : Well I do not remember. If I have said, I think, ...

**SHRI NARENDRA P. NATHWANI** : Today, what you have stated is this. You did say that according to you, you had received similar messages about Government officers, but you cannot say or give the particulars. This is what you are trying to say. But yesterday you did not say so.

**SHRI R. K. DHAWAN** : Yesterday also, my answer was on the same lines.

**SHRI NARENDRA P. NATHWANI** : I am trying to point out as to what your recollection is of the events that happened yesterday.

**SHRI R. K. DHAWAN** : The substance is the same. There may be difference of words here and there.

**SHRI NARENDRA P. NATHWANI** : You will not be very emphatic about your memory ?

**SHRI R. K. DHAWAN** : I will still maintain that my memory is still very good.

**SHRI NARENDRA P. NATHWANI** : Let it be recorded that it is still very good.

**PROF. P. G. MAVALANKAR** : Almost every sentence, he has said, "I cannot remember, I do not remember". What is the idea ?

**MR. CHAIRMAN** : You can ask this question.

**PROF. P. G. MAVALANKAR** : I am asking this question. You are just now maintaining in reply to Shri Nathwani's question that your memory is very good.

**SHRI R. K. DHAWAN** : He asked "Is your memory very good?" I am replying to that.

**PROF. P. G. MAVALANKAR** : Don't try to be clever with me. I am asking a simple question. To Shri Nathwani's question, you said that your memory is good. How is it that, if your memory is very good, repeatedly, in reply to almost all questions, you are saying, "I do not remember, I cannot remember"? How do you reconcile the two ?

**SHRI R. K. DHAWAN** : I do not think that I have said every time "I do not remember".

The records are before you.

**MR. CHAIRMAN** : If not in reply to all questions, to many of the questions, you said that you do not remember. On occasions you said "I cannot recollect, it must have been, it might have been". In respect of some of the questions which sought certain information, your memory failed; but in respect of some other questions which are very intriguing, you said your memory is very sharp. Do you agree after what you have said that in some aspects your memory is very sharp and in other aspects your memory has failed ?

**SHRI R. K. DHAWAN** : I cannot say that.

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MR. CHAIRMAN : Will it not be a natural conclusion that when information was sought in some matters your memory did not stand by you and you said "I do not remember, I do not recollect, etc." But in other matters, you had been very particular and emphatic in saying certain things. You also say "my memory is very sharp". Is it not natural that from your own statement one would conclude that in some aspects your memory appears to be very sharp and in other aspects it seems to have failed you ?

SHRI R. K. DHAWAN : I cannot explain this.

MR. CHAIRMAN : You cannot explain this ?

SHRI R. K. DHAWAN : Whatever I remember I have told you.

MR. CHAIRMAN : You will not agree to the conclusion that in some aspects your memory stood by you and in other aspects, it failed you.

SHRI R. K. DHAWAN : The record is before your honour. Whatever I remember, I have said.

MR. CHAIRMAN : You don't agree even to that ?

SHRI R. K. DHAWAN : I would not say anything about it. It is not for me to agree or disagree. Whatever I remember I have said.

SHRI NARENDRA P. NATHWANI : I am just asking you about your having conveyed information regarding other Government Officials. Forget about Mr. Pai and MPs. What is the statement you made before us today when you were asked by my friend, Mr. Ram Jethmalani as to whether you were asked to convey information of similar nature against any Government officials ? What did you say today just ten or fifteen minutes before ? Do you remember that ? I do not want to be unfair to you. I am only trying to find out about your memory.

SHRI R. K. DHAWAN : Yes. I said : "there must have been incidents. But I do not remember the names."

SHRI NARENDRA P. NATHWANI : I am now reminding you of what you have said. You have said : "There might have been". Would you agree with me that you have said "there might have been such cases" and not "must have been" ? I am putting it to you.

SHRI R. K. DHAWAN : There must have been, might have been.

SHRI NARENDRA P. NATHWANI : Both these things you might have stated ?

SHRI R. K. DHAWAN : Yes.

SHRI NARENDRA P. NATHWANI : Let it be recorded. This is very important from our point of view.

Mr. Chairman, we can ask the reporter to read out what the witness has said in reply to Mr. Ram Jethmalani's question.

SHRI B. SHANKARANAND : Can the reporters take part in the debate ?

SHRI NARENDRA P. NATHWANI : Why not ?

SHRI B. SHANKARANAND : Mr. Chairman, Mr. Nuthwani is asking the reporter to read out the portion they have taken.

MR. CHAIRMAN : I will ask the reporter to read it out to the Officer-in-Charge.

SHRI NARENDRA P. NATHWANI : About this incident of 15th April, you saw Mr. Sen and you conveyed the message given to you by the then Prime Minister. And according to you Mr. Sen made a statement before the Shah Commission—and I am trying to be fair to you—that Mr. Dhawan did not ask him to start investigation. This is what he has stated, according to you. Have you got a copy of the evidence before you given by Mr. Sen ?

SHRI R. K. DHAWAN : Yes.

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**SHRI NARENDRA P. NATHWANI :** You have it ?

**SHRI R. K. DHAWAN :** Yes.

**SHRI NARENDRA P. NATHWANI :** Will you read this out from that portion ? Let me be fair to you.

*(The witness gave the concerned papers to Shri Narendra P. Nathwani)*

**SHRI NARENDRA P. NATHWANI :** Mr. Sen said : "But I think there is some misunderstanding on this point because I was not asked to start any investigation." Kindly go through this evidence and tell me whether Mr. Sen stated this because I have got a cutting of the newspaper here. Kindly compare this with your copy.

**SHRI B. SHANKARANAND :** Mr. Chairman, Can we not have a copy of the statement of the evidence of Mr. Sen before the Shah Commission because it is being referred to off and on ?

**MR. CHAIRMAN :** We tried to get some information from the Shah Commission earlier, but we did not get it.

**SHRI B. SHANKARANAND :** Can we get especially Mr. Sen's evidence ?

**SHRI R. K. DHAWAN :** Mr. Sen also has been given a copy of this.

**SHRI B. SHANKARANAND :** I would like to ask whether we can have in our Committee a copy of the statement of Mr. Sen.

**MR. CHAIRMAN :** Not directly from the Shah Commission. Because one part of the Interim Report was submitted, it may be that the documents are made available to the Home Ministry. I will explore the possibility.

**SHRI B. SHANKARANAND :** I am asking because it is being referred to very often.

**MR. CHAIRMAN :** I will explore the possibility.

**SHRI NARENDRA P. NATHWANI :** Please look at what Mr. Sen said before

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the Shah Commission. I am trying to point out that this is what Mr. Sen has stated. Please tell whether it is true or not.

**SHRI R. K. DHAWAN :** That is a press report.

**SHRI NARENDRA P. NATHWANI :** Kindly find out whether there is any truth in this, or I will find it out. The question by the Shah Commission is : "I want to know what is the justification for the alarming expedition with which CBI action was initiated ?" The answer is : "Naturally because I was told that this should be processed very quickly."

**SHRI R. K. DHAWAN :** He does not say this in this report here.

**SHRI B. SHANKARANAND :** Mr. Nathwani is putting questions on press reports. He is asking questions basing on the press reports of what Mr. Sen said before the Shah Commission. So a copy of Mr. Sen's statement may be obtained because he is putting questions on that.

**MR. CHAIRMAN :** I have already said that I have given instructions to the officer concerned to explore the possibility.

**SHRI R. K. DHAWAN :** There is a difference between what is reported in the press and actually what he has said before the Shah Commission.

**SHRI NARENDRA P. NATHWANI :** It is stated in the press report—*Statesman* dated the 1st October. This I got it from the file that I have got from Parliament Library.

**MR. CHAIRMAN :** Mr. Dhawan, I will draw your attention to this that whenever you address a Member, you will address him as "Hon. Member", not by his name.

**SHRI R. K. DHAWAN :** All right. I have noted. I am sorry.

**SHRI NARENDRA P. NATHWANI :** I want the whole of whatever he said about this aspect because I have got two more questions which I shall put from press reports.

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**SHRI R. K. DHAWAN :** I am trying to locate that portion.

**MR. CHAIRMAN :** I suggest that unless the press report is before us, you can only ask whether he can say 'yes' or 'no'.

**SHRI NARENDRA P. NATHWANI :** I have got the press report. That is why I am asking.

**SHRI B. SHANKARANAND :** For the sake of procedure questions can be framed without bringing in the press reports.

**SHRI NARENDRA P. NATHWANI :** This part is being looked into. I am asking him that if it is available readily, let us have a look at it.

**SHRI B. SHANKARANAND :** Verification of press report with the actual statement is something else.

**SHRI NARENDRA P. NATHWANI :** There, he had suggested some action which had to be taken expeditiously.

**SHRI B. SHANKARANAND :** The hon. Member is asking him to compare the press report with what Mr. Sen said actually.

**MR. CHAIRMAN :** Would you kindly reframe your question ?

**SHRI NARENDRA P. NATHWANI :** Did Mr. Sen say, or whether he has admitted that he was not asked to start investigation ?

**MR. CHAIRMAN :** I pointed out yesterday from the documents that were supplied to us by Mr. Dhawan that Mr. Sen categorically said : "Yes, I was asked to investigate into the allegation." That is on record. Mr. Sen also categorically said it before us.

**SHRI NARENDRA P. NATHWANI :** Mr. Dhawan is right in contending that even according to his statement before the Shah Commission, Mr. Sen's statement is not reliable. Therefore, I am asking him.

**SHRI B. SHANKARANAND :** To avoid this confusion, I wish the Chairman

calls for the actual statement, what he said before the Shah Commission.

**SHRI R. K. DHAWAN :** I have been able to locate that portion. It reads :

"Mr. Chairman : We will come to know that later, but I just want to know what was the justification for this alarming expedition.

"Witness (Shri D. Sen) : Alarming expedition only because I was told that this information had to be processed quickly."

**SHRI NARENDRA P. NATHWANI :** This is what he stated there.

**SHRI R. K. DHAWAN :** His statement should be read as a whole.

**SHRI NARENDRA P. NATHWANI :** That is an argument.

**SHRI B. SHANKARANAND :** To avoid all this confusion, let the statement of Mr. D. Sen be called for.

**SHRI NARENDRA P. NATHWANI :** He has also stated that you did ask him to process this quickly.

**SHRI R. K. DHAWAN :** No. He said he was told. He does not mention my name at that time.

**SHRI NARENDRA P. NATHWANI :** You do not go to the extent that he means some other person ? Put any construction you like. I am not arguing about that.

**SHRI B. SHANKARANAND :** Please let us know...

**SHRI RAVINDRA VARMA :** Mr. Chairman, all the Members have to follow the questions as well as the answers. Mr. Nathwani is asking a question, and we have a right to hear the answer. If other hon. Members intervene, the process of understanding will be affected. Therefore, I request you to ensure that, when a Member puts a question, his sentence is completed before either another hon. Member butts in or the witness replies.

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**SHRI B. SHANKARANAND** : I entirely agree.

**SHRI NARENDRA P. NATHWANI** : You add subsequently whatever you want to say. I will not prevent you from doing it. First read out the evidence before the Commission. Then you can put in your gloss or explanation, I do not mind. Have I made my position clear? Read that portion also.

**SHRI R. K. DHAWAN** : Then it says :

"Mr. Chairman : You were also asked by Mr. Dhawan . . .

—this is the relevant portion which I want to read out with your permission—

" . . . that this should be processed immediately ?

Witness : Information had come from the Prime Minister's Secretariat."

This is the answer given. He does not take Dhawan's name. He says Prime Minister's Secretariat.

**SHRI NARENDRA P. NATHWANI** : Through you, it is implicit. I am not arguing with you.

**SHRI R. K. DHAWAN** : He is referring to the information that had come from the Prime Minister's Secretariat. This is his evidence.

**SHRI KRISHAN KANT** : He has said this before the Commission that Mr. B. N. Tandon had told him that Dhawan was part of the Prime Minister's Secretariat and any information given by him had to be treated as coming from the Prime Minister's Secretariat.

**SHRI R. K. DHAWAN** : Well, I was.

**SHRI NARENDRA P. NATHWANI** : Is there a further question ?

**SHRI R. K. DHAWAN** : The next question is :

"Were you told by Mr. Dhawan, or this is a matter of your inference ?

"Witness : Both. I will take responsibility for it."

**SHRI NARENDRA P. NATHWANI** : That means he was told personally, also it is a matter of inference. Let that also be taken on record.

So, as if this was a very trivial matter, you had forgotten all about it. Even when your memory is refreshed by the proceedings before the Shah Commission, you do not know about the date, you are unable to say, you have no recollection about the date, about the place, about everything, except one thing where your memory is sharp. According to you, you merely said : "Check up the antecedents".

**SHRI R. K. DHAWAN** : Yes.

**SHRI NARENDRA P. NATHWANI** : Can you give any reason why these words stuck your memory ?

**SHRI R. K. DHAWAN** : I cannot give any reason.

**SHRI NARENDRA P. NATHWANI** : I will suggest it later. So much about your memory of this incident.

Let us go to the CBI note that you referred to, and my hon. friend referred to. This is what you have stated :

"Official desires verification of the instructions at page 1 correspondence. He would like to have a report within five days."

"Instructions at page 1 correspondence"—what does it refer to ?

**SHRI B. SHANKARANAND** : At this moment I want to take objection. The hon. Member is asking questions about a document which is not before the Committee, and the witness is also answering the question about a document which is not before the Committee.

**MR. CHAIRMAN** : You may frame it this way, "If it is found in the document".

**SHRI B. SHANKARANAND** : Otherwise, we will not be able to apply our mind.

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**MR. CHAIRMAN :** I have come to your assistance.

**SHRI NARENDRA P. NATHWANI :** In this note you have referred to File No. N.R. 975 dated 17-4-1975 endorsed by Mr. Rajpal, if I am right. Now, is there anything further in this note—because they are taking objection to my trying to find out what are the instructions on p. 1 and p. 2.

**SHRI R. K. DHAWAN :** Page 1 is not here.

**SHRI B. SHANKARANAND :** Mr. Dhawan...

**SHRI NARENDRA P. NATHWANI :** Please don't interfere, Mr. Shankaranand. If you have any objection, please refer it to the Chairman. I am on a very important point.

**SHRI B. SHANKARANAND :** I have referred it to the Chairman : I requested the Chairman to let me have a copy of the document about which the Hon. Member is asking the question.

**MR. CHAIRMAN :** I have suggested a way out, that you may qualify your question by reading out, whatever is referred to, if it is found in the document.

**SHRI NARENDRA P. NATHWANI :** Mr. Dhawan, I am reading from your note in which you have quoted :

"I would suggest that S.P. may depute a good officer for the verification of the information. The line of verification should be on the following lines :

- (i) Immediately and before 3 P.M. to-day, we must find out the exact name of this officer,..."

Now, what is the name of this officer ?

**SHRI R. K. DHAWAN :** The name of the officer who sent that note is Rajpal.

**SHRI NARENDRA P. NATHWANI :** Mr. Rajpal was giving these instructions in regard to all the four officers ?

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**SHRI R. K. DHAWAN :** No, this was on Mr. Rajan's file.

**SHRI NARENDRA P. NATHWANI :** So, the reference to 'this officer' means Mr. Rajan ?

**SHRI R. K. DHAWAN :** Yes.

**SHRI NARENDRA P. NATHWANI :** So, according to this note which you have produced, verification regarding certain matters—which are mentioned here—are sought in respect of one officer only, viz. Mr. Rajan, and there is no reference to other officers ?

**SHRI R. K. DHAWAN :** In respect of other officers also there are...

**SHRI NARENDRA P. NATHWANI :** Where do you find them in this note ?

**SHRI R. K. DHAWAN :** Not in this note but...

**SHRI NARENDRA P. NATHWANI :** Today there is nothing else before us. Whatever material you have placed before us today refers only to one officer, viz. Rajan ?

**SHRI R. K. DHAWAN :** Whatever I produced yesterday refers to Mr. Rajan.

**SHRI NARENDRA P. NATHWANI :** It is only in respect of one officer that you have produced these lines about verification ?

**SHRI R. K. DHAWAN :** Yes, but I may be allowed to produce references to the others also.

**SHRI NARENDRA P. NATHWANI :** You may do what you like later, but at the moment I am speaking about this officer only.

**SHRI R. K. DHAWAN :** Yes, it is only in respect of Mr. Rajan.

**SHRI NARENDRA P. NATHWANI :** At the end of the evidence or even later, if the Chairman permits you, you can submit your observations or comments or anything else you like : but this note refers only to one officer, viz., Mr. Rajan ?



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SHRI R. K. DHAWAN : Yes.

SHRI NARENDRA P. NATHWANI : Are there similar notes about verification in respect of other officers? I am asking you this question so far as your knowledge is concerned.

SHRI R. K. DHAWAN : Yes, there are.

SHRI NARENDRA P. NATHWANI : You may kindly produce them.

SHRI R. K. DHAWAN : In file No. 40/75/1F there is a reference dated 16.4.1975 in respect of Mr. Krishnaswamy.

SHRI NARENDRA P. NATHWANI : How does it run?

SHRI R. K. DHAWAN : The language of the first page is the same as given in Rajan's file. Then, it says :

'Discreet enquiries reveal that there is one R. Krishnaswamy working in the Ministry of Heavy Industries . . .'

SHRI NARENDRA P. NATHWANI : You can produce that document. You can produce it in respect of the other three officers.

SHRI R. K. DHAWAN : Whatever I have, I will produce. In this case, there is a mention that there one N. Krishnaswamy and one S. Krishnaswamy . . .

SHRI RAM JETHMALANI : Where are the other two?

SHRI R. K. DHAWAN : In regard to the other two, I was trying to locate them.

SHRI RAM JETHMALANI : This is your personal file?

SHRI R. K. DHAWAN : Yes. I have got some things copied from other files. I got some typist and he typed out from some other papers given by the Shah Commission . . .

SHRI RAM JETHMALANI : Do you mind my looking into it?

SHRI R. K. DHAWAN : I certainly don't mind.

SHRI NARENDRA P. NATHWANI : So, to continue, Mr. Dhawan, is this the only reason, according to you? The fact that there is a reference to verification wherein verification was to be made of the exact name of the officer, where he is working and what is his residential address, is the only reason why you are saying you did not give either the initials of these four officers or their designations?

SHRI R. K. DHAWAN : No. My reason is that I did not give these officers' initials and designations : I gave only the names. This is what the files also say. So, they support my version, but this is not the reason. The reason is that I did not give the initials or the designations.

SHRI NARENDRA P. NATHWANI : You have definite recollection?

SHRI R. K. DHAWAN : I have definite recollection.

SHRI NARENDRA P. NATHWANI : Just now you said that, in respect of 'checking up the antecedents' your memory, even now, is not in a position to help you in regard to certain important aspects like when, where, etc. but still, you do recollect that she did say 'check up the antecedents'. When I asked you to give reasons for remembering this, you said you cannot explain why this part of the conversation remained with you. You said you treated this Maruti matter as a very *mamooli* matter and that you had forgotten about it, when your memory was sought to be refreshed before the Shah Commission. You don't even now recollect the date, place etc., but you remember this aspect, viz. 'checking up the antecedents'. You have stated that you cannot explain why you remember it. Am I right or do you want to give another version?

SHRI R. K. DHAWAN : No, I don't want to.

SHRI NARENDRA P. NATHWANI : Will you kindly repeat what you said when I asked you what the explanation was that

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you remember only this part about 'checking up of antecedents'? Is there anything particular why you remember this?

**SHRI R. K. DHAWAN :** There is nothing particular but I remember it.

**SHRI NARENDRA P. NATHWANI :** There is nothing particular but you remember it, and you cannot explain why?

**SHRI R. K. DHAWAN :** Yes, I remember it but I cannot say why?

**SHRI NARENDRA P. NATHWANI :** So, there is no particular reason why you are remembering it?

**SHRI R. K. DHAWAN :** No. I just remember it.

**SHRI NARENDRA P. NATHWANI :** You said that you did not try to contact the officers who alleged that you tried to give them a ring, and you are trying to fortify your statement by referring us to the draft reply that was finalised on the 14th. That seems to be your supporting evidence. You have got a copy of the question that was sought to be answered on 16th April. Any information that could be gathered before 16th, generally, could have been utilised for answering the question on the 16th. You do not dispute that.

**SHRI R. K. DHAWAN :** No.

**SHRI NARENDRA P. NATHWANI :** You agree that it was on a day prior to 16th.

**SHRI R. K. DHAWAN :** Yes.

**SHRI NARENDRA P. NATHWANI :** Please look at the question and tell me whether the thrust of the question is that imported machinery was purchased and used by Maruti.

**SHRI R. K. DHAWAN :** Yes, the thrust is about the purchase of imported machinery by Maruti.

**SHRI NARENDRA P. NATHWANI :** The charge is that it was a condition of

their licence that they will use indigenous machinery; they will not have imported machinery. Am I right?

**SHRI R. K. DHAWAN :** It looks like that according to the note for supplementaries.

**SHRI NARENDRA P. NATHWANI :** The information was sought whether Maruti had been using imported machinery or not and which they might have got through other dealers.

**SHRI R. K. DHAWAN :** Yes.

**SHRI NARENDRA P. NATHWANI :** That sort of information for answering this question would be material.

**SHRI R. K. DHAWAN :** Yes.

**SHRI NARENDRA P. NATHWANI :** Even after finalising the question on the 14th, therefore, to try to get information whether any local dealer had sold imported machinery to Maruti could be relevant.

**SHRI R. K. DHAWAN :** But there should be some reference to it on the file.

**SHRI NARENDRA P. NATHWANI :** The question is whether this information could be relevant or not.

**SHRI R. K. DHAWAN :** If the Government had decided to give that answer, then it would be relevant.

**SHRI NARENDRA P. NATHWANI :** Is it your suggestion that the answer that was finalised on the 14th could not be changed in the light of the information that might be collected and which may appear to be contrary to the earlier information.

**SHRI R. K. DHAWAN :** I cannot say whether they can or cannot change, but I think, once the answer is finalised and sent to the Lok Sabha in advance, it is normally never changed.

**MR. CHAIRMAN :** Is it known to you that on the very day the question is to be answered, in the morning, there is a briefing session for the Minister and there the Secretary, or the Additional

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Secretary pass on the additional information, if any, for supplementaries, etc. ?

SHRI R. K. DHAWAN : I do not know ; some Ministers might be having such a meeting, some might not be having it.

MR. CHAIRMAN : It has been told before this Committee in this case, that the officers had discussions with the Minister on the morning of 16th so that the Minister could be briefed with the additional information and he could prepare himself for answering the supplementaries.

SHRI R. K. DHAWAN : But no such information was sent to the Minister according to the records. If the information had been collected, then the Minister should have been given this information. It should have been on the file, in the additional note for supplementaries.

SHRI KRISHAN KANT : You know, the officers sit in the official gallery. Quite sometimes, the Minister's pad does not contain all the information and the Secretary or Joint Secretary etc. send information from the gallery or a chit to the Minister. It means, the Minister is entitled to get information till the last minute and this information would not be there in pad.

SHRI R. K. DHAWAN : But that information forms part of the office file.

SHRI KRISHAN KANT : I know, in respect of my question in the Rajya Sabha once, the answer was changed half an hour before circulation. They can change even five minutes earlier.

Sometimes during the question hour, the question takes such a turn that the information that the Minister has in his pad is not sufficient to deal with the question. In fact, that information becomes quite separate from the question.

SHRI R. K. DHAWAN : Whatever turn the question may take, that paper would form part of the official record.

SHRI KRISHAN KANT : It will form part of the Lok Sabha record.

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SHRI R. K. DHAWAN : Office file also.

SHRI KRISHAN KANT : Letter by Mr. Ghosh to Mr. Rege, Secretary of the Maruti Co. is part of the record. It means, an attempt was made to get the information from Maruti.

SHRI R. K. DHAWAN : Yes. But the point is that information was sought on the 10th. This was finalised on the 14th. Even if this information had been collected, it should have found a place in the file.

SHRI KRISHAN KANT : The attempt to collect the information is a part of the file. Letter of Shri Ghosh to Mr. Rege and of Shri Krishnaswamy are part of the file.

SHRI R. K. DHAWAN : That is on 10th.

SHRI KRISHAN KANT : Letter may be of 13th or 14th. An attempt was made to collect information.

SHRI R. K. DHAWAN : Here the attempt was to get a list of the firms who sell machinery on stock and sale basis. That is a part of the file.

SHRI KRISHAN KANT : Letter to Maruti is a part of the file.

SHRI R. K. DHAWAN : Letter which was sent to Shri Cavale forms part of the file and the letter says let us have a list of the firms.

SHRI KRISHAN KANT : Letter to Maruti Co. is a part of the file which says that information may be given of the firms which sell machinery on stock and sale basis. Only thing is 'to collect information' is there.

SHRI R. K. DHAWAN : It was there. But there was no attempt to collect information by Shri Bhatnagar to whom the harassment is caused.

SHRI KRISHAN KANT : But the attempt to collect information and seeking information is part of the file.

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**SHRI R. K. DHAWAN :** I would repeat that here the part of the file is.....

**SHRI KRISHAN KANT :** That we shall decide.

**PROF. P. G. MAVALANKAR :** Have I understood the witness correctly that on the basis of his experience as a Member of the Prime Minister's Sectt., he said that whatever is answered by the Minister not only original but supplementary too is exclusively and entirely on the basis of the note in the file ?

**SHRI R. K. DHAWAN :** I cannot say that. What I am saying is whatever Minister replies or whatever information is supplied forms part of the file.

**PROF. P. G. MAVALANKAR :** Shri Krishan Kant said that there are a number of questions which on the last minute the Minister has to answer and a number of times papers are sent out from the official box to the Ministers giving additional information.

**SHRI R. K. DHAWAN :** That is right. All that forms part of the file.

**PROF. P. G. MAVALANKAR :** They form a part of the Lok Sabha proceedings.

**MR. CHAIRMAN :** Please do not drag on the question. It is the experience of the Members of Parliament that certain answers are given by the Minister from his memory.

**PROF. P. G. MAVALANKAR :** And they are not necessarily part of the file.

**SHRI B. SHANKARANAND :** Questions and answers are going on. Can I have the benefit of the advice of the officers that they are giving to you ? The officers are giving some advice to you. Can the Committee be enlightened ?

**MR. CHAIRMAN :** I am doing the side work.

**SHRI B. SHANKARANAND :** The hon. Minister for Parliamentary Affairs is there. I had also been a Minister. Many officers from the gallery send information to the concerned Minister even at the time

of answering the question from the files which they are having then and not from out of their head and imagination.

**MR. CHAIRMAN :** It is recorded.

**SHRI NARENDRA P. NATHWANI :** In view of what I call the thrust of the question, they wanted to elicit information whether any imported machinery was used or purchased for being used and was used by Maruti.

Suppose even after 14th information had been forthcoming that Maruti had not purchased any imported machinery it would have been relevant.

**SHRI R. K. DHAWAN :** I did not catch it.

**SHRI NARENDRA P. NATHWANI :** Information collected after 14th would have been relevant that Maruti had not purchased any imported machinery through any local dealers. This would be material and relevant from the point of view of the Government.

**SHRI R. K. DHAWAN :** Yes. But the answer would have been different.

**SHRI NARENDRA P. NATHWANI :** It does not matter.

**MR. CHAIRMAN :** He has asked a general question.

**SHRI R. K. DHAWAN :** I am also replying in a general way. The answer would have been different.

**SHRI NARENDRA P. NATHWANI :** If information was available then it would have been equally material.

**SHRI R. K. DHAWAN :** If the Government had decided to collect this information.

**SHRI NARENDRA P. NATHWANI :** Therefore, either way that information was material for answering the question.

**SHRI R. K. DHAWAN :** Either way. Had the Government decided to collect information ?

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**SHRI NARENDRA P. NATHWANI :** We know what could happen when Government comes in possession of information which may be contradictory to what they might be trying to reply. Sometimes the Minister says this is my information and if it is contrary information, I would look into it. I am trying to tell you that your whole conception is that on 14th developments had taken place. According to you it was contrary to the nature of evidence that they were trying to collect. I am saying that that information would have been material if it had been available either way—this way or that.

**SHRI R. K. DHAWAN :** Yes. But the Government had decided not to collect information.

**SHRI KRISHAN KANT :** Do not make that emphatic statement. Letter to Shri Rege shows that they wanted to collect information. You may answer the question but do not enter into argument.

**SHRI B. SHANKARANAND :** Mr. Dhawan. I am asking you, with the permission of the Chair, to let the hon. Member complete his question and then you should answer.

I am now going to put questions. You must listen to the question fully and understand that and then reply. Here questions are being asked, essential questions are put to the witness. The role played by the witness, it appears, is that he passed on certain information from the Branch. He was not engaged in collection of information; he was not in any way concerned with the Industry Ministry. I do not know what sort of informations you are collecting by putting argumentative questions. If you can put substantive questions, I can understand.

**MR. CHAIRMAN :** If the witness seeks my protection, it is all right. On my own it is difficult.

**SHRI B. SHANKARANAND :** The Committee is not here to put all these questions.

**SHRI R. K. DHAWAN :** These are my submissions. It is for the Committee to accept or not to accept.

**SHRI KRISHAN KANT :** Shri Nathwani has been putting the questions out of the submissions you have made. Otherwise he would not have put the questions.

**SHRI NARENDRA P. NATHWANI :** I want to tell you that you have made your submissions. That is why we are pursuing. This is very very relevant. Even after they had taken a particular stand, this kind of information is necessary. That is what I want to tell you.

**SHRI R. K. DHAWAN :** They would not have collected the information if they had taken the stand.

**SHRI NARENDRA P. NATHWANI :** You know that by this time the question of Maruti was cropping up repeatedly both in Lok Sabha as well as in Rajya Sabha. Am I correct ?

**SHRI R. K. DHAWAN :** Yes.

**SHRI NARENDRA P. NATHWANI :** Supplementaries would have been put subsequently and those who were pursuing the matter were equipped with a great or good deal of information.

**SHRI KRISHAN KANT :** We can go beyond that. You know many questions we have put and you should know they did not have that information.

**SHRI R. K. DHAWAN :** My understanding is that every supplementary contained all the information.

**SHRI KRISHAN KANT :** They did not contain all the information.

**SHRI R. K. DHAWAN :** I should be allowed to read.

**SHRI NARENDRA P. NATHWANI :** You should know that such questions about Maruti were likely to be put in future also. Further questions arise out of the questions put because, as you know, Shri Jyothirmoy

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Bosü had referred to answers given to questions orally.

SHRI R. K. DHAWAN : If such questions are put in future, information will be collected.

SHRI NARENDRA P. NATHWANI : Would you not admit that on a matter concerning Maruti, one could reasonably or one would have reasonably expected the matter to be pursued further ?

SHRI R. K. DHAWAN : Not beyond the line of action taken. That is my understanding.

SHRI NARENDRA P. NATHWANI : You say according to you no further questions would be put.

SHRI R. K. DHAWAN : I am not saying that.

SHRI NARENDRA P. NATHWANI : I am putting to you a specific question. I say that according to you, having regard to the draft answers finalised on 14th, there was no possibility of any Member's putting any question regarding Maruti having used imported machinery ?

SHRI R. K. DHAWAN : On the 16th ?

SHRI NARENDRA P. NATHWANI : After 16th.

SHRI R. K. DHAWAN : How would I know ? I would not know at that time.

SHRI NARENDRA P. NATHWANI : If further questions are put ?

SHRI R. K. DHAWAN : When further question arises, further files would be opened.

SHRI NARENDRA P. NATHWANI : You may answer in any manner you want to answer.

SHRI R. K. DHAWAN : It is certainly for you to decide.

SHRI NARENDRA P. NATHWANI : At least by this time you know that two out of four officers belong to P.E.C.— Projects and Equipment Corporation. At

least by now you know that Mr. Bhatnagar and Shri Cavle, if I am right, were serving in the P.E.C.

SHRI R. K. DHAWAN : Yes, Sir.

SHRI NARENDRA P. NATHWANI : Do you know even now, to-day, that P.E.C. used to import machinery ?

SHRI R. K. DHAWAN : As per the records.

SHRI NARENDRA P. NATHWANI : At least you know or to-day are you in a position to say whether P.E.C. used to import machinery or not ?

SHRI R. K. DHAWAN : At that time I did not know about it. But the file says they were...

SHRI NARENDRA P. NATHWANI : From what little information I have got from the discussions that have gone on before the Shah Commission or in the proceedings of the Shah Commission you know that the P.E.C. used to import machinery from foreign countries which used to be available locally. These officers were making enquiries with persons who had imported the machinery who had acted as the clearing agents of the P.E.C.

SHRI R. K. DHAWAN : I do not know whether they were acting as the clearing agents. According to papers, they were not collecting the information.

SHRI NARENDRA P. NATHWANI : Now I am asking you a question. If officers were collecting material information from the P.E.C. Officers, it was because one of the functions of the P.E.C. was to import machinery on stock and sale basis, on consignment basis. And that consignment would be cleared by local dealers. They would sell it and give an account in respect of such sales to P.E.C.

SHRI R. K. DHAWAN : No, that is not the position. The P.E.C. was not importing machinery. It was issuing licences to certain firms to import machinery and no account was to be given about the sales.

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**SHRI NARENDRA P. NATHWANI :** You may be right. But, may I tell you that I have acted as a Standing Counsel of STC for ten years. I am telling you as a Counsel with what little information that I have got, the licence is always in the name of P.E.C. But they sell to local dealers to utilise them. So, though consignment would be in the name of P.E.C., these dealers are acting for the P.E.C. upon the Letters of Credit. Therefore, do not try to enter into argument by making emphatic assertions about the P.E.C. This is what I am telling you.

**SHRI R. K. DHAWAN :** I am telling you of what the paper says.

Shri Krishan Kant *in the Chair.*

**SHRI NARENDRA P. NATHWANI :** Now, I am putting it to you—are you in a position to contradict that the P.E.C. used to receive consignments for them through these dealers?

**SHRI R. K. DHAWAN :** Well, I do not know that. According to papers they were not supposed to.

**SHRI NARENDRA P. NATHWANI :** If I tell you, you take it that it has gone on record that the P.E.C. imported on stock and sale basis the machinery and these local dealers used to act as agents.

**SHRI R. K. DHAWAN :** This is what the paper says.

**SHRI NARENDRA P. NATHWANI :** What do you understand by the word 'Agent'?

**SHRI R. K. DHAWAN :** I would not know all these things.

**SHRI NARENDRA P. NATHWANI :** Anyone of those agents, dealers, who had received this machinery would have got the information. That would also be found out whether any one of the dealers who had acted as agents of the P.E.C. had sold the machinery to Maruti Ltd. or not. That would be relevant.

**SHRI R. K. DHAWAN :** How do I know whether it would be relevant or not?

**SHRI NARENDRA P. NATHWANI :** Then I come to 'motive'. You were good enough to tell us that so far as Mr. Pai is concerned he had a motive in trying to involve you—of course, falsely in this litigation. I am seeking a little clarification about this information. I will read out from your evidence given yesterday before the Committee. I quote :

"So, I went to his house. He and his wife were there. They gave me a lavish breakfast. He asked me : "You know we have been very close to the Prime Minister and all that. Certain...

I knew what the complaint was, I knew also who had made the complaint because by chance on the morning that this complaint was made I happened to be in the room of the Prime Minister when the particular M.P. came and gave that sheet of paper against Mr. Pai."

What is the name of that M.P.?

**SHRI R. K. DHAWAN :** Dr. (Miss) Sarojini Mahishi.

**SHRI NARENDRA P. NATHWANI :** Further on you said :

"He said : look, you know such and such firm in Bombay was raided by the Income Tax Department and I had some shares in that firm."

He had mentioned the name of the firm. What is the name of the firm?

**SHRI R. K. DHAWAN :** Reliance Textiles.

**SHRI NARENDRA P. NATHWANI :** Further on you said :

"It appeared that some report had come from the Income Tax Department to the Prime Minister alleging something against me. Although I knew it. I said ; I do not know."

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Now, give us the particulars of the report that had come from the Income Tax Department.

SHRI R. K. DHAWAN : It was from the Income Tax Department, Delhi, that some shares which have more market value have been allotted to him at a much less value.

SHRI NARENDRA P. NATHWANI : Is it a limited company ?

SHRI R. K. DHAWAN : I do not know whether it is a limited or a private company but the note said that it constituted company law violation.

SHRI NARENDRA P. NATHWANI : Then you said :

"Then he said : I am told that Shri S. R. Mehta is handling it."

Who is S. R. Mehta ?

SHRI R. K. DHAWAN : He was Chairman of the Central Board of Revenue and Direct Taxes.

SHRI NARENDRA P. NATHWANI : Further you said :

"I do not remember the month. But if you want I will check up the record and let you know the date when the firm was raided."

SHRI R. K. DHAWAN : If I get I will sent the same.

MR. CHAIRMAN : How it is related !

SHRI NARENDRA P. NATHWANI : Because when Mr. Pai comes he could be told of the specific charge.

SHRI R. K. DHAWAN : These were my submissions before the hon'ble Committee.

SHRI NARENDRA P. NATHWANI : The point is this. Mr. Pai is a very responsible person; he has occupied high position, Mr. Dhawan also. Their testimony is in sharp conflict. Suppose he says, 'I do not own any shares in Reliance Textiles'. Let us see what it is. You cannot tell us why he should depose against you. Now one more thing remains. That I will ask later.

SHRI RAM JETHMALANI : I suppose we are not closing the examination now : I should like to ask him some questions after Mrs. Gandhi has been examined.

MR. CHAIRMAN : His evidence is not concluded. Now, Mr. Dhawan, were you a shareholder of Maruti Ltd. ?

SHRI R. K. DHAWAN : Yes; I have shares worth Rs. 100, ten shares.

MR. CHAIRMAN : Were you one of the promoters in the memorandum of association of Maruti Ltd. ?

SHRI R. K. DHAWAN : Yes.

MR. CHAIRMAN : Do you still hold them ?

SHRI R. K. DHAWAN : They must be still in my name; they are still in my name.

MR. CHAIRMAN : You may have to appear again as some hon. Members want to ask some more questions; you may go now; you will be informed again when you should come.

SHRI R. K. DHAWAN : I will get a letter fixing the date and time ?

MR. CHAIRMAN : Yes.

(The witness then withdrew.)

(The Committee then adjourned)



Wednesday, the 5th July, 1978

PRESENT

Professor Samar Guha—*Chairman*

MEMBERS

2. Shri Halimuuddin Ahmed.
3. Shri O. V. Alagesan.
4. Shri Hitendra Desai.
5. Shri Ram Jethmalani.
6. Shri Krishan Kant.
7. Professor P. G. Mavalankar.
8. Shri R. Mohanarangam.
9. Dr. V. A. Seyid Muhammed.
10. Shri Narsingh.
11. Shri Narendra P. Nathwani.
12. Shri Meetha Lal Patel.
13. Shri B. Shankaranand.
14. Shri Madhav Prasad Tripathi.
15. Shri Ravindra Varma.

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer.*

Shri M. P. Gupta—*Senior Legislative Committee Officer.*

WITNESS

Shrimati Indira Gandhi, (*former Prime Minister of India*).

(*The Committee met at 15.00 hours*)

Evidence of Shrimati Indira Gandhi

MR. CHAIRMAN : Mrs. Gandhi, you have been asked to appear before this Committee to give evidence in connection with the question of Privilege regarding alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain

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questions in the Lok Sabha on Maruti Ltd. I hope you will state the factual position and your version will be frank and truthful to enable this Committee to arrive at a correct finding.

I may inform you that under Rule 235 of the Rules of Procedure of Lok Sabha, the evidence that you may give before the Committee is to be treated by you as confidential till the report of the Committee and its proceedings are presented to the Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of Privilege. The evidence which you will give before this committee may be reported to the House.

Now you may please take oath or affirmation as you like.

SHRIMATI INDIRA GANDHI : Mr. Chairman, I have already sent you a statement in which I have expressed my difficulty. While I have the greatest respect for the House and the Committee, consisting of so many senior Members present to-day, I find myself in a very peculiar position.

MR. CHAIRMAN : Whatever you have said, it will be very difficult for the Committee to get it on record unless and until you take the oath. Oath has to be taken first.

SHRIMATI INDIRA GANDHI : I am told that only a witness can take an oath. Here I am not a witness.

MR. CHAIRMAN : Whatever it is, it is the procedure. Unless and until oath or affirmation is taken, nothing can be got on record of the person or the witness, whatever it may be. You may raise the point. You have sent us three statements. Certainly we will give a hearing to you and we will consider and give our opinion.

SHRIMATI INDIRA GANDHI : Once I take an oath, I am open to cross-examination because I become a witness. My whole point is that I am not here as a witness. I am here as an accused.

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**MR. CHAIRMAN :** Even this point of your submission is very difficult to record. Unless and until you take the oath, nothing can be recorded by this Committee. That is the difficulty. You would understand my point. I am guided by certain conventions, precedents and procedure. That is my difficulty.

**SHRI B. SHANKARANAND :** Mrs. Gandhi has asked you whether she is a witness. Unless you tell her that she is a witness, how can you compel her to take oath?

**MR. CHAIRMAN :** We have discussed this point earlier.

**SHRI B. SHANKARANAND :** No, no. This point has not been finalised. Under the rules it is not compulsory that the Committee shall administer oath.

**MR. CHAIRMAN :** We have discussed this matter at length.

**SHRI HITENDRA DESAI :** I want to state it before you that the point she has raised—it does not matter that she has not taken oath—has to be decided first before she is called upon to give evidence. That is my view.

**SHRI RAM JETHMALANI :** I shall suggest this. After all she has raised this point. If she has to support that by any argument, let us be clear that we want to hear it.

**MR. CHAIRMAN :** Unless oath or affirmation is taken, no statement can be recorded.

**SHRI RAM JETHMALANI :** Whatever be the contention of the witness, whether it is good, bad or indifferent, she has a right to be heard in support of it. Even if she says that she is not liable to take oath, at least she has to be heard in support of it. Then we can decide it.

**MR. CHAIRMAN :** Mrs. Gandhi, just for a few minutes you may withdraw. We would like to discuss whether we can hear you before you take the oath or affirmation. Please excuse me for the trouble.

*(The witness then withdrew)*

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*(The witness was called in again)*

**MR. CHAIRMAN :** I am sorry to give you a little trouble but there are certain points which require clarification. There are no precedents to guide us. We have to guide ourselves, on the points that you have raised. After having discussions in this Committee, it is the opinion of the Committee that you will be permitted to make a submission, strictly on the legal points—why you feel that you are not obliged to take oath or affirmation; but on the merits of the case, you are not to make any submission before you take oath or affirmation.

**SHRIMATI INDIRA GANDHI :** I will read out my statement. I don't think it deals with the merits at all. I will try to go by that; if I enter into, something which you think concerns merit, please remind me.

**SHRI RAM JETHMALANI :** The only statement that she wants to make is to read her letter. That letter we have already seen. We have read it very carefully. We want to get something more.

**MR. CHAIRMAN :** If she is inclined to read it once more, or if she wants to elaborate, I will permit her. It has happened in the case of other witness Mrs. Gandhi, are you reading the latest one?

**SHRIMATI INDIRA GANDHI :** Yes.

"Sir, and hon. Members :

On June 16, 1978 I submitted a statement to this Hon'ble Committee containing various objections to the proceedings and hoped that it would not be necessary for me to appear in person. However, I received a communication on behalf of the Hon'ble Committee asking me to appear before it. This communication gives no clue as to whether my objections have been considered..."

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I am leaving out the next sentence. Presumably, you don't want me to read it out here, although it is the basis of the whole thing.

"... While reiterating all that I have said in my earlier statement, I should like to add a few words. I respectfully submit that I cannot be compelled to depose before this Hon'ble Committee in these proceedings. I am accused of breach of privilege. Breach of privilege is an offence. According to May, —and I quote—"When any of the rights or immunities, both of the members individually and of the Assembly in its collective capacity which are known by the general name of privileges, are disregarded or attacked by any individual or authority, the offence is called a breach of privilege and is punishable under the Law of Parliament. Under Article 20(3) of the Constitution, "no person accused of an offence shall be compelled to be a witness against himself." The expression 'offence' in that Article does not mean merely an offence under the Indian Penal Code. According to our Supreme Court, it has the same meaning as defined in the General Clauses Act which states that—I quote—"offence shall mean any act or omission made punishable under any law for the time being in force." And it is by virtue of Article 105(3) of the Constitution that breach of privilege is punishable by our Lok Sabha. Nor does Article 20(3) confine this fundamental right to proceedings before courts of law. In a recent judgement the US Supreme Court has observed that this constitutional privilege to silence can be claimed in any proceeding—I quote—"be it criminal, investigatory or adjudicatory."

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Our Supreme Court also has expressed the following view—I quote :

"We do not know that it would be right to read the majority decision as laying down the general proposition that when there is a conflict between the provisions of the latter part of Article 194(3) [in the present case the corresponding Article is 105(3)] and any of the fundamental rights guaranteed by Part III, the latter must always yield to the former. The majority decision, therefore, must be taken to have settled that Article 19(1) would not apply and Article 21 would."

Elaborating this view, a Full Bench of the Madras High Court held that Article 21 which overrides Article 194(3) of the Constitution must be construed in the context of Article 20 as well.

In the many years of my parliamentary career I have had and shall always have the highest respect and regard for the prestige, the dignity, the independence of the House and its committees. I would not have chosen to exercise this fundamental right, and would have gladly deposed before this Hon'ble Committee, had it not been for the fact that, going by the statements made by different spokesmen of the Government, prosecution against me on the same grounds seems to be imminent. When I am facing the prospect of imminent prosecution I cannot be compelled to disclose my defence in advance. No accused has ever been called upon to do so. If I depose before this Committee, my defence in the imminent criminal cases—is bound to be prejudiced and indeed pre-empted. Worst of all, any adverse finding against me by this Committee will hang as a compulsive pall over any criminal court.

Fairplay is a fundamental principle of natural justice recognized by our Supreme Court. In fact, the right enshrined in Article 20(3) of the Constitution is

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available to me in these proceedings in view of the imminence of my prosecution on the same allegations.

While admitting this motion, the Hon'ble Speaker dealing with the objection raised on the floor of the House had ruled as follows :—I quote :

"As far as the Shah Commission aspect is concerned, there also I have gone through the entire matter. I have gone through the terms of reference of the Shah Commission. They are confined to Emergency excesses and matters connected with them. This event has taken place much earlier than the declaration of Emergency. Therefore, I thought it was not necessary to go by that consideration."

It is clear from the above that the motion was admitted on the ground that there would be no parallel proceedings. Shri J. C. Shah, however, did hold the inquiry into these same allegations. In these circumstances, I respectfully submit that the very basis on which these motions of privilege were admitted no longer exists and the matter may, therefore, be closed.

MR. CHAIRMAN : About that part of your statement where you have said :

"From statements made by different spokesmen of Government prosecution on the same grounds seems imminent..."

The Committee is not concerned with this, and we are not in possession of any factual knowledge about it. Therefore, in this point I do not find any relevance to the question in regard to the question that you have raised in regard to taking the oath or affirmation, but on the other point which you have raised, if any Members want...

SHRI RAM JETHMALANI : To be completely fair to her, it is true that she refers to facts which she should normally

state on oath, but I think we will be less than candid if we deny that on these facts a prosecution against her may well be imminent in the sense in which she claims it. Therefore, I would suggest that this Committee should deal with her objection on that footing that today, tomorrow, the day after, it may happen, and then you might have to reverse your ruling. So, I would advise that we proceed on that assumption, and it is fair to tell the witness that so far the law is concerned today, the person accused of an offence means a "person formally accused *in presento*, and not *in futuro*", not even imminently, as the position now stands. I am stating something which the Supreme Court has decided as recently as 1978. Therefore, merely because a prosecution is imminent against her on the same facts, that does not make her an accused person under article 20(3). But she has raised a vital question, *viz.*, that in these proceedings she is in the position of an accused person. That is a matter which we should decide. If she has anything more to add to that submission, she might well add it, but I suppose that after she withdraws, the Committee will decide.

SHRIMATI INDIRA GANDHI : It is in your wisdom to take whatever decision you think fit. In answer to the question raised by the hon. Member, legally, technically, he is perfectly correct and I am aware of that position, but a person who is going to be tried, I am sure you will agree, looks at it from a slightly different point of view.

SHRI NARENDRA P. NATHWANI : A doubt lingers in my mind. The two things are distinct. To take oath is one thing, and to refuse to answer any question which is of an incriminating nature is another, even if it is suggested remotely that that answer might be incriminating. Therefore, having regard to this difference, I would like to know whether she wants to say anything to supplement her statement that she refuses to take oath at this stage.

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**SHRI RAM JETHMALANI :** With your permission, may I take only one minute ?

Even in terms of article 20, according to which the whole privilege is available to her, the law is fairly settled, subject to what we decide hereafter, that the question must be put and then the witness has the constitutional right to say :

"In my opinion this answer is going to incriminate me in some pending or imminent prosecution."

**SHRI B. SHANKARANAND :** That is after taking the oath.

**SHRI RAM JETHMALANI :** Yes. Then, the Committee or the Court has to decide whether the apprehension which the witness entertains is reasonable, and then alone can the claim of privilege be upheld. Therefore, even though article 20 is fully applicable, she will have to take the oath, she will have to hear the question and to some question she might find it very easy to give an answer without incriminating herself, and if there is any question which is irksome or inconvenient in the sense of being incriminatory, she has the right to claim that protection, and then the Committee will decide whether that claim should be upheld *qua* each objection. There cannot be a blanket objection in advance that she will not answer any question whatsoever.

**SHRI HITENDRA DESAI :** Let us not argue on this.

**SHRIMATI INDIRA GANDHI :** Firstly, I thought I was not called as a witness. Secondly, not being a legal person, it is extremely difficult for me to decide which answer is incriminating and which is not. So far as I am concerned, no question is embarrassing, I have no difficulty in answering any question, but I personally do not know what line will be taken in a court of law about it.

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**PROF. P. G. MAVALANKAR :** May I seek one clarification ? She read out most of the parts of the communication which she sent today to us with regard to legal matters, but she has been contending that she is not obliged to come as a witness and therefore she will not take the oath. I would like to know whether she would like to elaborate this stand in terms of legal matters further. That is not clear to me from the statement.

**SHRIMATI INDIRA GANDHI :** The hon. Member spoke about it just now. I say that even as regard this Committee I am an accused.

**MR. CHAIRMAN :** The hon. Member asks if you want to make any further explanation or if you want to elaborate it or add any other new point.

**SHRIMATI INDIRA GANDHI :** I think it is quite clear.

**DR. V. A. SEYID MUHAMMED :** I think we need not go into the details of the arguments which have been put forward whether a person is entitled to have a blanket protection or only regarding particular matters which may be incriminating. I have my difference of opinion which need not be stated here. That will be considered along with the general question.

**SHRI B. SHANKARANAND :** This matter will be decided in the absence of the witness and we will see what action has to be taken.

**MR. CHAIRMAN :** I have to draw the attention of Mrs. Gandhi to certain things.

In the concluding part of your statement you have mentioned very clearly :

"Under these circumstances (that you have explained earlier) I respectfully submit that the very basis on which this particular motion of privilege was adopted no longer exists, and the matter may therefore be closed."

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It means that if the Committee upholds your submission and the legal point you have raised in your defence as to why you do not feel inclined to take the oath or affirmation, if the Committee agrees with your contention, this privilege motion is dropped against you. That is for the Committee to decide. Whether it is within the competence of the Committee or whether the Committee can do it or not is a different thing. We shall discuss it. We shall go in to the matter in detail, take legal opinion, whatever possible avenues are available we shall explore to find it out and see that all justice is done to you. But if the opinion of the Committee is otherwise, I have to draw your attention to one thing. At the moment I do not say whether this provision will be immediately attracted or not, it may do so after our deliberations and conclusions are reached.

Art. 105 (3) says :

'In other respects, the powers, privileges and immunities of each House of Parliament, and of the members and the Committees of each House, shall be such as may

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from time to time be defined by Parliament by law, and until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution.'

Therefore, it is the House of Commons practice that is being followed.

Now, the following are examples of the contempt of a witness : refusing to be sworn or to take upon himself a corresponding obligation to speak the truth ; trifling with the Committee or using saucy language while returning answers to the Committee ; appearing in an intoxicated condition, and so on. Now, it is the first point I want to repeat, viz., refusal to be sworn or take upon himself a corresponding obligation to speak the truth. This may or may not be attracted. After we discuss the points you have raised, we will come to a decision as to whether that provision is attracted or not.

*(The witness then withdrew)*

Friday, the 7th July, 1978

**PRESENT**

Professor Samar Guha—*Chairman*

**MEMBERS**

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai.
5. Shri Krishan Kant
6. Professor P. G. Mavalankar
7. Dr. V. A. Seyid Muhammed.
8. Shri Narendra P. Nathwani
9. Shri Meetha Lal Patel
10. Shri B. Shankaranand
11. Shri Madhav Prasad Tripathi
12. Shri Ravindra Varma

**SECRETARIAT**

Shri I. Pershad—*Chief Legislative Committee Officer*

Shri M. P. Gupta—*Senior Legislative Committee Officer*

**WITNESSES**

- (1) Shri T. A. Pai, (Member, Lok Sabha, former Minister of Industry and Civil Supplies).
- (2) Shri B. D. Kumar, (former Chairman of Projects and Equipment Corporation).

(The Committee met at 10.00 hours and again at 15.00 hours)

**(i) Evidence of Shri T. A. Pai**

MR. CHAIRMAN : Mr. Pai, you have been requested to appear before this Committee again, to give evidence in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

I hope you will state the factual position and your version of the events freely and truthfully.

*Shri T. A. Pai*

I may inform you that the evidence that you will give before the Committee is to be treated by you as confidential till the report of the Committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. The evidence which you will give before the Committee may be reported to the House.

Now you may take your oath or affirmation.

(The witness took the oath)

MR. CHAIRMAN : Certain matters have been brought to our attention. When you met Mrs. Gandhi in connection with certain complaints against certain officials of yours, you stated that Mr. Dhawan was also present. Are you sure that Mr. Dhawan was present ?

SHRI T. A. PAI : When I met Mrs. Gandhi, Mr. Dhawan was not present. I have clearly stated that when I was going out after my talk with her, she called Mr. Dhawan and gave instructions.

MR. CHAIRMAN : Do you remember what were those instructions ?

SHRI T. A. PAI : She had said : "Call the CBI and raid their houses."

MR. CHAIRMAN : Do you remember that Mrs. Gandhi gave you the names of the officials ; and how did she spell out exactly—were their names given ? Do you recollect those names ?

SHRI T. A. PAI : I don't recollect. I think whatever I had to say I have said before the Shah Commission. That statement is before you.

MR. CHAIRMAN : Do you still recollect that Mr. Dhawan had telephoned to you prior to this meeting ? And did he name the officials also ?

SHRI T. A. PAI : Yes. On his complaint, I had called the officers to verify and also the Manager of Ballibois.

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MR. CHAIRMAN : Do you recollect whether he exactly pronounced the names of the officers ?

SHRI T. A. PAI : He had mentioned the names of Krishnaswamy and Rajan.

MR. CHAIRMAN : Did he indicate to you the full names of Krishnaswamy and Rajan or only mentioned Krishnaswamy and Rajan ?

SHRI T. A. PAI : Krishnaswamy and Rajan who were working in my Ministry.

MR. CHAIRMAN : He also categorically mentioned they were officers belonging to your Ministry ?

SHRI T. A. PAI : Yes.

MR. CHAIRMAN : Would you be surprised to know that Mr. Dhawan categorically denied that he had any telephonic discussion with you in the matter of the complaint against Krishnaswamy and Rajan that you have mentioned in your evidence ?

SHRI T. A. PAI : I do not know. As a matter of fact, Mr. Chairman, I have not complained anything against Mr. Dhawan, nor have I filed any complaints before the Shah Commission. The complaint was filed by Krishnaswamy's father, and I was asked to give the information that I had in my possession, and I have given it, that he telephoned to me. Otherwise, I would not have called my officers or Batliboi's Manager to verify what the complaint was about.

MR. CHAIRMAN : These are two contradictory versions. You were the recipient of the telephone call, and the other is the caller. The caller says he did not telephone you, and you say you did receive. Can you throw some additional light on it so that we may get to know the correct version ?

SHRI T. A. PAI : I have stated in my version before the Shah Commission and Mrs. Gandhi has also said in her statement before the Shah Commission that she did not speak to me in Mr. Dhawan's

presence. I had not said she had spoken to me in Mr. Dhawan's presence at all. On the other hand, my statement was restricted to this, that after I had a discussion with her, or she had a discussion with me, as she was going out, she called Mr. Dhawan. The whole matter has been gone into by the Shah Commission. I was only saying that he had been called inside, but beyond that I have not said anything about him.

MR. CHAIRMAN : He telephoned to you prior to your meeting Mrs. Gandhi ?

SHRI T. A. PAI : Yes.

MR. CHAIRMAN : Can you give us an idea when he gave you the telephone call ?

SHRI T. A. PAI : One or two days prior to my being called, because I have made a statement before you already that by that time I had called these officers and also Batliboi's Manager. And before the Shah Commission also Batliboi's Manager has given evidence that I had called him and asked whether they had any complaints, and he had said he had no complaint whatsoever against my officers.

MR. CHAIRMAN : Has there been any occasion for you to adopt an attitude of constraint or unhappiness towards Mr. R. K. Dhawan ?

SHRI T. A. PAI : No.

MR. CHAIRMAN : Is it a fact that you came to know that Mr. R. K. Dhawan had lodged a complaint against you with the CBI to conduct some enquiry about certain matters against you ?

SHRI T. A. PAI : I am not aware of that.

MR. CHAIRMAN : Is it a fact that you asked Mr. Dhawan to see you in your house and he said that it might not be possible for him to see you.

SHRI T. A. PAI : No, Mr. Chairman. In 1976 October, when I was in Baghdad, I was informed by my wife that there was a raid in my brother-in-law's house at Manipal, my place.



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PROF. P. G. MAVALANKAR :  
Brother-in-law means wife's brother ?

SHRI T. A. PAI : Sister's husband, K. K. Pai. He happened to be the Chairman of the Syndicate Bank. I did not know what this raid was about and what the complaint was. On my return, I had called Mr. Pranab Mukherjee, who happened to be the Minister incharge of banking, and asked him whether he knew anything about this. He expressed surprise. I said : "It is not because he is my brother-in-law. He happens to be the Chairman of an important public sector bank. If there are any complaints on which this action has been taken, it should have come to your notice". He said he did not know anything about it. Then I asked Om Mehta. Om Mehta also expressed surprise. He said : "If my own brother's house is raided, I would not know".

I had a letter from my uncle, Dr. Pai, giving me a description of what happened during the raid, how my sister was humiliated, and he also mentioned there : "Perhaps the people in authority do not know what is happening. So, I called on Mrs. Gandhi and told her : "Madam, such and such a thing has happened. I do not know whether you are aware of that". She expressed surprise, she said she would look into it. So, I had asked Mr. Dhawan to see me the next morning and he did come, and he told me that Mrs. Gandhi had asked him to look into this. He said : "It appears you are considerably disturbed". I said : "I am not disturbed, but I am surprised that such a thing should have happened irregularly because when the Governor of the Reserve Bank had met me, he told me he did not know anything about it".

Then, Mr. Chairman, somebody gave me the letter which was the basis of this raid. One of the Bank Managers brought to my notice the reason why this raid had taken place. This complaint was purported to have been signed by two Members of Parliament, one Mr. Krishnan of the CPI, a Member of the Rajya Sabha, and the other Mr. Choudhury, another Mem-

ber of the Rajya Sabha from Andhra Pradesh. So, I got in touch with them and both said that they had not signed and that they would like to see the letter. When they saw the letter, they were surprised to find that their signatures had been forged. They wrote a letter to Mrs. Gandhi saying that "we are surprised that such and such thing should have happened based on the letter purported to have been signed by us. We want to inform you that these are forged signatures. We want this to be investigated and we should be informed of this". Then Mr. Dhawan telephoned to me and said : "Sir, the officers are considerably disturbed that you are pursuing the matter." I said : "I only to want to verify what is the exact truth or there is any motive behind it". That is all the conversation that has taken place between me and him.

MR. CHAIRMAN : A question was put to Mr. Dhawan that as far as it was known Shri Pai had good relations with Mrs. Gandhi and in reply to that he made the following statement and I quote :

SHRI T. A. PAI : He also mentioned to me : "Mrs. Gandhi has high opinion about you and she thinks, you are the most practical Minister amongst all the Ministers". That was the compliment passed on to me. Whether it was the compliment of Mrs. Gandhi or his own, I do not know.

MR. CHAIRMAN : I am quoting :

"I would not like to comment whether Mr. Pai was very responsible and I was irresponsible, because that is not my job. Mr. Pai might have been very close to Mrs. Gandhi, I do not know, but he was very unhappy on my personal account, that I know to my personal knowledge. This is a fact which can be borne out . . .

There was a complaint against Mr. Pai, and those papers also were referred by me to Mr. Sen. Somehow or other Mr. Pai came to know about it. I had never

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spoken to Mr. Pai, I never spoke to him on the telephone, never discussed any official matter with him. One day he rang me up on the RAX telephone and said : "I want to see you". I was a little taken by surprise that a Cabinet Minister wanted to see me. I told him, "Sir, why do you want to see me. I will come". He said : "You come and have breakfast with me". I said : "I go to duty by 8 O'clock, I cannot. It is very good of you to invite me. Let me come and see you sometime". He said : "No, you come to my house on the way to your duty. By 7.30 we will be ready". So, I went to his house. He and his wife were there. They gave me a lavish breakfast. He asked me : "You know we have been very close to the Prime Minister and all that. Certain persons, it appears, have complained to the Prime Minister. That, you know, goes on". He was trying to build up a case. He said : "I understand that the CBI is also making an enquiry against me". I said : "I do not know". He said : "Don't try to hide. It is perfectly all right. It is the prerogative of the Prime Minister to make an enquiry. I am told you have referred the complaint. Who has complained, I would like to know". I knew what the complaint was, I knew also who had made the complaint because by chance on the morning that this complaint was made I happened to be in the room of the Prime Minister when the particular MP came and gave that sheet of paper against Mr. Pai. In order to discharge my duty as Private Secretary to the Prime Minister, it is necessary that secrecy has to be maintained. Howsoever a Minister is close to the Prime Minister, how can I disclose secret information to him. He became angry with me.

Shri T. A. Pai

He said : look you know such and such firm in Bombay was raided by the Income-Tax Department and I had some shares in that firm. It appeared that some report had gone from the Income-Tax Department to the Prime Minister alleging something against me. Although I knew it, I said : I do not know. Then he said : I am told that Shri S. R. Mehta is handling it. Then he said : Why don't you tell Mr. S. R. Mehta and try to help me ? Sir, I could not put a word to Shri S. R. Mehta. I was all surprised. When I left his house I got the impression that he was very unhappy with me."

Have you any comment to make on this ?

SHRI T. A. PAI : I think it is all a fabrication of his imagination. I had not referred to any raid on any firm in Bombay. I had no information that there was any complaint against me which he was pursuing. This particular incident had happened which you are now looking into, in 1975. He came to my house for breakfast in October 1976. I did not ask him what opinion the Prime Minister had about me. I did not ask him to tell me who made the complaint to her, nor did I ask him to speak to Mr. S. R. Mehta because I knew S. R. Mehta personally. I never had a talk with Shri S. R. Mehta. If I wanted I would not have required Mr. Dhawan's intervention.

About lavish, of course, I offered him breakfast. Anybody who comes to my house in the morning before I have my breakfast, is entitled to share what we have got. And if idli/dosa is lavish, may be for others, we always take it and I do not consider it lavish. I did not speak on the RAX. I asked my office to get him on the phone and I asked him to come to me next morning as I wanted to tell him about the letter that had been received. He said that he would come on his way to the office. I said : "All right, you have breakfast". But breakfast was not meant to be

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a bribe. I did not make any remarks. I did not ask him any such thing. He himself volunteered and said : "The Prime Minister was telling me that you are completely disturbed and I am looking into the matter". That is all he told me.

MR. CHAIRMAN : Are we to understand, according to your version, that the question related to some irregularity, somehow or the other of income tax in relation to a certain company where it has been alleged that you had your shares, is not true ?

SHRI T. A. PAI : I had from 1972— even before I joined the Cabinet—some share in that company 1.5 per cent of the Capital. I was regularly submitting a return to Mrs. Gandhi.

MR. CHAIRMAN : Which company ?

SHRI T. A. PAI : The name of the company is Reliance Textiles. I was filing this return with Mrs. Gandhi and the President of the Indian National Congress. According to the assets that I held on 31st of March every year from 1972. There was nothing new. I did not acquire them the moment I became the Minister. If there was a raid on one of the Directors' house who happened to be my friend, I kept quiet, because I did not want to interfere with it. But Mr. Maurya, who was my Minister of State came to me one day and said : "Mr. Dhawan was complaining that you were not helping in collecting funds". He said : "There was one Minister who was not cooperating". I must say that Mrs. Gandhi never asked me to collect money and if Mr. Dhawan thought that I should also collect money, I do not know whether it was his opinion. He said : "Be careful. Do not fall into this trap. It is all politics". I must say that Mr. Maurya advised me not to do anything because these people were talking something like this.

SHRI NARENDRA P. NATHWANI : When was this office raided ?

SHRI T. A. PAI : This raid took place in August 1976.

SHRI NARENDRA P. NATHWANI : You said that the house of one of the Directors who happened to be your friend was raided. Do you know his name ?

SHRI T. A. PAI : Mr. Ambani.

SHRI NARENDRA P. NATHWANI : You said that you were expected to raise fund. This was what Mr. Dhawan tried to tell.

SHRI T. A. PAI : This is second hand information. Mr. Dhawan had never asked me and Mr. Maurya told me that this was the talk that was going on about me. Mr. Dhawan and I had never any discussion at any time. The first time I met him was in 1975 as Chairman of the LIC.

SHRI NARENDRA P. NATHWANI : You had heard the evidence that he gave before us. He is attributing motive on your part that you had tried to involve him, because according to him, there was no person present when certain instructions were given by Mrs. Gandhi to Mr. Sen. When Mrs. Gandhi sent for Mr. Dhawan and asked him to refer the matter to Mr. Sen, he said, no. When asked what was the motive, he said something about collection of money and came out with this story. I am merely wanting to ask you one simple question about enumerating this thing. What he had stated had been read out to you and you have denied this. Can you give any motive why he should have tried to give this false story involving you ?

SHRI T. A. PAI : Well, I do not know. As a matter of fact, before the Shah Commission, he said that I wanted him to speak to Mr. S. R. Mehta. As a matter of fact, Mr. Chairman, in my statement, I have not accused anybody. I only gave the facts. There was no question of any motive at all ; there was no question of hiding any fact. I have got nothing in my mind against Mrs. Gandhi and Mr. Dhawan. If I had not been asked to give evidence, I would not have come forward to give evidence, so, there is no question of any motive.

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**SHRI NARENDRA P. NATHWANI :** I am not referring to your motive. I am trying to find out whether you can give any reason why Mr. Dhawan should give this version before us involving you.

**MR. CHAIRMAN :** I draw your attention to this aspect of motive.

**SHRI NARENDRA P. NATHWANI :** It is for us to find out what is the truth. But when somebody gives a false statement and I am involved in this affair, then one of the most material things is to know why a false statement should have been made.

**MR. CHAIRMAN :** If you kindly use the words which would be helpful to us, it would be better. He has said whatever facts he has got in his possession which can throw some light.

**SHRI NARENDRA P. NATHWANI :** You cannot escape from the position. He has given, according to him, a correct version involving Mrs. Gandhi and Mr. Dhawan. That is why, he has come out with this false story. Is that your feeling or not ?

**SHRI B. SHANKARANAND :** He has never said that. Why does the hon. Member put words into the mouth of the hon. witness which he has never said and things like that ?

**SHRI NARENDRA P. NATHWANI :** Mr. Pai had stated here and elsewhere that Mrs. Gandhi in his presence asked Mr. Dhawan to give certain information or message to Mr. Sen to investigate or verify or according to your version to check up certain information, certain complaints received against officers of your department. This is what you have stated both here and elsewhere and also before the Shah Commission. That is why, in order to discredit your version, obviously this story has been made.

**SHRI HITENDRA DESAI :** You met Mrs. Gandhi probably at her residence, I believe, before lunch or what was the time?

**SHRI T. A. PAI :** At one O'clock. I was there for about 12—15 minutes.

**SHRI HITENDRA DESAI :** Then Mr. Dhawan came.

**SHRI T. A. PAI :** He was outside. In the room only I and Mrs. Gandhi were there. She did not talk to me in his presence.

**SHRI HITENDRA DESAI :** After you left, he was called in.

**SHRI T. A. PAI :** We were both coming out. I was just behind her.

**SHRI NARENDRA P. NATHWANI :** According to your information, no complaint had been filed against you before CBI.

**SHRI T. A. PAI :** I was not aware of any complaint. As a matter of fact, the Prime Minister should have dismissed me on the spot if she was satisfied with it. When I went to her with this letter, she said she did not know anything about it. Otherwise, she would have said 'I have received complaints against you' and I would have asked her for an investigation.

**PROF. P. G. MAVALANKAR :** Can you tell us whether you invited Mr. Dhawan for breakfast specifically with a view to finding out from him the various matters relating to that particular raid ? How long was he with you on that day at breakfast ?

**SHRI T. A. PAI :** Actually, he just took his breakfast; it may not be more than half-an-hour.

**PROF. P. G. MAVALANKAR :** But Mr. Dhawan in his evidence before us some time back, suggested that you were both disturbed and also anxious and that is why you invited him to your residence for breakfast and wanted to know things from him directly.

**SHRI T. A. PAI :** I was not disturbed. I had gone to Mrs. Gandhi and had also told her that I was not worried about it but that I was only bringing to her notice

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certain things which had happened. My sister had 40 sovereigns of gold which was given to her thirty years ago at the time of her marriage. The officers who had gone there had specially been instructed to humiliate those people as much as they could. I saw the inventory—the number of socks, the number of shoes, the number of pants etc. My sister had been asked whether she is the daughter of a Maharaja. So, I told the Prime Minister that it appears this question was asked and, by implication, the officers were asking if I am the son of a Maharaja. If I were disturbed I would not have mentioned this to her. I only wanted to bring it to her notice lest she ask later on why I did not bring it to her notice.

I also told her that Pranab told me that the banking department was not aware of what was happening.

**PROF. P. G. MAVALANKAR :** During your Ministership, was there any occasion when Mrs. Gandhi talked to you in confidence about any complaint received from Members of Parliament either against you or your sister ?

**SHRI T. A. PAI :** Absolutely nil, because all my assets were known to her.

**PROF. P. G. MAVALANKAR :** Were you aware of the point made by Mr. Dhawan that some MPs, either of the Lok Sabha or of the Rajya Sabha, complained about you to the Prime Minister ?

**SHRI T. A. PAI :** I would not know.

**PROF. P. G. MAVALANKAR :** When Mr. Dhawan was giving evidence, the Chairman said this :

"Mr. T. A. Pai informed this Committee that Mrs. Gandhi called Mr. Dhawan in his presence and told him to ask Mr. Sen to start CBI enquiries against all these four officers against whom she had received some complaints of their being corrupt and also causing harassment to the ma-

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nagement of Batliboi. Mr. Pai further informed this Committee that Mr. Dhawan telephoned him a few days prior to these complaints and he named the officers also. He also stated that Mr. Dhawan must have carried to Mrs. Gandhi the impression that these officers were corrupt and Batliboi was being harassed in the name of a Parliamentary question."

Then the Chairman asked Mr. Dhawan : 'Do you think this statement is correct or incorrect ?' and the reply given was : 'Totally incorrect ; totally false'. What have you to say about this ?

**SHRI T. A. PAI :** I had narrated the incident as it happened. I had said that Mr. Dhawan telephoned to me complaining about harassment by my officers, and that I had called the Manager of Batliboi. That is part of the statement I had made, and I stand by it.

Secondly, regarding Mrs. Gandhi's calling him in my presence, all that I had said was that Mrs. Gandhi in her statement, said she had not spoken to me in the presence of Mr. Dhawan. I never said Mr. Dhawan was present when the discussion between the two of us was taking place : all I said was that as we were going out it happened in my presence and I was aware of what she told him. To that extent, it is correct.

**SHRI NARENDRA P. NATHWANI :** You have said your sister's house was raided at Manipal : When was it ?

**SHRI T. A. PAI :** On October 15, 1976.

**SHRI NARENDRA P. NATHWANI :** Did you pursue the matter in order to find out what was at the bottom of it ?

**SHRI T. A. PAI :** Since the Parliament Members themselves had said they had not sent any letter, I felt it was a deeper conspiracy. My feeling was that since I was keeping away from all these groups and was not one of them, nor even tried

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to win favour with those people, in order to see that I was humiliated and brought to my knees, my relations were being harassed.

**SHRI NARENDRA P. NATHWANI :** In order to humiliate you also indirectly ?

**SHRI T. A. PAI :** Naturally. But if they had anything against me, they should pursue it directly against me.

**SHRI NARENDRA P. NATHWANI :** At the time of the raid, when you made enquiries from the two MPs and found there was no substance in the statement that there was any such letter, did it strike you that it may be that this kind of harassment to humiliate you and your family members was because of the incident of 5th May 1975 in regard to which you tried to protest in writing ?

**SHRI T. A. PAI :** I could not relate that incident with what happened subsequently.

**SHRI KRISHAN KANT :** When Mrs. Gandhi called you, did she refer to her having received any complaint from MPs

or others ?

**SHRI T. A. PAI :** Absolutely not.

**SHRI KRISHAN KANT :** I mean, about the officers.

**SHRI T. A. PAI :** About the officers, she said there was some complaint that they were harassing Batliboi.

**SHRI KRISHAN KANT :** When she referred to these complaints about the officers harassing Batliboi, did she refer to complaints received from MPs ?

**SHRI T. A. PAI :** No.

**SHRI KRISHAN KANT :** So, she merely said there were complaints, without naming anybody, but Mr. Dhawan rang you up a day or two earlier, naming the officers ?

**MR. CHAIRMAN :** Mr. Pai, thank you for your kindly taking the trouble to come and appear before us to-day. Thank you.

*(The witness then withdrew)*

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## (ii) Evidence of Shri B. D. Kumar.

**MR. CHAIRMAN :** Mr. Kumar, you have been asked to appear before this Committee to give your evidence in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd. I hope you will state the factual position and your evidence will be frank and truthful.

I may inform you that the evidence that you may give before this committee is to be treated by you as confidential till the report of the committee and its proceedings are presented to Lok Sabha. Any premature disclosure or publication of the proceedings of the committee would constitute a breach of privilege.

The evidence which you will give before this committee may be reported to the House.

You may now take oath or affirmation as you like.

*(The witness made affirmation)*

**MR. CHAIRMAN :** Mr. Kumar you have sent us a statement from Bangkok on 20th June. Would you read the statement a little slowly?

**SHRI B. D. KUMAR :** I was working as the Chief Controller of Imports and Exports in the Ministry of Commerce, from May 1974 up to the end of November 1975, when I retired from the Government service. I was appointed in March 1975 as a part-time Chairman of the Project and Equipment Corporation (a subsidiary of the State Trading Corporation—a Government of India undertaking) and continued to discharge the duties in that capacity till the first week of October 1975; this work was undertaken by me

in addition to my functioning as a full-time Chief Controller of Imports and Exports.

I am recording this statement in Bangkok without having an opportunity of consulting the relevant records. This statement is therefore based mainly from my recollection of facts relating to the action taken by the S.T.C. against Sri Cavale (Marketing Manager) and Sri Bhatnagar (Deputy Manager) in the P.E.C. The officials in the P.E.C. were then borne on a common cadre with the officials of the S.T.C. and all matters relating to establishment, transfers, promotions, disciplinary action, etc., were the responsibility of the S.T.C.

(1) Sri N. K. Singh the then Special Assistant to the then Commerce Minister—Prof. D. P. Chattopadhyaya, saw me in the afternoon (at about 4.00 p.m.) on or about the 14th April, 1975 in my office. He stated that the then Commerce Minister was told by the former Prime Minister—Smt. Indira Gandhi that a Deputy Manager of the P.E.C.—Sri Bhatnagar had behaved badly with the representative of M/s. Batliboi and in an unbusinesslike manner. He made their representative wait outside his office for an unduly long time and as soon as he met him he warned the representative about action to follow if he failed to furnish certain information. Sri N. K. Singh added that the former Prime Minister was very much annoyed with Sri Bhatnagar's unbusinesslike behaviour. Sri Singh further stated that the then Commerce Minister had desired that the officers concerned should be transferred immediately.

(2) Since I was not aware of the case itself, I replied to Sri N. K. Singh that I would immediately go to the Office of the P.E.C. to ascertain the facts and collect the relevant file and on return place through him to the then Commerce Minister the facts and hand over the documents as required. Immediately thereafter I went to the office of the P.E.C. and contacted Sri L. K. Dhawan, the Executive Director of P.E.C. in his office. He contacted Sri Bhatnagar and collected the

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relevant file from Sri Bhatnagar and informed me that Sri Bhatnagar was trying to collect material for a reply to a question in Lok Sabha relating to supply of machinery to Maruti Co. and for which question an urgent note had been received from the Department of Heavy Industry, in the Ministry of Industrial Development. The Department was reminding the officers of the P.E.C. for necessary material. I was further informed that Sri Bhatnagar had asked the representatives in Delhi of the agents in India of the East European Suppliers of Machinery, imported into India for stock and sale basis, to furnish the required information. He had received some information from a few agents other than M/s. Batliboi whom he had asked to expedite.

(3) I returned to the Ministry of Commerce and handed over these relevant file to Sri N. K. Singh and indicated briefly to him the action which was taken for collecting the information required by the Department of Heavy Industries for preparing an answer to a question in Lok Sabha. He stated that since Smt. Gandhi was very angry with the concerned officers of the P.E.C., action for transferring the officers out of Delhi be taken forthwith and the S.T.C. be informed immediately.

After about half an hour or so, Sri N. K. Singh saw me again and stated that certain decisions had been taken regarding Sri Bhatnagar and Sri Cavale. Since the administrative responsibilities for taking any action against the officers of the P.E.C. rested with the Chairman of the S.T.C., Sri N. K. Singh contacted Sri Vinod Parikh the then Chairman of the S.T.C. and communicated that it was desired by the former Commerce Minister that orders for suspending Sri Bhatnagar and transferring Sri Cavale should be issued immediately. At his request, I accompanied Sri N. K. Singh to Sri Parikh's office on Janpath. There was a brief discussion in the room of Sri Parikh where Sarvasri M. N. Misra (Executive Director-Personnel) and Malhotra (Chief Engineer—Personnel) were called. Sri N. K. Singh repeated the need for taking immediate action on the

lines already indicated by him. The latter officers were asked by the Chairman of S.T.C. to take necessary action for placing Sri Bhatnagar under suspension and for transferring Sri Cavale and the orders were to be served on the officials concerned forthwith.

(4) The matter was thereafter dealt with by the Chairman of the S.T.C. as he was the controlling authority and I had no further role in the matter.

MR. CHAIRMAN : For how long did you continue to be the Chairman of the P.E.C. ?

SHRI B. D. KUMAR : I became part time Chairman in March 1975 and I continued till 1st week of October, 1975.

MR. CHAIRMAN : Why did you leave the part time Chairmanship of the P.E.C. ?

SHRI B. D. KUMAR : Shri M. M. Luther was appointed as a full time Chairman and he took over from me.

MR. CHAIRMAN : Where were you employed ?

SHRI B. D. KUMAR : I was the Chief Controller of Imports and Exports at that time. From this post I retired on the 30th November, 1975.

MR. CHAIRMAN : Who asked the Chairman of the S.T.C. to take necessary action against Shri Cavale and Shri Bhatnagar ?

SHRI B. D. KUMAR : Shri N. K. Singh communicated to the Chairman.

MR. CHAIRMAN : You directed the Chairman to take necessary action.

SHRI B. D. KUMAR : No, Sir. Shri Singh went with me.

MR. CHAIRMAN : You have said "latter officers were asked". Who are the latter officers ?

SHRI B. D. KUMAR : I did not ask. There was a brief meeting in the room of Shri Parikh. And the latter officers means S/Sri Malhotra and Shri M. N. Misra



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were asked by the Chairman S.T.C. to take action.

**MR. CHAIRMAN :** To whom were these officers immediately responsible ?

**SHRI B. D. KUMAR :** These officers are responsible immediately to the Executive Director, P.E.C. and then to the Chairman.

**MR. CHAIRMAN :** You were directly responsible in regard to the conduct of these officers ?

**SHRI B. D. KUMAR :** They were technically working in the P.E.C. and I was a part time Chairman.

**MR. CHAIRMAN :** When you received the complaint that some irregular and undesirable behaviour has been meted out by Shri Bhatnagar to Batliboi agents, you asked for the necessary files which dealt with all these relevant facts and on going through these files you found that these two officers were discharging the duties properly that were assigned to them by the Ministry of Heavy Industries and you did not find anything irregular or wrong in their behaviour or in their attitude even to Batliboi.

**SHRI B. D. KUMAR :** The officers were discharging their responsibility in collecting the material asked for by the Department of Heavy Industries and the file at that time did not indicate that they had done anything wrong.

**MR. CHAIRMAN :** Even then it did not occur to you that it was your duty to see that your officers were not penalised on account of certain complaints about which you did not find any ground whatsoever ?

The information was given to you by Shri N. K. Singh. He told you that this information has been given by his Minister—Shri Chattopadhyaya—that Shrimati Gandhi, the then Prime Minister was very angry that the officers had a record of misbehaviour with the representatives of Batliboi.

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**SHRI B. D. KUMAR :** That is correct that the officers were discharging their duty in collecting the material which was needed for Parliament question. The complaint came through Shri N. K. Singh and he also said that that was the desire of the Minister that the officers should be transferred and later on he said that one of the officers should be suspended.

**MR. CHAIRMAN :** I asked you one question. They were the officers working directly under you in your Department. Certain complaints were made. Did you not feel your sacred duty, as you did not find anything wrong with them, to tell Shri Singh that you did not find any ground whatsoever of taking action against them.

**SHRI B. D. KUMAR :** It was my duty to bring to the notice of the higher authorities that the action proposed was not warranted on the basis of those facts. But here in this case the orders came from the higher authority i.e. the Minister and they were to be carried out immediately.

**MR. CHAIRMAN :** Even then you ignored something against Shri Bhatnagar. On 15-4-1975 you said—

"I had occasion to point out the other day to Director, Shri L. K. Dhawan, that the performance of Shri Bhatnagar as Deputy Marketing Manager in the inter-departmental meetings has not been altogether satisfactory and requested that he should be shifted from the present seat. As discussed, Chairman, S.T.C. is requested to take suitable action against the officer.

Sd/- B. D. Kumar."

You yourself in this note said—that the performance of Shri Bhatnagar as Deputy Marketing Manager in the inter-departmental meetings has not been altogether satisfactory and he is required to be shifted. Now you are saying that according to the reports from the file you did find nothing wrong against him.

**SHRI B. D. KUMAR :** There are two issues. One relates to the question of

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collecting information. The file referred to earlier related to the question of information being collected on request from the Department of Heavy Industries.

The second question is that as Chief Controller of Imports and Exports I was the head of the inter-departmental Committee where Shri Bhatnagar participated and it came to my notice as a Chairman of that Committee that his preparation at the inter-departmental meetings was not altogether satisfactory and that needed improvement. He had been on that seat for a long time. Normally, if a person has remained for a long time he has to be shifted. That is what my note says.

MR. CHAIRMAN : Your note does not give that explanation you are giving now. Do not try to deviate from what is in record. In your evidence you have said that the action had to be taken because the Prime Minister was angry with certain officers; she communicated her anger to the concerned Minister and the Minister transferred this anger to his Secretary; this anger was again further transferred to you. On the basis of that, immediate action was called for. Now what you say is completely unrelated. You say that these officers were found to have certain misdemeanour or misbehaved or whatever you may call. But, how do you de-link the two?

SHRI B. D. KUMAR : Here my note says that he should be shifted. My note does not say that he should be suspended or action had to be taken as was taken. My note indicates in the inter-departmental meeting that his performance could have been improved. He had remained in the seat for a long time. He should be shifted—shifting from one seat to the other.

MR. CHAIRMAN : Mr. Kumar, you are giving a very nice answer. Your note is there. His transfer was due to certain complaint that was received from Shri N. K. Singh. How do you link the two? I quite appreciate if you say that a person is in a seat for a long time and so you want to shift him. These are procedural matters.

Here shifting was done and the reason for it was that a complaint was received from Mr. Singh.

SHRI B. D. KUMAR : His transfer is not out of Delhi. It was from one seat to another. Mr. Singh's desire was that he should be transferred out of Delhi. My own note says that he should be shifted from the present seat.

MR. CHAIRMAN : What do you mean by the present seat?

SHRI B. D. KUMAR : He was dealing with the question of imported machinery on stock and sale basis.

MR. CHAIRMAN : You assume when you suggested that he should be shifted from the seat that it was because he was dealing with the question related to Maruti. Therefore you showed a desire that he should be shifted from that seat.

SHRI B. D. KUMAR : I deny that.

MR. CHAIRMAN : It was he who was dealing with the question. Did it not occur to you any time before that he was collecting information about Maruti? When the complaint was brought to you by Mr. Singh it was only then that it occurred to you that this man should be shifted from his seat.

SHRI B. D. KUMAR : Because he remained in his seat for a long time.

MR. CHAIRMAN : It did not occur to you any time before.

SHRI B. D. KUMAR : I took over as PEC Chairman by the end of March. I was not the Chairman, PEC earlier.

MR. CHAIRMAN : It is very unfortunate that you are trying to give a completely different version.

According to the note—this is a secret note from your file—the STC Chairman's note signed by Mr. M. N. Misra. I quote :

"This matter regarding Bhatnagar was discussed to-day with Chairman.

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STC, Chairman, PEC, myself and C.P.M. (Malhotra) were present. The consensus of the opinion was that P. S. Bhatnagar, DMM-II (PEC) Engineering, be placed under suspension immediately. CPM should take steps to serve the suspension orders personally to-day. The chargesheet would be issued to him later."

Now, do you deny this report of Mr. M. N. Misra ?

The note of the Chairman says that this matter of the suspension of Shri Bhatnagar was discussed. There was a consensus; he was a party to it. How do you deny this official record ?

SHRI B. D. KUMAR : I am not denying this official record. But, what I am saying is that there was a brief discussion in the room of Mr. Parekh. This is what I have said which I could recall. The latter officer was asked to place Mr. Bhatnagar under suspension.

MR. CHAIRMAN : As you were saying, it was not because Mr. Bhatnagar was collecting certain information regarding Maruti. Now, your version is that this gentleman was collecting information. You got a certain complaint from Mr. Singh. Earlier, not even a day before it, it occurred to you that this man's performance was not altogether satisfactory. 'His performance was not altogether satisfactory' never occurred to you earlier.

SHRI B. D. KUMAR : As I mentioned with all due respect, I took over towards the end of March 1975.

MR. CHAIRMAN : This is not the matter. The matter is that this is corroborated by facts. There are records which say that you had to take action against Mr. Bhatnagar because the Minister said that immediate action had to be taken. That was because the directive had come from the Prime Minister. It was communicated to you by Mr. N. K. Singh. At no time before it occurred to you that the performance of this man was not

altogether satisfactory and, therefore, he should be shifted from the seat. This never occurred to you earlier. It occurred to you now. You are giving the explanation that his shifting order was not due to complaints made against him by the Prime Minister which was communicated through various channels but because of the lack of adequate performance by the officer. This is according to the official record of the Chairman; you participated in the discussions with the STC Chairman and other officers where you said that this officer should be suspended and the Chairman, Mr. M. N. Misra and others have also agreed that there is not any substantial charge against the man but because it was a directive from the Minister; his directive came because it came from the Prime Minister also. It was for that reason there was no other alternative but to take action against him. You are a party to it. You are now giving a completely different version.

SHRI B. D. KUMAR : I deny that. I was not a party to it. We carried out the orders of the Minister in suspending the officer. And my observation does not amount to or cannot lead to anyone being suspended. My observation was incidental that his performance was not satisfactory and he should be shifted. It does not mean that he should be suspended. It also does not mean that this was a consensus. It was really recorded in the note. Because the Minister's instruction had come that he should be suspended. It was unfortunate that it was recorded in a round about way that it was a directive of the Minister and he should be suspended.

MR. CHAIRMAN : Have you got the opportunity to see the record ?

SHRI B. D. KUMAR : I do not recollect. I saw the note later.

MR. CHAIRMAN : At that time or even on any other occasion, when this was referred to the STC Chairman, did you see it ?

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**SHRI B. D. KUMAR :** I do not recollect it at this moment that this was shown to me later.

**MR. CHAIRMAN :** What do you mean by your saying that the performance of the officer was not altogether satisfactory.

**SHRI B. D. KUMAR :** The officer could have improved his performance. It was fair but not good.

**MR. CHAIRMAN :** How can you draw your inference that his performance was fair but not good? Can you give any single instance that this is the reason why you came to your conclusion that his performance was neither fair nor good?

**SHRI B. D. KUMAR :** There used to be periodical meetings in the room of the C.C.I.E. where the officer represented the PEC. At that time I was not concerned with the PEC as such. So, while explaining the case or while putting up the case or while preparing some briefs, my impression was that he could have improved. It was not upto my expectation.

**MR. CHAIRMAN :** Did you at any time before 15th April, 1975 try to draw the attention of the concerned officer, viz., Mr. Bhatnagar that his performance was not satisfactory?

**SHRI B. D. KUMAR :** In the meetings I used to tell him that he should study his papers and come fully prepared.

**MR. CHAIRMAN :** There is confidential record of an official. Do you recollect having mentioned about lack of adequate performance in his confidential record?

**SHRI B. D. KUMAR :** His confidential record was not written by CCI&E. It was written by his immediate boss.

**MR. CHAIRMAN :** As you were the Chairman of PEC any confidential note written about any officer was bound to come to your knowledge.

**SHRI B. D. KUMAR :** The confidential rolls are recorded by the immediate officers and the reviewing officers. Unless

it is to be counter-signed by the Head of the Office it need not come to him. Or when there is a question of promotion then it will come. I have no recollection of having seen his confidential report.

**MR. CHAIRMAN :** If I suggest to you that although you have to take prompt action in the form of recording some adverse remark against Mr. Bhatnagar and this was a cause of action against all this and on the basis of the adverse remark the matter was discussed in the meeting with the Chairman, STC and others and your adverse remark was the result of the compulsion that was created due to a directive from higher authorities for taking certain action and you prepared this note. But now you are trying to give a different version by saying that it was just a normal procedure of recording your view about the performance of Mr. Bhatnagar.

**SHRI B. D. KUMAR :** The note has been recorded on 15th April but on that note we cannot justify any action for placing an officer under suspension. That note only says that his performance was not altogether satisfactory but on the basis of that note nobody could be placed under suspension.

**MR. CHAIRMAN :** It appears that because of that compulsion you tried to give him a bad name so that he could be suspended.

**SHRI B. D. KUMAR :** I deny it.

**SHRI HITENDRA DESAI :** You please see this note and tell us when it came to you.

**SHRI B. D. KUMAR :** The date of the note is 15th April.

**SHRI HITENDRA DESAI :** At what time of the day on 15th April, did you receive it?

**SHRI B. D. KUMAR :** I do not recall at what time of the day it came to me.

**SHRI HITENDRA DESAI :** Immediately after receiving it from the Minister

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you wrote it down immediately and passed it on or you yourself took it to the Chairman, STC.

SHRI B. D. KUMAR : I do not recall whether I took it personally or passed it on. It could have been sent by the special messenger as the word 'confidential' is there.

SHRI HITENDRA DESAI : Or you might have given it personally.

SHRI B. D. KUMAR : Marking here says 'confidential'. That shows it would have gone under a sealed cover.

SHRI HITENDRA DESAI : You have read the remarks made on 15th April. Today you could say whether these remarks were justified or not.

SHRI B. D. KUMAR : As I mentioned this was my recollection of his performance.

SHRI HITENDRA DESAI : Do you justify these remarks today ?

SHRI B. D. KUMAR : They were justified when I made them. This is my impression as CCI&E about his performance.

SHRI HITENDRA DESAI : Are you satisfied that the contents of these remarks are true ?

SHRI B. D. KUMAR : Yes.

SHRI HITENDRA DESAI : Even today you think and even at that time you thought that the punishment of suspension was not proper.

SHRI B. D. KUMAR : Yes.

SHRI HITENDRA DESAI : In spite of that because the orders came from the Minister you carried them out.

SHRI B. D. KUMAR : Since the final authority taking the disciplinary action was STC, Chairman the matter was discussed in his room and action taken.

SHRI HITENDRA DESAI : Who was the competent authority to inflict punishment on this officer ?

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SHRI B. D. KUMAR : Chairman, STC, because he was on the STC cadre and he is the head of the cadre.

SHRI HITENDRA DESAI : How are you concerned ?

SHRI B. D. KUMAR : I was concerned because the officer was working in P.E.C., one of the units of the STC.

SHRI HITENDRA DESAI : If according to you orders have already come from the Minister, what was the fun in discussion ?

SHRI B. D. KUMAR : In the discussions which were held in the office of the Chairman, the point was how the officer should be placed under suspension, whether unbusinesslike behaviour was one of the reasons in the service conduct rules on which an officer could be placed under suspension. Here it is stated that the chargesheet should be served. When an officer is placed under suspension, some reason for suspension should be given.

SHRI HITENDRA DESAI : That is to be invented.

SHRI B. D. KUMAR : I do not say it has to be invented. But service rules were consulted and it was pointed out that unbusinesslike behaviour was one of the reasons for taking action against an officer.

SHRI HITENDRA DESAI : Ultimately : You decided on this and that was the reason given.

SHRI B. D. KUMAR : That was the reason.

SHRI HITENDRA DESAI : For this you all gathered together in the office of the Chairman, STC ?

SHRI B. D. KUMAR : Because the orders were that it should be carried out immediately and reported ; the letter should issue the same night.

SHRI HITENDRA DESAI : Both you and Chairman STC agreed to the passing of the order ?

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**SHRI B. D. KUMAR :** Yes.

**MR. CHAIRMAN :** Just for finding certain justification for the suspension order that was to be carried out by you.

**SHRI B. D. KUMAR :** The interpretation that you mention can be given ; I do not deny it.

**SHRI HINTENDRA DESAI :** When did you take as Chairman ?

**SHRI B. D. KUMAR :** I took over as Chairman, PEC in March 1975.

**SHRI HITENDRA DESAI :** Even during the brief interval of a fortnight you were in a position to assess the work of Mr. Bhatnagar ?

**SHRI B. D. KUMAR :** With great respect I beg to submit that the impression about Mr. Bhatnagar was not as Chairman of PEC ; my impression was as CCIE which office I was holding since May 1974.

**SHRI HITENDRA DESAI :** The remarks you made were the result of the experience you had earlier ?

**SHRI B. D. KUMAR :** As I submitted earlier, I was chairman of the inter departmental meetings ; as CCIE it came to my notice, not as chairman, PEC.

**SHRI HITENDRA DESAI :** Earlier did you make any remarks in writing that is prior to 15-4-1975 ?

**SHRI B. D. KUMAR :** No, because I was not head of that organisation.

**MR. CHAIRMAN :** Before April 1975, it never occurred to you that he should be shifted from his seat.

**SHRI B. D. KUMAR :** That was a different organisation.

**MR. CHAIRMAN :** It is a simple question. Before 15th April 1975, it never occurred to you, before the complaint came from Mr. N. K. Singh, that this man should be shifted from his seat.

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**SHRI B. D. KUMAR :** Shifting-of-seat-action can be taken by the administrative head. But I had mentioned to Mr. Dhawan.

**MR. CHAIRMAN :** Yes or no—should be the answer. Whether it occurred to you at any time before ?

**SHRI B. D. KUMAR :** I do not recall.

**MR. CHAIRMAN :** On the 15th of April it occurred to you that this man should be shifted from his seat.

**SHRI B. D. KUMAR :** It was not recorded earlier.

**SHRI HITENDRA DESAI :** Your attempt at making these remarks were just to give a reason for the proposed action ?

**SHRI B. D. KUMAR :** I deny that.

**SHRI HITENDRA DESAI :** You thought at that time, and even today you think that in any case the order of suspension was not the proper punishment ? Even today you feel that ?

**SHRI B. D. KUMAR :** Yes.

**SHRI B. SHANKARANAND :** Are you employed now ?

**SHRI B. D. KUMAR :** I came back late last night from Bangkok ; I was employed till yesterday in the United Nations Organisation called ECASP. Earlier I was consultant to the Engineering Projects India Ltd. I went away on leave from them to work as consultant to Economic Commission for South East Asia.

**SHRI B. SHANKARANAND :** Are you still under their employment ?

**SHRI B. D. KUMAR :** My contract with them was till 31 August 1978.

**SHRI B. SHANKARANAND :** You specially came for appearing as witness ?

**SHRI B. D. KUMAR :** I specially came for this. I had informed my employer that my contract would expire on 10 July and that I am needed on the 7th and the

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contract should be treated as terminated four days in advance and that I would deal with any matter left over while in Delhi.

**SHRI B. SHANKARANAND :** You are not going back again ?

**SHRI B. D. KUMAR :** Not to ECASP.

**SHRI SHANKARANAND :** How many days you were away from India ?

**SHRI B. D. KUMAR :** I left on 11 April 1978, and I came back last night.

**SHRI B. SHANKARANAND :** 11th April, 1978 ?

**SHRI B. D. KUMAR :** Yes.

**SHRI B. SHANKARANAND :** Before that, you were in India ?

**SHRI B. D. KUMAR :** I was in India, employed as a consultant with Engineering Projects India Limited, a Government of India undertaking in New Delhi.

(*PROF. P. G. MAVALANKAR in the Chair*)

**SHRI B. SHANKARANAND :** When you were in India you know that the Shah Commission was sitting in New Delhi.

**SHRI B. D. KUMAR :** Yes.

**SHRI B. SHANKARANAND :** Were you called as a witness before the Shah Commission ?

**SHRI B. D. KUMAR :** No. I mentioned in my letter to Mr. Kapur that I was not summoned and I did not appear before the Shah Commission.

**SHRI B. SHANKARANAND :** Did anybody approach you from the Shah Commission ?

**SHRI B. D. KUMAR :** No.

**SHRI B. SHANKARANAND :** What newspapers do you read everyday when you are in Delhi ?

**SHRI B. D. KUMAR :** I used to read Times of India or Statesman.

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**SHRI B. SHANKARANAND :** You have been following the proceedings before Shah Commission, the news appeared in the papers.

**SHRI B. D. KUMAR :** As a citizen of India and having been educated, I see the newspapers.

**SHRI B. SHANKARANAND :** You have been following.

**SHRI B. D. KUMAR :** I have been reading. Following is different from reading.

**SHRI B. SHANKARANAND :** I should say, you have been reading.

**SHRI B. D. KUMAR :** Yes.

**SHRI B. SHANKARANAND :** The note that you have sent us to this Committee, which was written from Bangkok contains the facts as you remembered. Is that right ?

**SHRI B. D. KUMAR :** Yes. This is what I have stated.

**SHRI B. SHANKARANAND :** You did not have any records before you when you wrote this note. This is from your memory, which you had from the newspaper reports of the Shah Commission.

**SHRI B. D. KUMAR :** No. That is what I recalled as the events were in April 1975.

**SHRI B. SHANKARANAND :** Quite right. You were stating from your memory.

**SHRI B. D. KUMAR :** I did not have any Indian newspaper before me in Bangkok.

**SHRI B. SHANKARANAND :** I am not asking that. Do not get yourself confused. When you wrote this note, you had no record, but you wrote it from your memory.

**SHRI B. D. KUMAR :** Yes.

**SHRI B. SHANKARANAND :** The only thing you could remember is, what you read when you were in India about the

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Shah Commission. That is what I am asking.

SHRI B. D. KUMAR : The point is that I was reading newspapers in India and as a reader of the newspaper, certain things stuck in my memory. Whether I had that specifically in my memory, I cannot say. I wrote it as the events I could recall.

SHRI B. SHANKARANAND : Recall from what ?

SHRI B. D. KUMAR : From my memory.

SHRI B. SHANKARANAND : Now do you testify before us that whatever you have written in this note is entirely correct ? At this hour ?

SHRI B. D. KUMAR : This is what I recalled.

SHRI B. SHANKARANAND : Please follow my question and then answer. You have written a note based on your memory. Do you want to say now that whatever you have written in this note is entirely true and correct ?

SHRI B. D. KUMAR : Yes. This is what I recall and it is entirely correct according to my recollection.

SHRI B. SHANKARANAND : I am not asking about your recollection. Now you go through the records and then say : you are at liberty to ask for the records, look at them and then answer this question.

SHRI B. D. KUMAR : I stand by my statement that I have already submitted.

SHRI B. SHANKARANAND : I do not want the facts narrated by you based on your memory. Now I want the facts as on records. Whatever records you want, you can ask the Committee and we will give them and then state the facts.

SHRI B. D. KUMAR : I stand by what I have stated in my statement.

SHRI B. SHANKARANAND : Don't argue with me. Now what you have stated from your memory, is it based on

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records ? Do you need any record to state that ?

MR. CHAIRMAN : The witness has just now said that he came from Bangkok last night and he had also given us from Bangkok a statement which he read out. You are asking him whether he stands by that now and he said "yes". What is your next question ?

SHRI B. SHANKARANAND : The witness has said that it is based on memory. I am not concerned with that. I am concerned with the facts on record. Does he want to refer to the records ?

MR. CHAIRMAN : You make a mention of a particular aspect of the record. Record of what—do you want him to refer ?

SHRI B. SHANKARANAND : Let him say that. Do not answer on behalf of the witness.

MR. CHAIRMAN : I am only requesting you to be precise and specific. You are asking the witness to give a blanket reply on the basis of record. I am requesting you to ask him a specific question. Why should you tell me that I am replying on behalf of the witness ? I take objection to that.

SHRI B. SHANKARANAND : He has stated certain facts based on his memory. Does he want to verify these facts from records ?

Now, Mr. Kumar, you have stated certain facts in your statement. You said that they are not based on record.

SHRI B. D. KUMAR : I have said that I have given this statement based on my memory. I did not say that they are not based on record.

SHRI B. SHANKARANAND : Now I am asking, are they based on records ?

SHRI B. D. KUMAR : I am saying again that I have given a statement and I stand by that.

SHRI B. SHANKARANAND : I am not concerned with your statement. Do



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you say that these facts are based on record ?

**MR. CHAIRMAN :** I am to request you again on the same matter. You may ask, what part of the record ?

**SHRI B. SHANKARANAND :** No.

**MR. CHAIRMAN :** You are asking a general question.

**SHRI B. SHANKARANAND :** I am asking a general question. Let me not be interfered.

I am asking whether these facts are based on record.

**MR. CHAIRMAN :** There is no question of interference. After all, the Chair has the right to understand the question before it is permitted. You must be specific as to what part of the record you are referring to.

**SHRI B. SHANKARANAND :** I am asking about the entire facts he has stated. Are they based on record ?

**MR. CHAIRMAN :** You asked him whether he stands by that statement and he had said "yes". Now you are asking him whether what he stated is based on record. Which part of the record are you referring to ? How can the witness reply to a general question ?

**SHRI B. SHANKARANAND :** Which part of the record, it is not for me to say. I do not have the records before me. It is for the witness to say whether the facts are based on record or not.

**MR. CHAIRMAN :** I do not think I can allow that kind of question. You will have to be specific as to which part of the record you are referring to. Please be precise.

**SHRI B. SHANKARANAND :** I am asking whether these facts are based on record. Can anything be more precise ?

**SHRI NARENDRA P. NATHWANI :** I am appealing to the Chairman not to allow this kind of question. If he wants to refer to any particular document, he can refer to it.

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**MR. CHAIRMAN :** That is exactly my point.

**SHRI B. SHANKARANAND :** How do I know which part of the record it is ? It is for him to refer to any record and say. Let him say.

**SHRI B. D. KUMAR :** I have already said that I stand by this statement.

*(SHRI SAMAR GUHA in the Chair)*

**PROF. P. G. MAVALANKAR :** I was requesting Mr. Shankaranand to ask the witness a question with regard to certain specific matter of the record to which he was referring, rather than asking a general question about record.

**SHRI B. SHANKARANAND :** You have said you had no record at the time when you prepared the statement. Do you have in your view any specific record concerning the facts of the case ? Do you remember any specific record or file ?

**SHRI B. D. KUMAR :** The Chairman showed me a note and I was asked to comment on it. That is one of the records relating to the action taken.

**SHRI B. SHANKARANAND :** You were in Bangkok and you prepared the statement. You had no record before you. Is that correct ?

**SHRI B. D. KUMAR :** With all humility and profound respect, I must say that it is already there on the file. What is it I am being asked ?

**MR. CHAIRMAN :** What is your question ?

**SHRI B. SHANKARANAND :** The witness says he prepared the statement at Bangkok and he stated facts from his memory. He had no records before him. I am asking what record he wanted, to make the statement.

**MR. CHAIRMAN :** In other words, you are asking whether he requires any record. Mr. Kumar, do you think that some records are necessary for changing or modifying your statement ?

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**SHRI B. D. KUMAR :** Earlier the Chairman had shown me a record—a note. I saw that note and I gave my answers to the questions.

**SHRI B. SHANKARANAND :** For your benefit I am asking the question. Don't think otherwise. I am asking you to look to the records before stating facts. You have seen this note. Do you want to refer to any other record and refresh your memory ?

**SHRI B. D. KUMAR :** The relevant record—the note—has been shown to me, on which I was asked questions, to which I have replied. I have made the statement on the basis of what I recalled and I stand by it.

**SHRI B. SHANKARANAND :** You do not want to refresh your memory ?

**SHRI B. D. KUMAR :** If you want me to refer to any particular record, you can let me know.

**SHRI B. SHANKARANAND :** You have seen this note and the facts which are mentioned in it.

**SHRI B. D. KUMAR :** I have gone through the note recorded by Prof. Chattopadhyaya and the note recorded by me. The subsequent note was read over to me by the Chairman.

**SHRI B. SHANKARANAND :** If you want, you can again see it. He says that he has seen the earlier part, but he has not seen the rest.

Mr. Kumar, do you find any need to correct your statement prepared on your memory by now looking into this record ? Do you feel any need to correct this ?

**SHRI B. D. KUMAR :** No. The elucidations or observations or questions asked by the Chairman, I have answered. I don't need to make any further addition to my statement. Whatever questions I have answered, I have most faithfully answered them.

**SHRI B. SHANKARANAND :** You have to answer my questions also.

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**SHRI B. D. KUMAR :** That is why I have come all the way from Bangkok.

**MR. CHAIRMAN :** Mr. Shankaranand, he does not think that there is any need for modification or correction in his statement. He says he has replied to whatever other questions were asked by Chairman.

**SHRI B. SHANKARANAND :** Now, in your note you have said that Mr. N. K. Singh met you on 14th April.

**SHRI B. D. KUMAR :** On or about 14th April.

**SHRI B. SHANKARANAND :** Now, please tell me definitely on which date.

**SHRI B. D. KUMAR :** On or about 14th.

**SHRI B. SHANKARANAND :** Had you any discussion prior to writing this note with anybody ? Your 'Confidential' note is dated 15th April 1975. Did you have any discussion with anybody before that ?

**SHRI B. D. KUMAR :** As I mentioned in my statement, a brief discussion took place.

**SHRI B. SHANKARANAND :** No, I am not asking on your statement. I am asking facts.

**SHRI B. D. KUMAR :** I have given facts in the statement and I stand by those facts.

**SHRI B. SHANKARANAND :** That is not enough. Did you have any discussion with anybody before writing this note ?

**MR. CHAIRMAN :** Did you discuss this matter with anybody before you sent this note ?

**SHRI B. D. KUMAR :** The last line of that note says : "As discussed with Chairman, STC". It is given there.

**SHRI B. SHANKARANAND :** Did you discuss with Chairman STC prior to writing this note ?

**SHRI B. D. KUMAR :** "As discussed, Chairman STC is requested to take action". This is what the note says.

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**SHRI B. SHANKARANAND** : I am not concerned with that note. My simple question is : Did you discuss with anybody prior to writing this note ?

**SHRI B. D. KUMAR** : I do not follow the question.

**MR. CHAIRMAN** : Mr. Kumar, you have written in this note : "I had the occasion to point out the other day. . . .". And the last sentence begins with "As Discussed". Discussed with whom ?

**SHRI B. D. KUMAR** : Discussed with Chairman because he has to take further action.

**MR. CHAIRMAN** : "As discussed, Chairman STC is requested. . .". You mean you discussed with the Chairman, STC ?

**SHRI B. D. KUMAR** : Yes.

**MR. CHAIRMAN** : That is all right.

**SHRI B. SHANKARANAND** : So, you want to say that you discussed with the Chairman STC alone ?

**SHRI B. D. KUMAR** : As I said earlier, the matter was discussed in the room of Chairman, STC, the note was recorded and action was to be taken, and the Chairman, STC, knew what action he was to take. And I have said "On or about the 14th of April". I have given that date also.

**SHRI B. SHANKARANAND** : Now, you said that it was discussed in the room of Chairman, STC, and on that discussion you wrote this note.

**SHRI B. D. KUMAR** : It is very difficult to say whether I wrote the note at the time when discussion took place or after the discussion took place.

**SHRI B. SHANKARANAND** : I put the question : Did you write this note in the room of the Chairman, STC, after discussing with the Chairman, STC ?

**SHRI B. D. KUMAR** : I did not write this note in the office of Chairman, STC.

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because on the margin I have said "Confidential". That means, the note was to be sent by the Special Messenger to the office of the Chairman, STC. That I have answered earlier. Sir, I want your protection.

**MR. CHAIRMAN** : Mr. Kumar, one or two words will suffice.

**SHRI B. SHANKARANAND** : You wrote this Confidential note in your office ?

**SHRI B. D. KUMAR** : Yes.

**SHRI B. SHANKARANAND** : When did you discuss that with the Chairman, STC ?

**SHRI B. D. KUMAR** : I said, on or about 14th of April there was a discussion in the room of Chairman, STC. It is 14th or may be 15th.

**MR. CHAIRMAN** : It means that you did not write this note on the same day. You have discussed with the Chairman not on the same day. It may be the day before, or could it be on the same day ?

According to your record, you have taken the note on 15th and naturally it was sent also on the 15th because action taken against him was on 15th. It cannot be later than 15th. It was on the same day. Action was also taken on the same day. All things were done on the 15th—viz., your note, action taken and action communicated by Mr. Malhotra. Now a question is being asked : did you discuss the matter with the Chairman STC on the 15th ?

**SHRI B. D. KUMAR** : It may have been discussed on the 15th. The date of on which the placing of Mr. Bhatnagar under suspension took place—that is the same date.

**MR. CHAIRMAN** : It is obviously on the 15th, because the communication that we received from the Minister concerned was on the 15th. May be some time on the morning of the 15th.

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**SHRI B. D. KUMAR :** But it will be in the evening of 15th, the date of the letter placing Mr. Bhatnagar under suspension.

**MR. CHAIRMAN :** He wanted to know from you, "when did you have the discussion". This was communicated to Chairman STC in the evening; you have remarked "As discussed" and said that it was not after the discussion in the same place and almost just a few minutes thereafter that you noted it. You said you had dictated the note in your office and you had sent it by a messenger to the Chairman's room. It naturally follows that you had the discussion prior to sending this. When was this discussion held ?

**SHRI B. D. KUMAR :** This discussion was held on the day on which the order suspending the person was issued. It was discussed in the evening on the 15th, or 14th, whatever the date is, in the office of the Chairman.

Whether I came to the office of the CCI&E—because I had an office also in the same building where the Chairman STC had it—I don't remember.

**SHRI B. SHANKARANAND :** Is it in the same chamber ?

**SHRI B. D. KUMAR :** Not in the same chamber.

**SHRI B. SHANKARANAND :** Did you go to your chamber ?

**MR. CHAIRMAN :** The question whether the witness returned to his original office or to the same place, is not very relevant ; but where did he prepare his note—in the chamber of Chairman STC, in the witness's office or elsewhere ?

**SHRI B. D. KUMAR :** It may be in my office CCI&E, or in the building where Chairman STC was *viz.*, 10 Janpath.

**SHRI B. SHANKARANAND :** In spite of your spending ten or 15 minutes, a direct answer has not come. That is why

I am asking. First I started asking whether you discussed with anybody, prior to writing this note. You took 5 minutes. Then you say that you had discussion in the room of Chairman STC.

Quite all right. After the discussion, you wrote this note. The note says that it is a confidential one. At the time of writing this note, was there anybody in your chamber ? This is quite a simple question.

**SHRI B. D. KUMAR :** In my chamber, I dictated it to my PA.

**SHRI B. SHANKARANAND :** Except your PA, there was none. Is it correct ?

**SHRI B. D. KUMAR :** I don't think there was anybody else at that time.

**SHRI B. SHANKARANAND :** Don't think ; say definitely.

**MR. CHAIRMAN :** After the discussion, in the same evening, you sent it.

**SHRI KRISHAN KANT :** The question of Mr. Shankaranand is really relevant, in the light of the earlier evidence we have, Mr. Vinod Parekh, Mr. Malhotra and everybody had told this Committee that the note was sent. They all met together in a meeting in the Board's committee room where everything was discussed, when the last man—or junior man—was called from the house. Maybe it was Mr. Malhotra who was asked to take the note. All these discussions took place. The question we are asking is this : there seems to be a note which you have sent. Do you remember what happened ? The Special Assistant of Prof. D. P. Chattopadhyaya came. Your note does not say all that. Your remark "As discussed" hides everything. His question is : where was the decision taken ?

**SHRI B. D. KUMAR :** In the office of the Chairman STC.

**SHRI KRISHAN KANT :** What was the discussion which took place ?

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**SHRI B. SHANKARANAND :** The discussion took place in the room of Chairman STC, and then you came back to your office and then wrote this note—because it says it is confidential. You go by the record.

**SHRI B. D. KUMAR :** That is what the record says ; and that is what I said, viz., that I recorded this note after the discussion.

**SHRI B. SHANKARANAND :** As per the record, you discussed this in the room of the Chairman, STC ; you came back to your room and then wrote this note.

**SHRI B. D. KUMAR :** How can I say definitely whether a person—A, B or C—was present at that time ?

**MR. CHAIRMAN :** As far as you remember.

**SHRI B. D. KUMAR :** As far as I remember, I dictated it to my PA.

**SHRI B. SHANKARANAND :** Whenever you dictate confidential notes, to your PA, do you dictate before other individuals ?

**SHRI B. D. KUMAR :** If the confidential note is to be dictated, and if it is within the knowledge of the person dealing with it, i.e. the dealing officer, it is not unknown that the dealing officer is present when the confidential note is dictated.

**SHRI B. SHANKARANAND :** The witness is not directly answering my question.

**MR. CHAIRMAN :** It is so as far as he remembers.

**SHRI B. SHANKARANAND :** He can say, "Only my PA and myself were there when I dictated". He hesitates to say so. What is the difficulty in saying so ?

**Mr. Kumar,** looking to the record we find that right from the note of the Minister down below, except you nobody has mentioned it as confidential.

**SHRI B. D. KUMAR :** The note itself is here. It is marked 'Secret' at the top.

It is marked "Secret" on top in the copy which I have received.

**SHRI B. SHANKARANAND :** That "Secret" is mentioned by our Committee.

**SHRI B. D. KUMAR :** I have only marked "Confidential".

**SHRI B. SHANKARANAND :** The Minister has not marked it "Confidential". Why did you mark it "Confidential"? What was the thing in your mind ?

**MR. CHAIRMAN :** Why do you put this question ? How do you know whether the Minister had marked it "Confidential", whether the STC Chairman, whether Mr. Malhotra had marked it "Confidential" or not ?

**SHRI B. SHANKARANAND :** Was this note sent by the Minister shown to you before recording ?

**SHRI B. D. KUMAR :** I do not remember.

**MR. CHAIRMAN :** This record has been kept by which office ? It is not kept in his office.

**SHRI KRISHAN KANT :** The photostat copy shows that it is on the same page. He cannot say he has not seen it.

**SHRI B. D. KUMAR :** I had seen the Minister's note when the note was delivered to me.

**MR. CHAIRMAN :** Why did you say you did not recollect ?

**SHRI KRISHAN KANT :** When it was recorded, it must have been shown to you ?

**SHRI B. D. KUMAR :** I understood : when it was being recorded, was it shown to you ? I said it was dealt with by me and seen by me when I recorded my note.

**MR. CHAIRMAN :** Don't try to hide facts.

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Shri B. D. Kumar

**SHRI B. D. KUMAR :** I am not hiding.

**MR. CHAIRMAN :** If you do not remember, say so. You may feel it embarrassing, but then try to see the document, refresh your memory and give correct answers. Why do you create the impression that you are not coming out with the truth? You are only a witness. Come out with the truth.

**SHRI B. D. KUMAR :** I am telling the truth.

**SHRI B. SHANKARANAND :** This note directly came to you from the Minister. Who brought this note?

**SHRI B. D. KUMAR :** At this stage I cannot remember who delivered this note to me. The photo copy shows the diary number. It was diarised in the Minister's office and delivered to me. Whether the Minister's P.A. or N. K. Singh brought it, I cannot remember at this stage.

**SHRI B. SHANKARANAND :** Did that person just hand over the note and go away?

**SHRI B. D. KUMAR :** I do not recall at this stage who delivered it to me.

**SHRI B. SHANKARANAND :** Did you discuss anything with the person who brought this note?

**SHRI B. D. KUMAR :** I do not remember at this stage.

**SHRI B. SHANKARANAND :** Besides discussing with the STC Chairman, did you discuss it with anybody else?

**SHRI B. D. KUMAR :** I have mentioned in the statement . . .

**SHRI B. SHANKARANAND :** Do not refer to the statement.

**MR. CHAIRMAN :** He has already answered this question. To my question he categorically replied that except with the Chairman of the STC, he did not discuss the matter with anybody else.

**SHRI B. SHANKARANAND :** Is that correct? I again put it to you.

**SHRI B. D. KUMAR :** When I recorded this note, I said I discussed with the Chairman, STC.

**SHRI B. SHANKARANAND :** Only?

**SHRI B. D. KUMAR :** No, Sir.

**SHRI B. SHANKARANAND :** He is contradicting himself.

**SHRI B. D. KUMAR :** I am not contradicting. Discussion took place in the STC Chairman's room, and I discussed with the STC Chairman and the other two officers.

**MR. CHAIRMAN :** In the room you discussed and others also were present, but after that or before that you did not discuss it with anybody, that is all. Clear.

**SHRI B. SHANKARANAND :** My question is entirely different. He has said that before writing this note he discussed with the STC Chairman.

**MR. CHAIRMAN :** Whether at the time of writing the note he discussed the matter—is that the question? It is very clear.

**SHRI B. SHANKARANAND :** Let him say that.

**MR. CHAIRMAN :** This question is redundant. He has categorically stated that he has discussed with the STC Chairman. Then he said he went to either of his offices, he does not recollect. There he dictated this note. You have asked whether during this period he had any discussion.

**SHRI B. SHANKARANAND :** I do not want that. He received the note from the Minister. He wrote this note after the Minister's note. In between did he discuss this matter with anybody. That is my simple question.

**MR. CHAIRMAN :** Have you understood the question? You received the note from the Minister. With that you went to the STC Chairman to have a

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meeting with others. During the intervening period did you discuss the matter with anybody else ?

**SHRI B. D. KUMAR :** On receiving the orders of the Minister, as I have mentioned in the statement, since STC was dealing with the matter, I thought it should be communicated to the STC. Then there was discussion in the STC.

**SHRI B. SHANKARANAND :** This note was sent from the Minister directly to him. He wrote a note on this. These two things are clear. Before writing this note, did he discuss anything with anybody ?

**MR. CHAIRMAN :** You said that besides those present in the STC Chairman's room, you had a discussion with N. K. Singh.

**SHRI B. D. KUMAR :** N. K. Singh came. We went to the Chairman, STC office. There was a discussion.

**MR. CHAIRMAN :** In between did you have any discussion with anybody ?

**SHRI B. D. KUMAR :** No. I did not have any discussion with anybody except those mentioned in the statement.

**SHRI B. SHANKARANAND :** Why did you write it confidential ?

**SHRI B. D. KUMAR :** I have mentioned most humbly that matters relating to personnel where action is to be taken, are generally marked confidential.

**SHRI B. SHANKARANAND :** So, there was nothing special in this. You marked 'confidential' as a routine matter.

**SHRI B. D. KUMAR :** All matters relating to personnel are marked confidential.

**SHRI B. SHANKARANAND :** After writing this note, did you discuss this matter with anybody ?

**SHRI B. D. KUMAR :** No, Sir.

Shri B. D. Kumar

**SHRI B. SHANKARANAND :** On that date you did not discuss after writing this note ?

**SHRI B. D. KUMAR :** No.

**SHRI B. SHANKARANAND :** Why did you not discuss with anybody ?

**MR. CHAIRMAN :** Why should he discuss ? Please do not put such leading questions.

**SHRI B. SHANKARANAND :** He has given such an explanation before the Committee, how can the Committee ignore that ? He has said because the suspension of Mr. Bhatnagar was unjustified, he did not agree with it.

**MR. CHAIRMAN :** He qualified it by saying 'now he feels'. Do not put words in his mouth. You can ask the question why he feels now.

**SHRI KRISHAN KANT :** He has said that at that time he was not thinking it unjustified ; now he is thinking it unjustified.

**SHRI B. D. KUMAR :** I said that the orders or instructions came for the persons to be suspended. I also answered that now I feel that it was not justified. The question was whether the officer had any option except placing the officer on suspension when the order came from the highest authority. Another question was put whether as senior officer was it not your duty to protect the officer. To that, my answer was that these directions and instructions came from the top and we carried out the instructions.

**SHRI B. SHANKARANAND :** Mr. Chairman. I want to say something to you. Let the witness withdraw.

*(The witness then withdrew)*

*(The Committee then adjourned)*

*(The Committee reassembled at 15.00 hours)*

**SHRI B. D. KUMAR :** I, B. D. Kumar, solemnly affirm that the evidence that I

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shall give in this case shall be true and that I will conceal nothing and that no part of my evidence shall be false.

**SHRI B. SHANKARANAND :** You have already stated before this Committee that you did not discuss the matter with anybody either before writing your note or after writing your note. But, you discussed it with the Chairman, STC in his chamber.

This is what you have stated.

**SHRI B. D. KUMAR :** I had stated that the matter was discussed in the room of STC Chairman in the presence of officers.

**SHRI B. SHANKARANAND :** Who were present ?

**SHRI B. D. KUMAR :** Mr. Singh, Mr. Malhotra and Mr. M. N. Misra.

**SHRI B. SHANKARANAND :** Who was the Chairman STC ?

**SHRI B. D. KUMAR :** Mr. Vinod Parekh was the Chairman of the STC.

**SHRI B. SHANKARANAND :** When you went to discuss this matter with the Chairman STC, Mr. Vinod Parekh, did you carry this note received by you from the Minister ?

**SHRI B. D. KUMAR :** I was discussing this matter ; the note was delivered to me later.

**SHRI B. SHANKARANAND :** Listen to me. You said you discussed the matter in the room of the STC Chairman and other officers were present. Is it correct ?

**SHRI B. D. KUMAR :** Yes, I have said that.

**SHRI B. SHANKARANAND :** When you went to discuss this matter in the room of STC Chairman when these officers were present, did you have this note with you which was received by you from the Minister ?

**SHRI B. D. KUMAR :** At that time the note was not with me. It was delivered to me later because Mr. N. K. Singh

communicated Prof. Chattopadhyaya's order.

But this was delivered to me there later.

**SHRI B. SHANKARANAND :** When ?

**SHRI B. D. KUMAR :** When I was in the building of the STC.

**SHRI B. SHANKARANAND :** I am not asking you the place ; I am asking you when ?

**SHRI B. D. KUMAR :** On the evening of that date.

**SHRI B. SHANKARANAND :** When did the discussion take place ?

**SHRI B. D. KUMAR :** On the evening.

**SHRI B. SHANKARANAND :** Evening—this does not help. You said discussions took place when the note was not with you. Thereafter you received the note. I am asking you at what time did the discussion take place ?

**SHRI B. D. KUMAR :** The discussion took place somewhere between 5-30 and 6-30.

**SHRI B. SHANKARANAND :** When you went to Mr. Vinod Parekh for discussion—I did not say about the note—was Mr. N. K. Singh with you and did you go along with him ?

**SHRI B. D. KUMAR :** Yes.

**SHRI B. SHANKARANAND :** First he came to you and then you both went to him. Don't get confused here. I am asking you a very simple question. When you went to discuss the matter in the STC Chairman's room, you said that you and Shri N. K. Singh went together. Is that correct ?

**SHRI B. D. KUMAR :** Yes, Sir.

**SHRI B. SHANKARANAND :** Did you ask Shri N. K. Singh to follow you or did he ask you to come along with him ?

**SHRI B. D. KUMAR :** He said let us go together. And he asked me to go with him to Mr. Parekh's office.



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**SHRI B. SHANKARANAND** : Did you go as per the directions of Shri N. K. Singh or on your own ?

**SHRI B. D. KUMAR** : We were both together.

**SHRI B. SHANKARANAND** : I am asking you whether you went on your own or as per the direction of Shri N. K. Singh for a discussion with the STC's Chairman ? This is a very simple question.

**SHRI B. D. KUMAR** : He requested me to accompany him to Mr. Parekh's office.

**SHRI B. SHANKARANAND** : You both went together or you went on your own.

**MR. CHAIRMAN** : This question does not arise.

**SHRI B. SHANKARANAND** : This does arise.

**MR. CHAIRMAN** : This question does not arise. What he said was that he went along with Mr. N. K. Singh. He asked him 'let us go together'. You can ask him whether, if Mr. Singh did not ask him to go to STC Chairman, he would have gone or not. That is a different question.

**SHRI B. SHANKARANAND** : I would put it like this. Suppose Shri N. K. Singh did not ask you to accompany him. Would you have gone or you would not have gone to consult the STC Chairman ? I put it like this.

**SHRI B. D. KUMAR** : I would have communicated the orders of Prof. Chattopadhyaya to the Chairman STC. I would have gone to him because Minister's orders were to be communicated to him. It was verbal and later it was confirmed by writing. I had also asked Mr. N. K. Singh to communicate to Mr. Parekh directly. I would have also gone and communicated to Mr. Parekh because he was to take action on the matter. Mr. Parekh, as Chairman of STC was to take action on this matter because all matters of establishment in common cadre are the responsibility of the STC Chairman.

*Shri B. D. Kumar*

**SHRI B. SHANKARANAND** : I ask you one definite question. Is taking a decision on personnel matters concerning your department your responsibility or the responsibility of the STC Chairman ?

**SHRI B. D. KUMAR** : The responsibility is that of the cadre authority who is the STC Chairman. He consults the departments concerned. But, the action has to be taken by the authority who is head of that cadre.

**SHRI B. SHANKARANAND** : Are you responsible for taking action as per this note or not ?

**SHRI B. D. KUMAR** : I had passed on this note.

**SHRI B. SHANKARANAND** : Are you responsible or not ?

**SHRI B. D. KUMAR** : Action was to be taken by the STC Chairman as the head of the cadre and my note was to be passed on to the Chairman, STC because he is the final authority to take action on the persons and Manager Personnel and Director Personnel were under him.

**SHRI B. SHANKARANAND** : I am asking you a simple question. You are beating about the bush. If you are not responsible then say so. Who prevents you ?

**SHRI B. D. KUMAR** : The point is the final authority is to take action in the matter. There are certain provisions in the rules and the final authority has to take action. I am not a final authority to take the action.

**SHRI B. SHANKARANAND** : I am not asking you as to who is the final authority.

**MR. CHAIRMAN** : How can he be responsible ?

**SHRI B. SHANKARANAND** : Let him say what you are saying.

**MR. CHAIRMAN** : I should also help him. His responsibility is to this extent when the attention was drawn to the

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matter which required immediate action, as he was not a competent authority to take action it was his duty to draw the attention of the authority who is the final authority to take action in regard to this note.

**SHRI B. SHANKARANAND :** Is it what you want to say? I put it to you.

**SHRI B. D. KUMAR :** This is what I have been saying.

**SHRI B. SHANKARANAND :** Now the Chairman has clarified it. Do you want to say what he said just now?

**SHRI B. D. KUMAR :** This is what I have been saying in my most humble and respectful way. The final authority, the cadre authority being the Chairman of the STC, it is he who has to take action on all the disciplinary questions and it was my duty to bring this to his notice. The matter was discussed and he followed it up. This was what I was submitting.

**SHRI B. SHANKARANAND :** Did you bring to the notice of the STC Chairman other than the matter you have written on the note?

**SHRI B. D. KUMAR :** I informed Mr. Parekh what Mr. N. K. Singh communicated to me and what Mr. Singh said in my presence. I have already indicated it in my written statement *vide* paras 1, 2 & 3.

**SHRI B. SHANKARANAND :** You have written a note here. Did you inform the STC, Chairman anything other than your note?

**SHRI B. D. KUMAR :** I informed him what Mr. Singh told me and what Mr. Singh told to Mr. Parekh in my presence.

**SHRI B. SHANKARANAND :** Did you ask the STC Chairman to take action against Mr. Bhatnagar?

**SHRI B. D. KUMAR :** I did not ask him. I communicated the orders of the Minister.

*Shri B. D. Kumar*

**SHRI B. SHANKARANAND :** Did you ascertain about the orders from the Minister?

**SHRI B. D. KUMAR :** The orders of the Minister were communicated by his Special Assistant followed by a written note.

**SHRI B. SHANKARANAND :** When you were having discussion with STC Chairman and others the note was not in his custody. Therefore, the question is that on the basis of the instruction that was communicated to you by Mr. N. K. Singh on behalf of the Minister you proceeded and you did not feel it necessary to enquire whether the instructions of the Minister were correctly communicated to you or not.

**SHRI B. D. KUMAR :** Normally the Minister communicates instructions through his Private Secretary or Special Assistant and they are followed by a note in writing.

**SHRI B. SHANKARANAND :** May I read the note of Mr. Chattopadhyaya for your memory:

"For some time I have been receiving persistent complaints about the behaviour of certain officials of the Projects and Equipment Corporation, a subsidiary of the STC, towards their business clients and associates. A specific case was brought to my notice today where Shri P. S. Bhatnagar, Deputy Marketing Manager, PEC, kept the representatives of a firm waiting for an unduly long time and coerced them to part with certain information."

This is the note of Mr. Chattopadhyaya. Did he call you to his office?

**SHRI B. D. KUMAR :** I did not meet him on the 15th. I met him on the 16th.

**SHRI B. SHANKARANAND :** Now, the Minister suggested that some suitable disciplinary action should be taken and you suggested that he should be shifted from the present seat.

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**SHRI B. D. KUMAR :** This was the instruction given by Mr. N. K. Singh that he should be suspended.

**SHRI B. SHANKARANAND :** What was your suggestion in writing for action ?

**SHRI B. D. KUMAR :** My note is that earlier I have brought to the notice of Mr. Dhawan that his performance was not satisfactory and he should have been shifted.

**SHRI B. SHANKARANAND :** Am I to take it that you write something else and act something else ?

**SHRI B. D. KUMAR :** The words 'as discussed' communicated what was discussed verbally.

**SHRI B. SHANKARANAND :** In the morning you told that you discussed with the STC Chairman when other officers were there and then wrote this note 'as discussed' and you suggested that he should be shifted from the seat.

**SHRI B. D. KUMAR :** My suggestion 'as discussed' refers to the discussion in the room of Parekh where we were communicated the orders that he should be suspended.

**SHRI B. SHANKARANAND :** Do you stick up to your note or deny it ?

**SHRI B. D. KUMAR :** I do not deny the note. 'As discussed' refers to the discussion that took place in the room of Mr. Parekh.

**SHRI B. SHANKARANAND :** Can you say why Vinod Parekh did not sign this note ? You see the photo-copy.

**SHRI B. D. KUMAR :** The photo-copy is not clear. There is a cut on the marking "Chairman, S.T.C."

**MR. CHAIRMAN :** I want to know whether this note signed by Mr. M. N. Misra on behalf of the Chairman of the STC, was this note after being signed by Mr. M. N. Misra, shown to you ?

**SHRI B. D. KUMAR :** I do not recall, as I said in the morning.

**MR. CHAIRMAN :** Is it in any way necessary according to the rules of procedure of the office that after signing it should be shown to you ?

**SHRI B. D. KUMAR :** Not necessarily.

**SHRI B. SHANKARANAND :** After writing your note, did you again go to the room of the STC Chairman ?

**SHRI B. D. KUMAR :** No, Sir.

**SHRI B. SHANKARANAND :** What transpired after sending your note, you did not know at all ?

**SHRI B. D. KUMAR :** Next morning I was informed that the suspension order was served.

**SHRI B. SHANKARANAND :** Till then you did not know anything ? Till next morning ?

**SHRI B. D. KUMAR :** Because the orders were that they were to be communicated forthwith.

**MR. CHAIRMAN :** After sending the note you did not know anything, you did not know what happened till the next day morning when it was communicated to you that the concerned officer was suspended ?

**SHRI B. D. KUMAR :** Yes, Sir.

**SHRI B. SHANKARANAND :** Please read the note of Mr. M. N. Mishra in the photostat copy.

**SHRI B. D. KUMAR :** It reads : "The matter was discussed today when Chairman STC, Chairman PEC, myself and P. M. Malhotra were present. The consensus of the opinion was that Shri Bhatnagar, DMM to PEC be placed under suspension immediately. CPM should take steps to serve the suspension order..."

**SHRI B. SHANKARANAND :** Can you say that the contents of this note are true and correct.

**SHRI B. D. KUMAR :** I do not follow; what exactly is meant ?

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**MR. CHAIRMAN :** It was a note written by Mr. Mishra. How can he say ?

manner; I would have been happy. But this has been recorded in this manner.

**SHRI KRISHAN KANT :** It refers to the discussion in which Mr. Kumar was present and he is writing that the matter was discussed when the Chairman of STC, Mr. Vinod Parekh, Chairman P.E.C., Mr. Kumar, Mr. M. N. Mishra and C.P.M., Mr. Malhotra were present and it says the consensus of the opinion was... So the consensus was arrived at after discussion in your presence, that P. S. Bhatnagar should be placed under suspension immediately. When all these things happened in your presence, a decision was taken in your presence. So, if this note is correct, you say yes.

**MR. CHAIRMAN :** You did not see this note earlier, only later you saw it.

**SHRI B. D. KUMAR :** I do not recall having seen this.

**SHRI B. D. KUMAR :** The note is recorded by Mr. Mishra and Mr. Mishra has said that this was the decision at that meeting, that Mr. Bhatnagar should be suspended. The note is correct to the extent that Mr. Bhatnagar was to be suspended.

**SHRI B. SHANKARANAND :** I have brought to your notice the noting by Mr. M. N. Mishra. I will put a straight question. The note says that there was a consensus in regard to suspending Mr. Bhatnagar. Were you also of the opinion that he should be suspended ?

**SHRI B. D. KUMAR :** I had answered in the morning that on the basis of the file that I took to the Minister and the facts therein. . . .

**MR. CHAIRMAN :** The consensus of the opinion—that is the most important part. You will remember that I asked this question when you said that you asked that only the officer should be shifted from his seat and you replied to my question that you did not suggest any action like suspension of the officer.

**SHRI B. SHANKARANAND :** The Minister was not there when the matter was discussed. I am asking, were you also of the same opinion that he should be suspended ?

**SHRI B. D. KUMAR :** No.

**SHRI B. D. KUMAR :** But orders came from above.

**SHRI B. SHANKARANAND :** Your suggestion was that he should only be shifted from his seat.

**MR. CHAIRMAN :** Now it is said that you were also a party to that. You also agreed to that ?

**SHRI B. D. KUMAR :** That was the suggestion I made earlier. . . .

**SHRI B. D. KUMAR :** We had no option; it is a manner of recording; it is a question of recording, how it should be recorded on the file.

**SHRI NARENDRA P. NATHWANI :** Let his answer be recorded as he is saying.

**MR. CHAIRMAN :** Are we to understand that this note did not include all relevant points ? It is a very important point; as it was directed by the Minister this step was taken ?

**SHRI B. D. KUMAR :** I had already answered to the Chairman, when he asked me whether, on the basis of the details given in the file, the person should have been suspended or not, I said "No". I was also questioned about my impression about the Officer and I explained what I meant by shifting from the seat.

**SHRI B. D. KUMAR :** The point is that it should have been recorded in that

**SHRI B. SHANKARANAND :** For the action of suspending Mr. Bhatnagar, you never suggested in writing; either in this note or by any other note. Did you suggest that Mr. Bhatnagar should be suspended ?

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**SHRI B. D. KUMAR :** I have not recorded any such note. I do not remember where I have suggested that he should be suspended.

**SHRI B. SHANKARANAND :** Mr. Parekh says that you went to him and told him that Mr. Bhatnagar should be suspended. Is that correct?

**SHRI B. D. KUMAR :** I communicated to him what was verbally told to me by Mr. N. K. Singh and he also informed him what action he wanted to be taken.

**SHRI B. SHANKARANAND :** What Mr. Singh told you, I am going to ask you that later. The Committee has got his answers to these questions. Do not answer on behalf of Mr. Singh. I am asking your answer. Did you tell the Chairman of STC to suspend Mr. Bhatnagar? Say, yes or no?

**SHRI B. D. KUMAR :** I did not tell him to suspend Mr. Bhatnagar. I communicated to him the orders from the Minister.

**SHRI B. SHANKARANAND :** What orders?

**SHRI B. D. KUMAR :** That Mr. Bhatnagar should be suspended forthwith.

**SHRI B. SHANKARANAND :** Did the Minister tell you?

**SHRI B. D. KUMAR :** It was communicated to me by Mr. Singh.

**SHRI B. SHANKARANAND :** How do you know that it was the orders of the Minister.

**SHRI B. D. KUMAR :** Normally . . .

**SHRI B. SHANKARANAND :** I am not asking as to what normally is done . . .

**MR. CHAIRMAN :** This question has already been replied. The procedure is if an instruction is given by the Minister . . .

**SHRI B. SHANKARANAND :** I am very sorry. There is no procedure like that.

**MR. CHAIRMAN :** According to the procedure, that instruction was sent through Mr. Singh and it was given effect to.

**SHRI B. SHANKARANAND :** The written instruction is before us. Is he acting on the oral instructions and not on the written instructions? Do you want to say that you wanted to act on the oral instructions and not on written instructions?

**MR. CHAIRMAN :** You can ask a very relevant question. The Minister has in his note only asked for suitable disciplinary action. Now the words 'suitable disciplinary action' has been translated into the action of suspending him. How?

**SHRI B. D. KUMAR :** It was communicated to us orally that he should be placed under suspension.

**MR. CHAIRMAN :** In the written communications of the Minister, the word 'suspension' is mentioned nowhere. Did you draw the attention of Mr. Singh afterwards that in the instructions of the Minister that has been sent to you, the word 'suspension' is not there.

**SHRI B. D. KUMAR :** The next day, action taken was reported the Minister and he was informed either on the same evening or the next day that the person has been placed under suspension.

**MR. CHAIRMAN :** The STC Chairman decided to issue the orders of suspension.

**SHRI B. D. KUMAR :** Before a disciplinary proceeding is started, it depends on the administrative authority whether the person should be placed under suspension and then the proceedings should start.

**MR. CHAIRMAN :** The question that has been put by my friend is very clear. Did you take action on the oral instructions that was communicated to you by Mr. Singh?

**SHRI B. D. KUMAR :** The oral instruction was communicated to me as well as Mr. Parekh and the action was taken.

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**MR. CHAIRMAN :** In that oral instruction was it mentioned that he should be suspended ?

**SHRI B. D. KUMAR :** Yes.

**MR. CHAIRMAN :** When did you receive this letter ?

**SHRI B. D. KUMAR :** The same day.

**MR. CHAIRMAN :** Did you draw the attention of Mr. Singh to the fact that the written communication from the Minister does not contain the word 'suspension' ? How do you interpret the words 'suitable disciplinary action' as suspension of the Officer ?

**SHRI B. D. KUMAR :** The action taken was reported to the Minister and he was aware that the person has been suspended.

**MR. CHAIRMAN :** That means, you acted on the oral instruction as was told to you by Mr. Singh ; but there is nothing here in writing that the man should be suspended. The Minister did not say so.

**SHRI B. D. KUMAR :** The oral instructions were communicated to the Chairman of STC and the matter was discussed in the light of the oral instructions and the man was placed under suspension.

**MR. CHAIRMAN :** It is not mentioned that Mr. Singh was present when the matter was discussed.

**SHRI B. D. KUMAR :** It is not recorded here. He went along with me.

**MR. CHAIRMAN :** How long was he present in that meeting ?

**SHRI B. D. KUMAR :** He was present for fifteen to twenty minutes.

**MR. CHAIRMAN :** Was the decision taken by that time.

**SHRI B. D. KUMAR :** Yes.

**MR. CHAIRMAN :** Did he tell the meeting that the Minister's instruction is that the person should be placed under suspension ?

**SHRI B. D. KUMAR :** He communicated the instructions to Mr. Parekh.

**SHRI B. SHANKARANAND :** How many years of service have you put in Government ?

**SHRI B. D. KUMAR :** I retired after 36 years of Government service.

**SHRI B. SHANKARANAND :** Was it your practice to act on the oral instructions and not on the written instructions ?

**SHRI B. D. KUMAR :** The suitable action has not been defined by the Minister. But the Minister was informed of the action taken either on the same evening or the next day.

**SHRI B. SHANKARANAND :** I am asking you, do you want us to believe this written note or your own note oral evidence ?

**SHRI B. D. KUMAR :** I have said what I have stated in the statement.

**SHRI B. SHANKARANAND :** Which is correct, the written document or your oral evidence because there are contradictions ?

**MR. CHAIRMAN :** What is the contradiction ?

**SHRI B. SHANKARANAND :** He says, he carried out the instructions of suspending Mr. Bhatnagar whereas he has written that he should be shifted from his seat.

**SHRI NARENDRA P. NATHWANI :** It was his recommendation.

**SHRI B. SHANKARANAND :** I am asking his recommendation.

**SHRI KRISHAN KANT :** I was also thinking of the same thing, after going through the note of Mr. Kumar. It says :

"I had occasion to point out the other day to Director (Shri L. K. Dhawan) that the performance of Shri Bhatnagar as Deputy

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Marketing Manager in the inter-departmental meetings has not been altogether satisfactory and requested him that he should be shifted from the present seat."

There are two different stages. Probably he is referring to some earlier conversation with Shri L. K. Dhawan on the basis of the performance in inter-departmental meetings. Then he says,

"As discussed, Chairman STC is requested to take suitable action against the officer."

In the last line he is guided by Prof. Chattopadhyaya's note. It was at a later stage that there was discussion with the Chairman, STC and others, in which the oral instructions given etc. were discussed. This is how I divide it. Then there is no contradiction. Will you say whether what I am saying is correct?

SHRI B. D. KUMAR : What you have said is correct.

SHRI B. SHANKARANAND : Let the witness tell what is correct. I do not want to know from the hon. member what is correct.

MR. CHAIRMAN : You kindly formulate your questions.

SHRI B. SHANKARANAND : It is already recorded. It can be read out.

MR. CHAIRMAN : Let it be read out.

"Question : Do you want us to believe this written note or your own oral evidence ?

Answer : I have said what I have said in the statement.

Question : Which is correct—the written document or the oral evidence, because they are contradictory."

MR. CHAIRMAN : Now you answer that question.

Shri B. D. Kumar

SHRI B. D. KUMAR : My written note is in two parts. The first relates to my impression with regard Mr. Bhatnagar, which I had communicated to Mr. L. K. Dhawan. That is with regard to the past. Then the note says, "As discussed . . .". That is the discussion in Mr. Parekh's room relating to the action now to be taken against Mr. Bhatnagar in the light of the incident on 14th April 1975.

SHRI O. V. ALAGESAN : Mr. Kumar, you have already had occasion to be the work of Mr. Bhatnagar to be unsatisfactory ?

SHRI B. D. KUMAR : His performance in the inter-departmental meetings relating to the allocation of machine tools to various parties was not altogether satisfactory.

SHRI O. V. ALAGESAN : Why I am asking is because you are recording it here as a semblance of justification for the more drastic action that is sought to be taken.

MR. CHAIRMAN : In the morning he categorically said that the action that has been taken against Mr. Bhatnagar according to his opinion was not just.

SHRI O. V. ALAGESAN : Now the action that is sought to be taken is suspension. Earlier Mr. Kumar had said that his conduct in the meetings was not satisfactory. When you read both together, it would appear that this man was not already all right. Perhaps he continued that conduct or wrong behaviour or whatever it is. So, the earlier part of the note justifies the action.

MR. CHAIRMAN : In the morning he said, it appears it has been framed in a way in order to give justification to the action taken against Shri Bhatnagar.

SHRI O. V. ALAGESAN : That means what was actually recorded was not true.

MR. CHAIRMAN : He said, they had to take action because of the instructions from the minister.

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**SHRI O. V. ALAGESAN :** I am not on that. You were finding fault with him earlier to lend justification to the present action. Was it the intention ?

**SHRI B. D. KUMAR :** In the meeting held in Mr. Parekh's room, I mentioned this incident. It is only a record of what I had mentioned in the meeting with Mr. Parekh that earlier I had occasion to tell Mr. Dhawan that Mr. Bhatnagar's performance in the inter-departmental meetings was not altogether satisfactory and he should be shifted. Then I was not Chairman, PEC. Then action was to be taken as discussed in Mr. Parekh's room. Since I mentioned this earlier incident during the discussion, so faithfully I recorded what I had mentioned.

**SHRI O. V. ALAGESAN :** Do you keep minutes of these inter-departmental meetings ?

**SHRI B. D. KUMAR :** Minutes are kept.

**SHRI O. V. ALAGESAN :** If the minutes are produced, can you show whether this man's performance in those meetings was not up to your expectation ?

**SHRI B. D. KUMAR :** The minutes do not record what was the discussion that took place, it only records what was the decision taken.

**MR. CHAIRMAN :** He said, not on the basis of the minutes, but on the basis of his impression. He also said, on several occasions he told him that he should improve his performance.

**SHRI O. V. ALAGESAN :** The minutes are not of help to us because the minutes do not record the discussions, they only record decisions ?

**SHRI B. D. KUMAR :** Yes.

**SHRI O. V. ALAGESAN :** So it cannot be substantiated with what is written in the minutes ?

**SHRI B. D. KUMAR :** Yes.

**SHRI NARENDRA P. NATHWANI :** You have stated there was an earlier discussion in Mr. Parekh's chamber. I am asking you whether my impression is correct of what you have stated and in that meeting you have suggested a mere shifting having regard to your prior experience of the performance of Mr. Bhatnagar.

**SHRI B. D. KUMAR :** In the earlier meeting which I mentioned there was a discussion in Mr. Parekh's room when Mr. M. N. Mishra and Mr. Malhotra were present when the oral orders of the Minister were communicated and at that time I mentioned also that I had occasion to tell Mr. Dhawan that he should be shifted.

**SHRI NARENDRA P. NATHWANI :** But you considered at that stage when oral order of Minister was conveyed through Mr. Singh, Special Assistant of the Minister, that he should be suspended. At that stage all of you, Mr. Parekh and yourself, felt that it was rather unusual and therefore, you suggested to Mr. Singh either through Mr. Parekh or anybody that it would be better if Mr. Singh brought a written order, a formal order, from the Minister ?

**SHRI B. D. KUMAR :** The Minister gave the formal order after the verbal orders were communicated to us.

**SHRI NARENDRA P. NATHWANI :** At that time it was suggested by you as well as Mr. Parekh or either of you that this suspension was rather unusual. There you would require a formal order from the Minister.

**SHRI B. D. KUMAR :** I do not recollect whether I resisted to it or Mr. Parekh resisted to it.

**SHRI NARENDRA P. NATHWANI :** If I read out to you what the then hon. Minister stated before this Committee, I do not know whether it enables you to refresh your memory. On page 5 of the evidence given by him, Mr. Chattopadhyaya said :



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"I sent a word to Mr. B. D. Kumar (that is, yourself) who was at that time the Chief Controller of Imports and Exports and concurrently though temporarily holding the office of the Chairman of the PEC and also STC. I told him that this is the opinion of Mrs. Gandhi, the then Prime Minister, and that she was very emphatic on this point that some grave allegations have been conveyed to her and that some M.Ps. had also, according to her version, conveyed the allegations to her. She was very emphatic that some disciplinary action should be taken and what can be done about it? Presumably, they had consultations between themselves—I say 'presumably' because they did not discuss the matter before me—I sent a word and—then they told me through my Special Assistant that if something has to be done about it, then it is rather an unusual thing and they conveyed to me that action could be taken if the Minister, that is, myself, could give a formal order. So, therefore, at that stage, I gave a formal order that Mr. Bhatnagar should be suspended and departmental disciplinary action should be taken against him."

Is this correct, if your memory is now refreshed?

SHRI B. D. KUMAR : Yes.

SHRI NARENDRA P. NATHWANI : Firstly he conveyed, then Mr. Singh came, discussions took place and you conveyed back to the Minister through Mr. Singh that if something had to be done, it is likely that it is suspension. So, he should give a formal order. That is why the Minister sent a formal order. This note came and thereafter you wrote it out.

SHRI KRISHAN KANT : Here the word 'they' is clarified in the following conversation which Mr. Mavalankar had with Mr. Chattopadhyaya. I read it out as follows :

"SHRI P. G. MAVALANKAR : I did not exactly follow when you

Shri B. D. Kumar

said 'they'—meaning Mr. Kumar and others?

SHRI D. P. CHATTOPADHYAYA  
Mr. Parekh also.

SHRI P. G. MAVALANKAR : Only two of them."

SHRI B. D. KUMAR : I don't remember myself whether Mr. Parekh asked or I asked.

SHRI KRISHAN KANT : He says both.

SHRI B. D. KUMAR : Yes.

SHRI NARENDRA P. NATHWANI : It explains that when you had also, at the meeting held between yourself, Parekh and others, suggested that it was rather unusual and if they wanted to have anything, you thought that shifting would serve the purpose. But if they wanted disciplinary action, it was rather unusual and you required a formal order. That was your stance at that time?

SHRI B. D. KUMAR : Yes.

SHRI NARENDRA P. NATHWANI : That is correct.

MR. CHAIRMAN : Mr. Parekh in his evidence before this Committee categorically stated that Mr. Kumar wanted one officer to be suspended and one officer to be transferred. The decision was taken accordingly. This was the evidence given by Mr. Parekh. What is your comment on this?

SHRI B. D. KUMAR : I cannot comment on what he has said, but what I have indicated is that these were the orders communicated to us by Mr. N. K. Singh that the man should be suspended and it was communicated to Mr. Parekh by me as well as Mr. N. K. Singh.

MR. CHAIRMAN : Note these words. You can say that Mr. Parekh in his evidence before this Committee was not wholly correct. But please look at the words : "Mr. Kumar wanted", you wanted.

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SHRI B. D. KUMAR : No, Sir.

MR. CHAIRMAN : Mr. Kumar wanted one officer to be suspended and one officer to be transferred. That means the whole responsibility devolves on you.

SHRI B. D. KUMAR : No, Sir; that is not correct.

MR. CHAIRMAN : It is on your recommendation that one officer was suspended and that other officer transferred. About this part of Mr. Vinod Parekh's evidence, what do you want to say ?

SHRI B. D. KUMAR : It was not my wanting a person to be suspended. I communicated the orders of the Minister ; and I did not tell him that—in my opinion, or it must be done—I wanted that this should be done.

SHRI B. SHANKARANAND : Now you have helped me. Thank you, Mr. Chairman. I will not now put many more questions to the witness.

MR. CHAIRMAN : Mr. Kumar was the question of transfer of Mr. Cavale discussed ? It might surprise you to know that Mr. M. N. Mishra said that this question viz. of transfer of Mr. Cavale was not discussed at all.

SHRI B. D. KUMAR : The question of Mr. Cavale's transfer was also discussed.

MR. CHAIRMAN : Mr. Mishra told this Committee that this was not discussed at all.

SHRI B. D. KUMAR : My recollection was that this was discussed.

MR. CHAIRMAN : Who is responsible for Mr. Cavale's transfer ?

SHRI B. D. KUMAR : STC issued transfer orders.

MR. CHAIRMAN : Did you have anything to do with Mr. Cavale's transfer order ?

SHRI B. D. KUMAR : The transfer orders were issued, i.e. to Madras, by the Establishment Officer of the STC.

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MR. CHAIRMAN : He was an officer, under your office.

SHRI B. D. KUMAR : He is an officer borne on the parent cadre of STC. For the time being, he was working with PEC.

MR. CHAIRMAN : Were you communicated when he was transferred to Madras ?

SHRI B. D. KUMAR : A copy of the order must have come to my office.

MR. CHAIRMAN : Don't you recollect when ?

SHRI B. D. KUMAR : No, Sir.

MR. CHAIRMAN : Bhatnagar told this Committee that he was harassed in various ways ; and when Mr. Mishra was asked "Can you enlighten us about the manner in which Mr. Bhatnagar was harassed by the police?", he commented that Mr. B. D. Kumar was the person most fitted—I quote—"to comment on this". Can you comment anything on this ? How was Mr. Bhatnagar harassed, and which was the agency that harassed him ?

SHRI B. D. KUMAR : Mr. Bhatnagar came and saw me, and said that his house was searched by CBI and that he was being asked questions and harassed by CBI.

MR. CHAIRMAN : Mr. Mishra further said that the charge-sheet that was given to Mr. Bhatnagar was only based on Mr. Chottopadhyaya's notes and that Mr. Kumar's note was irrelevant, as far as the suspension order was concerned. Is it correct ?

SHRI B. D. KUMAR : I will explain. My note was in two parts : one, with regard to my impression about the officer, and two—action "as discussed".

MR. CHAIRMAN : Just look at the note. "Mr. Kumar's note was irrelevant, as far as the suspension was concerned". Is it correct ?

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**SHRI B. D. KUMAR** : What exactly does 'irrelevant' mean ?

**MR. CHAIRMAN** : Irrelevant as far as suspension order was concerned. He did not want to involve you.

**SHRI B. D. KUMAR** : Quite correct. In my note, I have not said that he should be suspended. I have said "Action was taken as per what was discussed".

**MR. CHAIRMAN** : Mr. Dhawan also said that the action taken against Mr. Bhatnagar and Mr. Cavale—I quote—"was uncalled for and unjustified". When it was mentioned to you, Mr. Dhawan says, you told him that you had to take action on instructions from the top. Did you communicate this to Mr. Dhawan ?

**SHRI B. D. KUMAR** : Dhawan was also informed of the oral instructions that we received.

**MR. CHAIRMAN** : No, no. About the action to be taken, did you ever tell him that you had to take action because it was the instruction from the top ?

**SHRI B. D. KUMAR** : Instructions came from the Commerce Minister.

**MR. CHAIRMAN** : You told Dhawan also ? We have to verify it.

**SHRI B. D. KUMAR** : Yes.

*(Shri Krishan Kant—in the Chair)*

**MR. CHAIRMAN** : In your note, written from your memory, you have stated, "Mr. Singh stated that the then Commerce Minister was told by the former Prime Minister Shrimati Indira Gandhi that the Deputy Manager of the PEC Mr. Bhatnagar had behaved badly with the representatives of Messrs. Batliboi, and in an unbusinesslike manner. Shri N. K. Singh added that the former Prime Minister was very much annoyed with Shri Bhatnagar's unbusinesslike behaviour. Shri Singh further stated that the then Commerce Minister had desired that the officers concerned should be transferred immediately. What Mr. N. K. Singh has stated before this Committee is that he has

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not stated Mrs. Gandhi's views. He has stated the views of the Minister concerned—of course, of the Commerce Minister to you. Can you clarify ?

**SHRI B. D. KUMAR** : I have stated what I recall as to what he told me, viz. that the Commerce Minister was told about this. The Commerce Minister was told by the former Prime Minister that a Deputy Manager of the PEC . . .

**SHRI B. SHANKARANAND** : That Mr. N. K. Singh does not tell us. Who is correct ? You are correct or he is correct ?

**SHRI NARENDRA P. NATHWANI** : Why do you ask him a hypothetical question ? If Mr. Singh has not stated, you cannot ask him that way. If he himself had stated, then you can ask him.

**SHRI B. D. KUMAR** : I do not know what evidence he has given.

**SHRI B. SHANKARANAND** : In his note he has stated that N. K. Singh told him that the former Prime Minister Mrs. Gandhi was very much annoyed, that the Commerce Minister told him and all that, but N. K. Singh said that the Commerce Minister sent him to Mr. Kumar to take action.

**SHRI NARENDRA P. NATHWANI** : There is no use asking . . .

**MR. CHAIRMAN** : This is what N. K. Singh said :

"Prof. Chattopadhyaya then told him that he had received serious complaints of harassment of STC clients by one Mr. Bhatnagar, a Deputy Marketing Manager in the STC, and that he had decided to place the officer under suspension, pending the initiation of departmental action against the office, that while he himself had tried to get into touch with Mr. Parekh . . ."

**SHRI B. SHANKARANAND** : But what did he tell him ?

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**MR. CHAIRMAN :** What he has written. If Mr. Singh is silent on that, it does not mean . . .

**SHRI B. SHANKARANAND :** That is for us to argue, but let the witness say what he wants to say.

**SHRI B. D. KUMAR :** I have nothing to add to what I have stated here.

**SHRI B. SHANKARANAND :** You have stated in your note in the same paragraph :

"Shri Singh further stated that the then Commerce Minister had desired that the officers concerned should be transferred immediately".

Is it correct ?

**SHRI B. D. KUMAR :** It is correct. Initially he said this.

**SHRI B. SHANKARANAND :** In your note you have not at all mentioned about the Minister's oral instruction of suspending Bhatnagar.

**SHRI B. D. KUMAR :** I have stated, in page of my statement :

"... Shri N. K. Singh contacted Shri Vinod Parekh the then Chairman of the STC and communicated that it was desired by the former Commerce Minister that orders for suspending Shri Bhatnagar and transferring Shri Cavale should be issued immediately."

**SHRI B. SHANKARANAND :** This was your second meeting with Mr. N. K. Singh.

**SHRI B. D. KUMAR :** Yes.

**SHRI B. SHANKARANAND :** Same day or on another day ?

**SHRI B. D. KUMAR :** Same day.

**SHRI B. SHANKARANAND :** When was the first meeting held ?

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**SHRI B. D. KUMAR :** The first meeting was held near about 4 O' clock.

**SHRI B. SHANKARANAND :** What was the discussion in the first meeting ?

**SHRI B. D. KUMAR :** That is what I have indicated here.

**SHRI B. SHANKARANAND :** You tell me whatever you want.

**SHRI B. D. KUMAR :** I have been travelling all night, I had no sleep. I have been here since morning.

**MR. CHAIRMAN :** You can read out that portion of your statement and give the answer.

**SHRI B. D. KUMAR :** I have said in my statement :

"Shri N. K. Singh the then Special Assistant to the then Commerce Minister—Prof. D. P. Chattopadhyaya, saw me in the afternoon (at about 4.00 p.m.) on or about the 14th April 1975 in my office. He stated that the then Commerce Minister was told by the former Prime Minister..."

**SHRI B. SHANKARANAND :** At the 4 O'clock there was one discussion, in the evening there was another discussion with N. K. Singh, at two different times according to your version. What discussion did you have at the first meeting and when he met you again, what was the further discussion ?

**SHRI B. D. KUMAR :** I had no discussion with Mr. N. K. Singh. He communicated the orders of the Minister. I went to the PEC to collect the papers and I brought the papers.

**SHRI B. SHANKARANAND :** You are unnecessarily dragging the proceedings. I am asking short questions and you are giving long answers.

I am asking : When N. K. Singh met you for the first time, am I to believe that he only asked you to transfer the officer ?

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**SHRI B. D. KUMAR :** Yes.

**SHRI B. SHANKARANAND :** And in the second meeting he said that Bhatnagar should be suspended and Cavale should be transferred.

**SHRI B. D. KUMAR :** Most humbly and most respectfully I submit that I stand by my statement.

**SHRI B. SHANKARANAND :** When did you come to know that Mr. Bhatnagar was collecting information for a reply about Maruti ?

**SHRI B. D. KUMAR :** Immediately after 4 O'clock, I went down to the PEC office, contacted Mr. Dhawan. At that time, I came to know that there was a parliamentary question for which he was collecting information. Before that I did not know.

**SHRI B. SHANKARANAND :** On that day when N. K. Singh met you at 4 O'clock immediately after that you came to know.

**SHRI B. D. KUMAR :** I went down to PEC office and came to know of this.

**SHRI B. SHANKARANAND :** This note which was received by you from the Minister in which you said that as per discussion, Mr. Bhatnagar should be suspended and further as per the note of Mr. M. N. Mishra Bhatnagar was suspended. On that date how many meetings took place between you and the STC Chairman about this matter ?

**SHRI B. D. KUMAR :** One meeting.

**SHRI B. SHANKARANAND :** Was that one meeting take place before you received the note from the Minister or after you received the note ?

**MR. CHAIRMAN :** Several times, he has stated that on the basis of oral instructions through N. K. Singh, this meeting was held. Then the written instruction of the Minister came. He said it several times.

**SHRI B. SHANKARANAND :** I want to put the record straight by putting this

question. I am saying whether this one meeting took place after the receipt of the note from the Minister or before ?

**MR. CHAIRMAN :** This question he has answered not once but several times.

**SHRI B. SHANKARANAND :** Please show me.

**MR. CHAIRMAN :** I cannot show you each and every time the proceedings.

**SHRI B. SHANKARANAND :** This one meeting with the Chairman, STC whether you had that meeting before you received this note from the Minister or after ?

**SHRI B. D. KUMAR :** This meeting was before I received the note.

**SHRI B. SHANKARANAND :** As per this note there were two meetings with STC Chairman on that date. Is it correct or not ?

**SHRI B. D. KUMAR :** My recollection is that we had only one meeting.

**SHRI B. SHANKARANAND :** Now, you have no hand whatsoever in suspending Bhatnagar and transferring Mr. Cavale.

**SHRI B. D. KUMAR :** What is exactly meant by it ?

**MR. CHAIRMAN :** Whether he was responsible directly in suspending Bhatnagar and transferring Cavale. He said that it was not his direct responsibility. He communicated the oral instructions that he received and on the basis of that this decision was taken by the STC Chairman in that meeting because both of them are under the control of the STC Chairman.

**SHRI B. SHANKARANAND :** You know that the oral instructions of the Ministers were that Bhatnagar should be suspended, sent through, according to you, N. K. Singh. In spite of the oral instructions you did not record or write in your note that Bhatnagar should be suspended.

**SHRI B. D. KUMAR :** I said the matter was discussed and I have referred to the discussion in my note 'as discussed'.

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**SHRI B. SHANKARANAND** : Your noting in this note is : "as per the discussion with the STC Chairman". Is it correct ?

**SHRI B. D. KUMAR** : Yes.

**SHRI B. SHANKARANAND** : Did you ever think at that time while writing this note of harassing your officers—Mr. Bhatnagar and Mr. Cavale ?

**MR. CHAIRMAN** : I did not follow your question.

**SHRI B. SHANKARANAND** : Did you ever think of harassing your officers ?

**SHRI B. D. KUMAR** : The question does not arise.

**MR. CHAIRMAN** : It is a matter for psychological impression whether you felt, when you wrote down this note, that your officers were harassed or not.

**SHRI B. D. KUMAR** : No. The question was whether I thought of harassing the officers or not when I wrote down that note. No.

**MR. CHAIRMAN** : He said : "No".

**SHRI B. SHANKARANAND** : When did the meeting take place between you and the Chairman of the STC ?

**MR. CHAIRMAN** : That was in the evening about 7 P.M.

**SHRI B. SHANKARANAND** : I am not asking that. The question of collecting information about Maruti did not arise at all in your discussion.

**SHRI B. D. KUMAR** : It was also mentioned that those officers were collecting information or a question and that was what the file was saying and that was the background of the case.

**SHRI B. SHANKARANAND** : Mr. M. N. Mishra, Mr. Malhotra and Mr. Parekh, all of them have said that this was never discussed in the meeting.

**MR. CHAIRMAN** : I do not know.

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**SHRI B. SHANKARANAND** : Let him say.

**MR. CHAIRMAN** : You kindly quote the relevant portion where they have said about it.

**SHRI B. SHANKARANAND** : They have not said about it. All those persons who have signed this note except this gentleman. The question of collection of information about Maruti did not arise in the discussion. As per the discussion, this note was written.

**MR. CHAIRMAN** : It is up to you to draw your inference.

**SHRI B. SHANKARANAND** : I am asking about the discussion on that day. The discussion which took place in the meeting.

**SHRI B. D. KUMAR** : It was mentioned that Mr. Bhatnagar was collecting information with regard to the question . .

**SHRI B. SHANKARANAND** : In spite of it, knowing that he was collecting information, you wanted to suspend him. Mr. Kumar, as per the discussion, you said that you had agreed to suspend him. Do you want to suspend an officer because he was collecting information ?

**SHRI B. D. KUMAR** : The question of suspension was not called for. On the basis of what was on the file, I mentioned that.

**MR. CHAIRMAN** : I want to draw your attention to this note. Mr. L. K. Dhawan categorically stated in his statement before this Committee "That Mr. B. D. Kumar asked him whether there was some information being collected regarding supply of machinery to Maruti. He wanted to have those papers. He collected those papers from Mr. Bhatnagar and handed them over to Shri B. D. Kumar".

**SHRI B. SHANKARANAND** : Mr. L. K. Dhawan had not signed this note. I am asking about those persons who have signed this note. Does it mean that because of this, he passed the suspension order ?

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**SHRI KRISHAN KANT** : He never said that.

**SHRI B. SHANKARANAND** : I am willing to cross-examine even the hon. Members. I am putting this question to the witness. Why should the Members reply to my questions ? I do not understand this. I am very sorry that hon. Members are interfering with my question and my question is very very relevant. Whenever I am asking a relevant question, Members are interfering. . .

**SHRI NARENDRA P. NATHWANI** : Whenever I try to intervene, I understand that this is not a fair question and I am entitled to do it. I am always looking to my left. I always draw the attention of the Chairman that this is not a fair question.

**SHRI B. SHANKARANAND** : I am sorry, when I raise an important question, Members are prompting the witness. I am so sorry.

**MR. CHAIRMAN** : I am not accepting your view that the Members are prompting. This is very unfair.

**SHRI B. SHANKARANAND** : This is very unfair. Whenever I am putting a question, they are interfering. . .

**MR. CHAIRMAN** : I strongly resent this and do not accept your version. I have given you latitude.

**SHRI B. SHANKARANAND** : There is no question of giving a latitude to me. On the other hand, I am very sorry that whenever I am putting a question, there has been some interference.

**MR. CHAIRMAN** : Kindly put your question now.

**SHRI B. SHANKARANAND** : If this is the attitude of the Members towards me, particularly when I want to get some truth from the witness, I am so sorry.

**MR. CHAIRMAN** : I have a certain responsibility. As Chairman of the Committee; towards the Members of the Committee.

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**SHRI B. SHANKARANAND** : I am also a Member of this Committee.

**MR. CHAIRMAN** : I have a certain responsibility towards you as well as to the witness. If I feel that certain questions which are being put to the witness are not fair, I am not here to sit silent. I have to see whether justice is being done to the questionnaire and also to the person to whom the question is being put.

**SHRI B. SHANKARANAND** : I do not want to make any observation before the witness. Whatever observations I have to make, I will make in the absence of the witness. It is not fair on my part to comment on the proceedings of the Committee in the presence of the witness.

**MR. CHAIRMAN** : All right : thank you.

**SHRI B. SHANKARANAND** : Did you meet the Minister and know his views before writing this note which . . .

**MR. CHAIRMAN** : This is a question which you had, asked, I had asked and other Members had also asked. As Chairman, what is my function ? If a question is repeated not once, twice or thrice but five or six times, can the Chairman permit it ?

**SHRI B. SHANKARANAND** : This is a prelude to my further question. I cannot put my next question unless I ask this question.

**MR. CHAIRMAN** : You can then say 'You have told this Committee that you did not meet the Minister : if so . . .' and then formulate your question.

**SHRI B. SHANKARANAND** : I am sorry, but I do not want to ask any further questions of this witness because I am being interrupted every time : and I protest.

**MR. CHAIRMAN** : Mr. Kumar, will you withdraw for a few minutes ?

*(The witness then withdrew)*

*(The Committee then adjourned)*

Saturday, the 29th July, 1978

PRESENT

Professor Samar Guha—*Chairman*

MEMBERS

2. Shri Hitendra Desai.
3. Shri Ram Jethmalani.
4. Shri Krishan Kant.
5. Professor P. G. Mavalankar.
6. Dr. V. A. Seyid Muhammed.
7. Shri Narendra P. Nathwani.
8. Shri Ravindra Verma.

Shri S. V. Gupte—*Attorney-General of India*

SECRETARIAT

Shri I. Pershad—*Chief Legislative Committee Officer*

Shri M. P. Gupta—*Senior Legislative Committee Officer*

(The Committee met at 11.00 hours)

Evidence of Shri S. V. Gupte

MR. CHAIRMAN: Mr. Gupte, I welcome you to this sitting of the Privileges Committee. You have been requested to appear before this Committee to give your opinion on certain points regarding the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd. It will be helpful if you clarify some of the points that may be raised by my friends here, the Members of the Committee so that it enables us to come to a rightful conclusion regarding this matter.

DR. V. A. SEYID MUHAMMED: Only on one point I would like to seek clarification because you have given the opinion that Article 20(3) does not speak of oath. In Sharma's case certain

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observations regarding Article 20(3) create certain doubts in the minds of the Members of the Committee. I will refer to some of the passages regarding Article 20(3) which are the basis of my doubt. So, if you will bear with me, I will refer to those passages so that you can clarify my doubts or whether I am justified or not. This is from the Supreme Court Reports, 1954 : p. 1077—the relevant portion starts on p. 1063. I quote :

"Article 20(3) embodies the principle of protection against compulsion of self-incrimination which is one of the fundamental canons of the British system of criminal jurisprudence and which has been adopted by the American system and incorporated as an article of its Constitution. It has also, to a substantial extent, been recognised in the Anglo-Indian administration of criminal justice in this country by incorporation into various statutory provisions. In order, therefore, to arrive at a correct appraisal of the scope and content of the doctrine and to judge to what extent that was intended to be recognised by our Constitution-makers in article 20(3), it is necessary to have a cursory view of the origin and scope of this doctrine and the implications thereof as understood in English law and in American law and as recognised in the Indian law.

In English law, this principle of protection against self-incrimination had a historical origin. It resulted from a feeling of revulsion against the inquisitorial methods adopted and the barbarous sentences imposed, by the Court of Star Chamber, in the exercise of its criminal jurisdiction. This came to a head in the case of John Lilburn which brought about the abolition of the Star Chamber and the firm recognition of the principle that the accused should not be put on oath and that no evidence should be taken from him. This principle, in course of time, developed into its logical extensions, by way of privilege of witnesses against self-incrimination, when called for giving



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oral testimony or for production of documents. . .

The next one I will not read; that deals with the American position. I will skip over to the next page 1084 : the last paragraph :

"In the Indian law the extent to which this protection is recognised appears from the various relevant statutory provisions from time to time.

Then on page 1084, last paragraph, it says :

"Section III of Act XV of 1852 recognised that an accused in a criminal proceeding was not a competent or compellable witness to give evidence for or against himself. This provision was repealed by the Evidence Act I of 1872. But meanwhile the Criminal Procedure Code of 1861 in sections 204 and 203 thereof respectively provided that no oath shall be administered to the accused and that it shall be in the discretion of the Magistrate to examine him. The Criminal Procedure Code of 1872 by section 250 thereof made a general questioning of the accused, after the witnesses for the prosecution had been examined, compulsory and section 345 thereof provided that no oath or affirmation shall be administered to the accused person. These features have been continued in the later Codes of Criminal Procedure and have been incorporated into section 342 of the present Criminal Procedure Code of 1898. The only later statutory change, so far, in this behalf, appears to be that brought about by section 7 of the Prevention of Corruption Act, 1947. By virtue of that section an accused is a competent witness on his own application in respect of offences under that Act."

Then on page 1085, on the same page, it further says :

"Thus so far as the Indian law is concerned, it may be taken that the protection against self-incrimination continues more or less as in the English

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common law, so far as the accused and production of documents are concerned, but that it has been modified as regards oral testimony of witnesses, by introducing compulsion and providing immunity from prosecution on the basis of such compelled evidence."

Now on page 1086, last paragraph, it says :

"In view of the above background, there is no inherent reason to construe the ambit of this fundamental right as comprising a very wide range. Nor would it be legitimate to confine it to the barely literal meaning of the words used, since it is a recognised doctrine that when appropriate a constitutional provision has to be liberally construed, so as to advance the intentment thereof and to prevent its circumvention. Analysing the terms in which this right has been declared in our Constitution, it may be said to consist of the following components. (1) It is a right pertaining to a person "accused of an offence"; (2) It is a protection against "compulsion to be a witness"; and (3) It is a protection against such compulsion resulting in his giving evidence "against himself"."

So far as I can see the English common law, as far as accused is concerned, he should not be compelled to take an oath. It has been incorporated in the various proceedings and as far as the accused is concerned, that law remains the same. The only difference made is in the case of witness. Subsequently, a witness may be compelled, but he has certain immunities. These principles have been incorporated in the Constitution under art. 5. The English common law says that nobody should be compelled to take an oath or to the witness. Then the second thing is when we come to the wording of it, you should not be confining yourself only to the wording, that is, you must take into account what is the background; and in the background, when you interpret it, there are three components. It has been analysed. These are the components : (1) It is a right pertaining to a person

"accused of an offence"; (2) It is a protection against "compulsion to be a witness"; and (3) That incriminating question shall not be asked.

So, the Common Law was that nobody should be compelled to take oath and nobody should be compelled to be a witness. The second thing is pertaining to an accused. An accused should not be compelled to answer incriminating questions. This being the decision, I have still doubt when it is said that there is no protection against her taking oath. There is protection if this decision is a correct decision. As far as the accused is concerned, the protection is granted. He or she cannot be compelled to give evidence, including taking oath. This is my submission.

I may refer to the Rules of Procedure and Conduct of Business in Lok Sabha which appear to be on the same lines. I first refer to rule 269; the wording here is very important; rule 269(1) reads :

"A witness may be summoned by an order signed by the Secretary-General and shall produce such documents as are required for the use of a Committee."

I am not reading sub-clauses (2) and (3). Rule 270 reads :

"A Committee shall have power to send for persons."

The wording in 269 is 'witness' and in 270 it is 'persons'.

Coming to rule 272, which you have interpreted, and rightly, as an enabling provision and not a mandatory provision, it reads :

"A Committee may administer oath or affirmation to a witness examined before it."

So, when you read these three rules together, you will find that rule 269 deals with a 'witness', rule 270 deals with a 'person', and rule 272 deals with administering oath not to a 'person' but to a 'witness'. Even the procedure for summoning a person or a witness is quite

different as you can see : a 'witness' may be summoned by an order signed by the Secretary-General, but in the case of a 'person' contemplated under rule 270, it is the Committee which shall have the power to summon. Then you come to rule 272 which again uses the phraseology, 'A Committee may administer oath or affirmation to a witness . . .'. So, there are these two categories of people : 'witness' summoned by the Secretary-General and 'persons'—naturally, other than a witness—summoned by the Committee. It is the 'witness' who is contemplated under rule 269 and not the 'person' who is summoned by the Committee, to whom oath shall be administered. So, my submission is that, even though not very clearly, a distinction is made between 'witness' and 'person'—who is other than witness. An accused comes under the category of 'a person who is not a witness', so that even the enabling clause is only to a 'witness' and not to a 'person' who is contemplated under rule 270. This, according to me, is the position after reading the law existing in India, namely, that an accused cannot be compelled to take oath.

ATTORNEY-GENERAL : The first point, if you look at the questions you have asked, is whether, in view of the provision in Art. 20(3) of the Constitution, Shrimati Indira Gandhi is bound not to take the oath for giving evidence before the Committee of Privileges in this case. Now, the second one is whether she has a right to refuse to give evidence; and the third is whether she can be examined without an oath in this case. I am assuming that you are really referring to the third point and not the first : I only want a clarification before I answer it.

Three questions were specifically raised, which have been set out in the first page of my opinion—the first being whether, under the provisions of the Constitution, she has a right not to take the oath for giving evidence before the Committee of Privileges.

DR. V. A. SEYID MUHAMMED : Not that.

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ATTORNEY-GENERAL : So, that is not the one on which you are seeking clarification. It seemed to me that your question is more with reference to the third point. I will answer it : I only wanted that clarification before I could answer it.

Now, as to whether she can be examined by the Committee, I think that clarification which you seek is with reference to the Rules of the House. I will answer the question, nevertheless.

Now, my understanding of the question is totally different. The question really asked in substance was—before these three questions can be answered—whether Art. 20(3) would apply to the proceedings of the House and its Committees. Now, if you turn to the question of oath, I have said, undoubtedly, that Art. 20(3) does not deal with the question of oath in direct terms at all : it speaks of a witness not being compelled to answer certain questions. It says 'No person accused of any offence shall be compelled to be a witness against himself'. That is to say, there is no protection against a person being called as a witness if he be accused of an offence, but he shall not be compelled, nevertheless, to be a witness against himself—not in a large sense but to the extent that any answer to a question tends to incriminate him. That, unfortunately, has raised an issue. I will deal with it but, before I do that, if you turn to my first opinion, you will find a passage quoted from Maqbool's case :

"But if regard be had to the whole background indicated above it is clear that in order that the protection of Article 20(2) . . .".

If we consider it with reference to Art. 20(2), in my opinion, the pattern is the same whatever the original marginal note may be, because it speaks, again, of an accused person being compelled. So, the proceedings, the character of the forum and the nature of the proceedings must be the same as in the case of (2) and (1).

"But if regard be had to the whole background indicated above it is clear that in order that the protection of

article 20(2) be invoked by a citizen there must have been a prosecution and punishment in respect of the same offence before a court of law or a tribunal, required by law to decide the matters in controversy judicially on evidence on oath which it must be authorised by law to administer and not before a tribunal which entertains a departmental or an administrative enquiry . . .".

That rather floodlights the scope of Art. 20. The words are 'shall not be compelled to be a witness against himself' : It does not say 'shall not be compelled to be a witness at all'. If that had been so, then the whole controversy would not have arisen.

But, apart from these words, I am now inviting your attention to the passage I have quoted and this refers to all the decisions expect Nandini's case. In Nandini's case, for the first time, the court has gone to the extent of holding that that protection is available to a witness, i.e. the accused person, even though the Police authorities have no authority to administer an oath. Just as you cannot exempt a person from going to the police station and answering questions—in fact, Nandini's case is there—there is no absolute protection to the witness otherwise this language would be unrealistic. If you cannot be a witness, where is the question of asking a question. Kindly see page 1083, Sharma's case.

For a moment, look at the language of Article 20(3). It does not stop at the words ". . . shall be compelled to be a witness"; you cannot stop there, you have to read on . . . "No person accused of any offence shall be compelled to be a witness against himself". In other words, you can be a witness, you can be asked questions, but you must stop short, or rather you may ask the question, but the accused is protected from answering certain questions, which are self-incriminatory.

Now, page 1086. In the first place in that case the primary concern was with the *vires* of the provisions with an eye on

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Article 19(1)(f), but we turn to the passage itself and the very beginning of that passage says :

"In view of the above background, there is no inherent reason to construe the ambit of this fundamental right as comprising a very wide range."

In other words, we are not going all the way all along the line, which may emerge as the 5th amendment to the Constitution of America speaks of criminal cases. They have not copied that ; we have Article 20(3) in the Constitution, Then it says :

"Nor would it be legitimate to confine it to the barely literal meaning of the words used . . ."

That was the real question in Sharma's case. The question there was whether the protection was confined to oral testimony or it was also available in respect of documents which were incriminating. There, of course, the question of oath did not loom large on the court. It did not call for consideration at all. It was not addressing itself to the decision of the Supreme Court in 1950 or the decision in Venkataraman's case, of 53 S.C.R. 730.

What I am pointing out is only this. In that case what the court was primarily concerned with was whether the protection is available in respect of incriminating documents or whether it was confined to oral testimony only. The question whether the person could be compelled to be a witness at all was not before it at all. Even so, they said :

"Nor would it be legitimate to confine it to the barely literal meaning of the words used, since it is a recognised doctrine that when appropriate a constitutional provision has to be liberally construed, so as to advance the intent thereof and to prevent its circumvention.

What follows is rather important.

"Analysing the terms in which this right has been declared in our Consti-

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tion, it may be said to consist of the following components. (1) It is a right pertaining to a person 'accused of an offence' ;

(2) and (3) are rather important taken together.

(2) It is a protection against 'compulsion to be a witness . . ."

The matter does not rest there.

". . . and (3) It is a protection against such compulsion resulting in his giving evidence 'against himself'."

Thus (2) and (3) clearly show that that case examined whether the protection is confined to oral testimony or if it can be extended to incriminating documents, then by words of the two components, the first one is to see, before Art. 20 (3) is attracted, if it is a protection against such compulsion resulting in his or her giving evidence 'against himself' or 'against herself'. If it is not an offence how can she give any evidence at all either for or against. This is a clear departure in terms of the language. That is how I read. If you take page 1088, the real question before the court is whether incriminating documents had the protection of the constitution.

Coming to the rules themselves, by the literal construction of the words whether the accused can ever be summoned at all—do I understand your question correctly ?

DR. V. A. SEYID MUHAMMED : 'summoned' can be under 275, but no question of administration of oath.

ATTORNEY-GENERAL : That, by your rules, is left to you.

SHRI RAM JETHMALANI : According to my friend over there, an accused can be summoned only to be seen and not heard.

DR. V. A. SEYID MUHAMMED : I am sorry, Mr. Jethmalani. We are dealing with a serious matter.

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**ATTORNEY-GENERAL :** May I just address myself to the power to take evidence or call for documents ?

A witness may be summoned by an order signed by the Secretary. That is for the witness. Now, an accused person would come really not in the capacity of a 'person' which is a wide term. That is how it strikes me. You do not normally summon an accused when the accused is before you all the time and the accused does not have to be examined as a witness at all. The accused is before the committee or the forum before which the accused is being brought. Art. 20(3) speaks of an accused person being made to speak as a witness against himself. That is the limited function of Art. 20(3). Have I made myself clear ?

**MR. CHAIRMAN :** A question may be asked : if he or she refuses by saying that it is incriminatory to him or her, only to that question we may agree. There also, whether it is incriminatory or not is at the discretion of the presiding officer.

**ATTORNEY-GENERAL :** He or She refuses to reply saying that it is incriminatory. There it is clear—'in the opinion of the forum' whichever the forum is, the court or the committee. When it is not incriminatory and you may draw inference, that is a different thing.

**MR. CHAIRMAN :** She says, "I am a lay man". How does the question come whether it is incriminatory or not ? We have to be guided by the Lok Sabha Rules. How can this matter be decided whether it is incriminatory or not ? What have we to do ?

**ATTORNEY-GENERAL :** The Tribunal ordinarily comes to a conclusion, whether inference can be drawn or not ? It is a long process of reasoning which tells a person—it might incriminate in some remote fashion. That is not for what protection is given for. Courts have said—very well, it may anything which would establish a link in the chain. If it is incriminating to the

extent of establishing one little link in a chain of accusations, that would be incriminating.

**MR. CHAIRMAN :** In our case it is difficult to decide the matter. In the case of a tribunal, the witness is always assisted by a counsel. But here that provision is not there. Therefore, it is difficult for us to decide—what should be our criteria. Please enlighten us. We are worried about the whole thing because of the nature being unprecedented. What should be our criteria to judge whether it is incriminatory or not ?

**ATTORNEY-GENERAL :** My difficulty is this—could a counsel say that she should have protection ? Because answer to this would be incriminatory. Those facts would be in their possession and by saying this here it will establish a link in the chain of certain charges which are not before you, which are not pending. You could not possibly say whether it is incriminatory or not.

In courts the question of admissibility comes in. The question is what is admissible but protection is given against one being compelled to answer.

How would any forum function. They will say, very well, I have twenty other cases pending.

**MR. CHAIRMAN :** If it is admissible, naturally, it could be pursued.

**ATTORNEY-GENERAL :** One can say, very well, I know of several cases against me, if I answer this, it may be used against me. In that case it is incriminatory. All facts have to be disclosed why it is incriminatory.

The person cannot get protection by saying—I think it is incriminatory. That is how the matter strikes me.

The question of this kind seldom arises in the court. You may say it is a question of admissibility in the larger sense.

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You are entitled to ask questions. She has protection. She can answer. He or she can say—I do not want to answer, not that the question is I am protected to answer.

In so far as the question of admissibility is concerned, to what extent it will go and what are the charges and if she answers here, it is difficult to conceive of such a situation before a court or before a legal forum. One answer here may become a link or no link at all or may be an incidental fact to be established. That is not the link as such because it must be a direct link. There must a regular causative process. That is the real problem here.

MR. CHAIRMAN : So far as the position of the Chairman is concerned, it is under his discretion whether he admits a question or not. But suppose I admit a question. Mrs. Gandhi says something. She answers a part of it and then she says 'I don't want to argue; I don't want to answer the other part' what should I do? Members are there. Members may like to ask a question. What about the position of the Chairman then? What position am I to take as a Chairman? But one thing is very clear. It is in my discretion as Chairman, whether a question is admissible or not admissible. If it is admissible, the question is put and she answers. May be that she answers it partly, but not completely, to our satisfaction or the satisfaction of the Member of the Committee. All the Members are entitled to have the freedom to ask question. If she says, 'I will not answer the question because I feel it is incriminatory', then, what position has the Chairman to take?

ATTORNEY-GENERAL : The forum could ask questions, whatever may be the procedure. Generally there may be no charge at all. Whether she uses the word incriminating here or the accused person uses it presently or in future, then the matter would have to rest there, unless she volunteers or he volunteers to say something about how it incriminates. You

can ask, 'what charge it is, why do you feel so?' Perhaps that question could be asked: "What is the charge which you apprehend by reason of a self-incriminatory statement?"—That is the farthest it could go, according to me.

MR. CHAIRMAN : As Chairman I am interested to see that her interests also are protected.

ATTORNEY-GENERAL : Naturally.

MR. CHAIRMAN : Naturally my difficulty is this. As already she has submitted before the Committee, she, being a layman, she will not be able to discriminate which one is incriminatory and which one is not so.

ATTORNEY-GENERAL : The answer would depend upon the question. It is for the counsel to say how it incriminates. It is an argument. If that argument is permissible it is open to Chairman to ask the question how and in what manner, if the Counsel is allowed.

MR. CHAIRMAN : That question we will ask afterwards. There is no precedent here. But we know there are one or two cases elsewhere in respect of some other Committees. In our case we have no such precedent so far. About this we will ask you some questions afterwards. Now, presently, we are not on this question.

ATTORNEY-GENERAL : I will answer your first question. The accused says: "This will incriminate". If you take the answer as conclusive and rest the matter there, that is one thing. But, suppose the accused says, 'I cannot explain it to you',—you are the Chairman, you put the question—it is open to the Chairman to ask him: 'You say it incriminates, how does it incriminate?' Here the point is whether it is something which directly incriminates or tends to incriminate. One may give a totally different answer, but the point is, one cannot incriminate oneself. One cannot say, I did or I did not. It is a link in the chain, as the Court has said. It may either incriminate directly or it may incriminate by establishing a link in the chain of a confession or which might

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result in a confession. When the accused says that he cannot explain to you, you must necessarily decide. If the accused wants to rely on facts, then, of course, the Counsel is allowed to assist. Then, undoubtedly, the forum shall have the right to ask how it would be incriminatory and there the matter must rest whether you are satisfied or not.

In any case, you cannot compel her to answer.

MR. CHAIRMAN : We cannot compel her.

DR. V. A. SEYID MUHAMMED : Two passages are still lingering in my mind and creating some problems for me. That is the passage which I read in page 1083, this particular sentence read with the subsequent one raised the problem in my mind. In the case of John—which brought about the abolishing of the Star Chamber the firm recognition of the principle was that the accused should not be put on oath and that no evidence should be taken from him. That is the protection from taking oath.

ATTORNEY-GENERAL : May I answer that? If I have not forgotten my criminal law, the accused is never put on oath in that fashion. Normally, as a general rule, it is not done.

DR. V. A. SEYID MUHAMMED : Summing up on 1086, first of all, it is a right pertaining to a person accused of an offence. That is not the problem. Secondly, it is a protection against compulsion for giving evidence. Reading together, that protection is against compelling her to give oath.

ATTORNEY-GENERAL : May I answer that straightway. It is merely tracing the history of the immediate reaction of the people to what happened in the Star Chamber; we cannot ignore compelling of the witness against himself or herself as the case may be.

DR. V. A. SEYID MUHAMMED : That, I understand, is the principle just incorporated in the Criminal Procedure

Code that no oath shall be taken. The subsequent amendment states that no oath shall be taken and, he shall not be compelled, though competent, to be a witness, to take oath. That is the position now.

ATTORNEY-GENERAL : I find it difficult to deal with it because, if the person cannot be a witness at all, then where is the question of oath or no oath? Therefore, the protection is given to a person who can come and give evidence as a witness. Nandini's case, at least, for the timebeing, establishes the proposition that that is not the criterion. Protection can be given to a person who may not be put on oath. Nandini's case was the one which involved making a statement to the police authorities where there is no question of administering an oath at all.

DR. V. A. SEYID MUHAMMED : Under the present law, as I understand it, an accused is competent to give evidence. But, if the accused says that he will not be a witness, you cannot compel him or her for either administering the oath or asking him or her to get into the witness box. So, that is precisely what has been repeated here.

ATTORNEY-GENERAL : The question is : whether the accused person can come to the witness box or not. The question asked is with reference to Art. 20, sub-article (3). Although the earlier decision speaks about the evidence given on oath, Nandini's case establishes that very well, not only in the present case but also in pre-trial matters, such as during investigation, that protection is afforded. So, protection is given where a person is an accused person. Even protection under Art. 20(3) is available on a pre-trial stage only if that person at that stage is an accused person—not otherwise.

Once a person is an accused person and the proceedings are of the nature contemplated by Art. 20(3), then Nandini's case establishes that oath or no oath, the protection is available. Whether the oath

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ought to be administered or not is not the question. It is so under the Cr. P. C. when a case is before a particular tribunal. Your rule contemplates, if I may say so, that oath is not necessarily essential; it all depends upon the discretion of the Chairman.

**MR. CHAIRMAN :** Although the word "shall" is used here, I would like to know how the word "may" is to be interpreted. Unless things are very specifically mentioned in the form of Rules in our "Rules of Procedure", we will not be in a position to do anything. Otherwise we are to be guided by the procedures followed by the House of Commons. If the witness refuses to take oath, it means to another breach of privilege.

**ATTORNEY-GENERAL :** That depends upon you. But the word "may" in this context is more enabling as I read it. You have no normal rights of the Court to administer the oath because right to administer the oath is generally by statute. But your rules would have the same effect that the word "may" is more enabling you may administer the oath or not. It is an enabling part. Because whether in a particular context the word "may" is mandatory or not depends upon the scheme of thing. You are referring to Rule 273. It is possible to read it in two ways. Now, if you turn the earlier words, the word throughout used is "shall". According to Rule 269, "A witness may be summoned by an order signed by the Secretary and shall produce such documents as are required for the use of a Committee". "It shall be in the discretion of the Committee to treat any evidence given before it as secret or confidential". "No document submitted to the Committee shall be withdrawn or altered without the knowledge and approval of the Committee". That is to say, nobody else can say whether it should be treated confidential or not, it is entirely the function of the Committee. "No document shall be withdrawn". Naturally in the nature of things, these provisions have to be mandatory. Rule 270 says: "A Committee shall have power to send for per-

son, papers and records". The word "shall" is in reference to the Committee. Rule 271 says like this :

"271. A Committee may, under the direction of the Speaker, permit a witness to be heard by a counsel appointed by him and approved by the Committee."

And Rule 272 reads like this .

"272(1) A Committee may administer oath or affirmation to a witness examined before it."

But the word "may" can be interpreted either "may administer oath" or "affirmation". So, it is the discretion of giving an oath or an affirmation.

**MR. CHAIRMAN :** In this connection, I will read out Article 105(3) of the Constitution. It says like this.

"105(3) In other respects, the powers, privileges and immunities of each House of Parliament and of the members and the Committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom and of its members and Committees at the commencement of this Constitution."

Now, it has been clearly stated in May's Parliamentary Practice. May only gives difference between oath and affirmation.

**ATTORNEY-GENERAL :** Throughout the Sections, the words "shall" and "may" appear. I feel that it cannot be "shall". Why they did not use the word "shall" in regard to oath or affirmation. Otherwise, the rules have used the word "shall". But here the word "shall" is not used because the choice is given to the witness between oath and affirmation. We seem to be concerned with this point and that is why I have referred to the opinion.



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**MR. CHAIRMAN :** Your interpretation of the word here is limited to the extent of either oath or affirmation.

**ATTORNEY-GENERAL :** You must administer oath or affirmation. That depends upon the whole scheme. You must examine it in the context of the rules immediately before and after. In rule 273, it is again 'shall'; that is the prescribed procedure from which you cannot depart. In 271, the Committee may permit a witness to be heard by a counsel. In the nature of things it is entirely left to your discretion. The word 'shall' has been used in earlier parts because these are all powers. Evidence on oath is not regarded as a power and therefore 'shall' is not used. I am giving you the possible meanings. 266 says the sittings 'shall' be held in private. 265 says: "A Committee may sit..." I think, if you are a judicial tribunal in the sense you are exercising judicial powers, not every tribunal has to do that, quasi judicial tribunals do not administer oath.

**PROF. P. G. MAVALANKAR :** May I request you to refer to para 9 of your note, page 4. You have said just now about the same thing.

**ATTORNEY-GENERAL :** I am still saying that it is not that every judicial tribunal has to; it may be even be a quasi judicial tribunal. In one case the tribunal had all the trappings of the court, including the right to administer oath. The court said: in regard to 20(3): we are not interested in the question whether you have the trappings of the court; are you deciding matters on legal evidence or proceedings of a criminal nature, quasi criminal nature because it is the character of the forum; it must be a judicial tribunal. The person must have a certain status. Not every judicial tribunal necessarily administers oath unless evidence Act applies.

**MR. CHAIRMAN :** I am a little confused. I want to know one thing.

**SHRI NARENDRA P. NATHWANI :** In connection with rule 272, I want to

know whether my interpretation of the word 'may' is correct. Rule 272 predicates a person who is to be examined. A person who appears has to be examined as a witness—that is the basic assumption underlying rule 272 and then when we come to the question of 'may', it merely says: "such a person who has to be examined as a witness, he may be either administered oath or affirmation."

**ATTORNEY-GENERAL :** Am I to understand that this would apply to people who are examined as witness and not those who are summoned?

**SHRI RAM JETHMALANI :** The option is between oath and affirmation.

**ATTORNEY-GENERAL :** What I pointed out earlier in answer to the Member's question is that 'may' is only for the purpose of enabling a person to take affirmation instead of oath.

**MR. CHAIRMAN :** As we have pointed out earlier, this word 'may' should be interpreted as 'shall'. Can I come to that conclusion?

**ATTORNEY-GENERAL :** Yes.

**PROF. P. G. MAVALANKAR :** I wanted to come back to Para 9 on page 4. There it has been stated that the privileges and immunities are subject to fundamental rights.

**ATTORNEY-GENERAL :** That means Article 20(3).

**PROF. P. G. MAVALANKAR :** That means, Article 20(3) will override any privileges?

**ATTORNEY-GENERAL :** No. When you are exercising the privileges, you cannot refuse to give protection which is given by Article 20. If you appear before a person who is not a judicial tribunal, it would not apply.

**PROF. P. G. MAVALANKAR :** What happens to para 6, where you say that the Lok Sabha and the Privileges Committee is not a court in the ordinary sense or in the sense the House of Lords is, but it has the judicial functions as part of

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its powers and privileges recognised by Article 105.

**ATTORNEY-GENERAL :** Therefore, it may be judicial tribunal. Every judicial tribunal is not a court in the ordinary sense. The question is whether a body had judicial functions to perform. Judicial function is a wider term; judicial tribunal is a much wider term.

**PROF. P. G. MAVALANKAR :** You have stated: "The Committee has the judicial functions as part of its powers and privileges recognised by Article 105."

**ATTORNEY-GENERAL :** Yes. But in exercising this, naturally you have to give the protection which the fundamental rights impose.

**PROF. P. G. MAVALANKAR :** Coming back to one of the points raised by Dr. Muhammed, I just wanted to get myself clear, on what the Attorney-General said regarding the accused giving evidence or the witness giving evidence. Am I to understand that he is not compelled to be a witness against himself, the more operative part being "against himself" to mean that he cannot have a blanket power to refuse to answer everything?

**MR. CHAIRMAN :** I got a clear answer from the Attorney-General that the admissibility of the question depends on the discretion of the Chairman. After the question is admitted—whether the witness answered to the fullest satisfaction of the Chairman or not, that is different—she may refuse to answer the question, but there you cannot say that it also amounts to a breach of privilege.

**ATTORNEY-GENERAL :** In regard to what Dr. Muhammad has said, I would like to say that Rule 172 does not apply to an accused person at all. . .

**DR. V. A. SEYID MUHAMMED :** On page 5, in answer to Question 3, you have said :

"Actually the rule only enables the committee to administer oath. Whether it be administered or

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not is left to the discretion of the committee."

**ATTORNEY-GENERAL :** Attention has now been drawn to another rule by which failure to take oath is itself an offence. This must be read consistently with that.

**DR. V. A. SEYID MUHAMMED :** Which is that rule?

**MR. CHAIRMAN :** It is the House of Commons practice. Article 105(3) of the Constitution says that on matters which are not clearly specified in our rules, the House of Commons practice should be referred to. In May's Parliamentary Practice, it has been clearly stated, "Refusing to be sworn or to take upon himself some corresponding obligation to speak the truth amounts to breach of privilege".

**DR. V. A. SEYID MUHAMMED :** When there is a specific rule No. 272 which the Attorney-General has interpreted, you cannot fall back on the House of Commons practice.

**ATTORNEY-GENERAL :** It seems the rule has been based on the assumption that the power exists to administer oath, as part of the privileges. Therefore, it only says that a committee may administer oath or affirmation. It does not deal with the question whether there is power to administer oath or affirmation or not. It assumes that the power exists. Some people take oath and some resist it. So, a concession is given that it may be oath or affirmation. The rule must be read with your privileges. It cannot be read divorced from the privileges. The privilege to administer oath exists inherently; it merely clarifies that you may administer oath or affirmation.

**SHRI RAM JETHMALANI :** Mr. Attorney-General, I want to draw your attention to some matters of great importance to this Committee. So far as your conclusions in paragraph 10, and then in your second Report, paragraph 6, are concerned, I wholeheartedly accept everything that you have said and for all practical purposes I think that is really

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enough, but the fundamental question which I have to raise is that sub-clause (3) of Article 20 has no application at all to proceedings before this Committee. As you have very rightly said in your second opinion that a breach of parliamentary privilege is not the same thing as an offence under the Sections of the Indian Penal Code, therefore, we in this Committee are inquiring for the benefit of the Lok Sabha into the factual question whether the breach of privilege has been committed or not. To my mind, this does not make us, in the first place, a tribunal at all. If we are a tribunal and a judicial tribunal at that, it would lead to the most astounding result that we would be subject to the special jurisdiction, under Article 136, of the Supreme Court, and I think it is acknowledged on all hands that in matters of privilege, punishment for breach of privilege, for anything that the Parliament does or the Privileges Committee does, we are not subject to the jurisdiction of the Supreme Court under Article 136. I request you to see Article 136 of the Constitution. It says :

"Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India."

Whether or not we are a tribunal, on so reasoning, the Lok Sabha shall certainly become a tribunal because that is the final authority which passes a sentence. That the Lok Sabha will be subject to the jurisdiction under Article 136 is very incongruous and the only way of avoiding is to say that neither the Lok Sabha nor the Privileges Committee is a tribunal. I would request you to consider this.

ATTORNEY-GENERAL : *Prima facie* it says : "Notwithstanding anything in this Chapter". That is to say, the question is : Are you a tribunal within the meaning of Article 136 ? The question is totally different.

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SHRI RAM JETHMALANI : If we are a judicial tribunal which passes a sentence, then why should we not act as a judicial tribunal under Article 136 ?

ATTORNEY GENERAL : There are two things. One is, the court has gone to the extent of saying that parliamentary privileges are justiciable in a court of law only to point out whether a privilege exists or not. Secondly, it may exercise judicial functions although it is not technically a court. In England the House of Commons is not a court in the same sense. But for the limited purpose of Article 136, it would still not be a tribunal. That is what I am trying to state.

SHRI RAM JETHMALANI : This is a matter which needs examination. We cannot have artificial defences.

ATTORNEY-GENERAL : I have said you are a judicial tribunal in the context of Article 20(3). Whether it is a judicial tribunal for the purpose of jurisdiction of the Supreme Court under Article 136 is a totally different question and I think that the very heading : "Notwithstanding anything in this Chapter"...

SHRI RAM JETHMALANI : It has nothing to do with it.

ATTORNEY-GENERAL : If you will look at the heading of that Chapter, I am only looking at it on the spur of the moment... It says, "The Union Judiciary". That limits. It cannot take in, *prima facie*, any tribunal which exercises its privileges, because that function is outside the judiciary.

SHRI RAM JETHMALANI : The tribunal is in the territory of India.

ATTORNEY-GENERAL : I said "Notwithstanding anything in this Chapter". *Prima facie*, with respect, I would not agree.

MR. CHAIRMAN : As you have defined was some kind of a tribunal—and we are guided by our own rules and Parliament—suppose the findings of this Committee go adverse against those persons, will they

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have the freedom to go to the Supreme Court against the findings?

**ATTORNEY-GENERAL:** That is precisely the answer, because no appeal lies. It is said, "Notwithstanding anything in this Chapter". It means that we have provided for umpteen appeals under Articles 133, 134 etc. Notwithstanding that, there will still be one more appeal from any judicial tribunal.

**SHRI RAM JETHMALANI:** The meaning of that expression obviously is that though an appeal may not lie, yet a special leave may be granted to appeal. It will create a lot of anomaly if we are a tribunal.

**ATTORNEY-GENERAL:** For the purposes of Article 20(3), I take the view that you have judicial functions.

**SHRI RAM JETHMALANI:** Let us come to Article 20. Article 20(3) does not, in terms, refer to any court or to any tribunal: "No person accused of any offence shall be compelled to be a witness against himself."

**ATTORNEY-GENERAL:** The question may arise, whether the person to appear before you is accused of an offence in the same sense.

**SHRI RAM JETHMALANI:** There is a still more fundamental question. The word "offence" as you have noticed, is defined in the General Clauses Act. That definition must be applied to the Constitution, because the Constitution says so, viz., "It is an act or omission punishable by law." When we punish a person for breach of privilege, we are not punishing any person for an act or omission which is punishable by law.

**ATTORNEY-GENERAL:** It was present in my mind.

**SHRI RAM JETHMALANI:** You know the analogy between contempt of court, and contempt of legislatures. In fact, the House of Commons has the right to punish for contempt, because historically, it is a branch of the House of Lords,

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and historically the House of Lords was a judicial tribunal; and in that capacity, it had power to punish for contempt. The two are analogous.

Now, it has been held in this country that in spite of the fact that contempt of court, at least arguably, is punished by the Contempt of Courts Act it has been held that it is not an offence or act punishable by law. The definition applies to both.

**ATTORNEY-GENERAL:** Your question raises a larger one, viz., whether, for the purposes of Article 20(3), it can be said that the person who is brought before this tribunal or before the Privileges Committee of the Lok Sabha has committed any contempt—that is the short term for breach of privilege.

**SHRI RAM JETHMALANI:** I entirely agree that contempt power is a historical power, which is preserved by article 105 of the Constitution. It is analogous to the powers exercised by the House of Commons. Under these circumstances, when we punish a person for a breach of privilege, we do not punish a person for an act or omission made punishable by law. You see this decision.

**ATTORNEY-GENERAL:** I will come to that. In fact, I did not get all the rules, even this rule 272, for refusal to take oath he can be proceeded against and there also you can punish him for privilege.

**SHRI RAM JETHMALANI:** It is a full bench division of the Allahabad High Court.

**ATTORNEY-GENERAL:** I will read it. I will certainly address myself to this question. But, *prima facie*, it seems to me that it has limited scope.

**MR. CHAIRMAN:** I have sent to you only those cases which were recorded in the Committee. Though Shri Jethmalani made a request, since it did not form parts of the records of the Committee it was not sent to you. I thought it may prejudice your views in coming to a decision. That is why I refrained from sending it to you.

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**ATTORNEY-GENERAL :** Actually, this was a decision which I looked up in the context of the point which the hon. Member is arguing.

**SHRI RAM JETHMALANI :** One case is AIR 54 Allahabad (Full Bench). There is another judgment of the Supreme Court, 1954 SCR pages 545 to 461. I would like you to deal with the observations of the Supreme Court. They were dealing with the transfer of a contempt of court case from one High Court to another and they held the Code of Criminal Procedure cannot apply, although contempt is punishable under the Contempt of Courts Act, therefore, it is a prosecution for offence, a case under Cr. P.C. But they said this cannot be done. On page 461 they say :

"We have omitted references to the Bombay and Madras decisions... What we are at pains to show is that, apart from the chartered High Courts, practically every other High Court in India has exercised jurisdiction and where its authority has been challenged, each has held that it is a jurisdiction inherent in a court of records from the very nature of the court itself. This is important when we come to construe the latter legislation, because by this time it, was judicially accepted throughout India that the jurisdiction was a specially inherent one in the very nature of the court. The only discordant note that we know of was struck in the *Empire Vs. B. G. Horniman*, where a Division Bench of the Allahabad High Court held that after the Act of 1926, an offence of contempt was punishable under the Indian Penal statute and so the Code of Criminal Procedure applies to the words "any other law" in section 5. In our opinion, this is wrong, because the Act of 1926 does not confer any jurisdiction and does not create an offence. It merely

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limits the amount of the punishment which can be given and removes a certain doubt. Accordingly, the jurisdiction to initiate proceedings and take seisin of the matter is as before."

When a court of record or legislature punishes a person for breach of privilege, it is never for an offence under any Act and it is not made punishable by any law. But you have let that go. You have said :

"If Parliament is entitled to frame Rules of Procedure and Conduct of Business and the Rules make an act or omission, which constitutes a breach of privilege, punishable, then Article 20 is attracted."

So long as there is no codification of the law of privilege and we are still punishing persons under the amorphous power under 105 as successor to the House of Commons, then it is not an act of omission made punishable by law.

**ATTORNEY-GENERAL :** I will look into it.

**SHRI RAM JETHMALANI :** I hope I am not disclosing a secret, but my own view is that even if article 20 has no application, we must treat every person who appears before this Committee in its spirit, as being entitled to protection under article 20(3), and we must voluntarily afford that privilege, but I am very anxious to guard against the view being taken once and for all that article 20(3) has application to these proceedings.

Then, you have made some comment on Satpati's case. That is not right because Sharma's case of 1954 itself has laid down :

"It follows that the protection afforded to an accused insofar as it is related to the phrase 'to be a witness' is not merely in respect of testimonial compulsion in a court room, but may well extend

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to compelled testimony previously obtained from him. It is available, therefore, to a person against whom a formal accusation relating to the commission of an offence has been levelled, which in the normal course may result in prosecution. Whether it is available to other persons and other situations does not call for a decision in this case".

In that case, the F.I.R. had been filed, and the case was under investigation.

ATTORNEY-GENERAL : Nandini's case was founded on this.

SHRI RAM JETHMALANI : What is the meaning of the word "compelled"? Compulsion has been defined in Katha's case by the Supreme Court as threat, intimidation, keeping the person in confinement or keeping his wife or son in confinement, duress. If we tell a witness that if he refuses to testify, that itself is a breach of privilege and it may be punishable, will that amount to compulsion?

ATTORNEY-GENERAL : That has to be examined.

SHRI RAM JETHMALANI : We are not compelling the witness. He may say he will take the punishment for not testifying. Compulsion proceeding from a legal process is not compulsion.

ATTORNEY-GENERAL : If you formulate this question, I will answer it.

SHRI KRISHAN KANT : It is very important for our future conduct, because persons used to take oath before the privileges Committee. This is the first time that it has been challenged.

ATTORNEY-GENERAL : I will look into it.

SHRI NARENDRA P. NATHWANI : To start with, let us take the meaning of 'compel'. If you ask a witness who is in the position of an accused and if we ask, look here these are circumstances appearing against you; some evidence has

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been given, would you like to explain or say anything? Will it be called compulsion?

ATTORNEY-GENERAL : I do not think by any stretch of imagination this could be called compulsion. This is giving a fair chance to that person.

SHRI HITENDRA DESAI : According to the interpretation of Rule 272, does it mean that in all such cases, the Privileges Committee is bound to administer oath or affirmation?

ATTORNEY-GENERAL : It seems to assume that it has the power.

SHRI HITENDRA DESAI : Without oath or affirmation, can we not examine?

ATTORNEY-GENERAL : If you read in conjunction with the other rules, then the right to administer oath exists already. What is contemplated by the rule is giving you a discretion to administer oath or affirmation.

SHRI HITENDRA DESAI : As a rule, we cannot examine without oath?

ATTORNEY-GENERAL : Normally not.

SHRI HITENDRA DESAI : What is the meaning of 'normally not'?

ATTORNEY-GENERAL : If you say affirmation, is the same as oath. But it must be one or the other.

SHRI KRISHAN KANT : On page 5 of your advice, you said: "I am assuming that the Committee does not desire any opinion on the question raised by the accused, namely, whether a breach of privilege committed in an earlier Lok Sabha could be pursued after its dissolution by the New Parliament". May I ask, what is your opinion?

ATTORNEY-GENERAL : When the proceedings were sent to me, there was some discussion in the Committee. Mr. Jethmalani raised the question that once the Speaker has given his ruling, whether it is open to the Committee to go into it. In fact, I think, every new Parliament is

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a new Parliament. I will refer to your provisions. My view is this. In my opinion, the new Parliament has no jurisdiction . . .

**SHRI NARENDRA P. NATHWANI :** It was raised on the floor of the House and the Speaker had rejected it. So, this does not arise now. This I wanted to put on record. Now, you can proceed.

**MR. CHAIRMAN :** This privilege was entertained by the Speaker. If the basis was that this matter relates to earlier Parliament and subsequent Parliament has no right to entertain that, on that basis the Speaker would have rejected this motion. But as the Speaker did not reject that and it had been referred to this Committee, it is assumed that that plea has been ruled out by him. Even then it will be helpful if we seek certain clarifications from you.

**SHRI NARENDRA P. NATHWANI :** I must bring to your attention—if I remember aright—the Speaker referred to the decisions of the House also. Before the Attorney-General can be asked to give his opinion, he may like to see those previous decisions also.

**MR. CHAIRMAN :** We are not bound by all the opinions given by the Attorney-General. His opinions are only for clarifying our ideas.

**SHRI RAM JETHMALANI :** Since this matter is not before us, we are not ready with the problem.

**SHRI NARENDRA P. NATHWANI :** It is not proper to ask the opinion of the Attorney-General on the point on which the Speaker has given his ruling.

**SHRI HITENDRA DESAI :** Once the question has been put to the Attorney-General, it will be unfair to have these remarks.

**PROF. P. G. MAVALANKAR :** Mr. Krishan Kant has put the question and the Attorney-General had started reading out the answer by telling that he has written down something and he was reading. Then at that stage, interruptions came

from my esteemed colleague. We are not challenging the Speaker's decision in this. This is a matter finally for us to decide. I believe, Mr. Chairman, I am right in saying that we are not bound to accept whatever he says by way of advice. Now that the matter has been brought, at least, as a matter of academic exercise, let us know what his point of view is on the subject without prejudice to the Speaker's decision.

**SHRI KRISHAN KANT :** As Mr. Jethmalani and Mr. Nathwani say, further point of view can be put to the Attorney-General and he can look into it and give his opinions later on.

**MR. CHAIRMAN :** In the beginning I made myself absolutely clear that unless it was permitted by the Speaker which could only be on the assumption that he had the right to entertain the privilege motion, he would certainly not have referred it to us. Therefore, on that basis, we have got the right to go into it. But as the matter has been raised, just for the sake of clarification and for the future understanding of the problem, I think that the question raised by Mr. Krishan Kant can be answered by him.

**ATTORNEY-GENERAL :** I have put it on the basis of material then available to me. There are two conflicting precedents—one held that it is not open, the other that it is open. I have put it in this form. One of the questions raised is whether the present Lok Sabha or the Privileges Committee has jurisdiction to go into the matter of alleged breach of privilege committed during the life time of an earlier Lok Sabha. That is the question. In my opinion, the new Parliament has no jurisdiction unless such jurisdiction itself could be claimed as one of the privileges of the House of Commons in England at the date of the commencement of the Constitution ; and for that you would have to make research and make more material available to me. That is the short answer.

**MR. CHAIRMAN :** I would draw your attention again to the proceedings of the

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House of Commons. On page 161, 19th edition of May, it is clearly stated that it can.

ATTORNEY-GENERAL : If you like, I will send it to you in writing.

SHRI NARENDRA P. NATHWANI : My objection is that we should not try to bother about it.

MR. CHAIRMAN : It has been very clearly stated.

ATTORNEY-GENERAL : That is entirely a matter for you to decide.

SHRI RAM JETHMALANI : Mr. Attorney-General, the punishment of breach of privilege in the nature of things takes a little time. Somebody has to make a formal motion. That has to be considered by the Speaker. Then the Speaker refers it to the Committee of Privileges. We take evidence like a judicial body and so on. Supposing on the last day of Parliament's term or on the last seven days of Parliament's term, the most scurrilous and gross kind of breach of privilege is committed by somebody, would you contemplate with equanimity that he should completely escape merely because an election has intervened. Supposing we are facing a situation in which the consequence of an act committed prior to the election continues to cause prejudice to the working of the new Parliament I am using your expression and according to me, there is no new Parliament except in some sense is it or is it not open to the new Parliament to take cognizance of it because though the act was committed earlier the consequences still continue to operate ?

ATTORNEY-GENERAL : It may be a continuing breach of privilege...

SHRI RAM JETHMALANI : Supposing Parliament is interested in having a particular information, that interest in the information does not cease with the life of the Parliament. Coming on the scene, we discover that somebody originally had tried to frustrate furnishing of this information which might be useful to us. Is

it not a breach of privilege which we can take cognizance of ?

ATTORNEY-GENERAL : The question would be whether it is a breach of privilege of the new House.

SHRI RAM JETHMALANI : It is *ipso facto* breach of privilege of the new House.

SHRI KRISHAN KANT : The case of breach of privilege that is now before the Committee is not an ordinary breach of privilege. Mr. Jethmalani said 'gross'. It is not merely 'gross' but it is subtle. It takes time to find out how really things happened.

ATTORNEY-GENERAL : My difficulty is that what is raised is a question of jurisdiction.

SHRI RAM JETHMALANI : The discovery of the breach of privilege takes place afterwards.

ATTORNEY-GENERAL : That would have to be examined.

SHRI KRISHAN KANT : It is not merely 'gross', it is also subtle.

ATTORNEY-GENERAL : 'Gross' and 'subtle' would not make any difference. The question is : is it a breach now by the standards of your privileges ? Then you have to find what your privileges are.

SHRI KRISHAN KANT : The persons who were trying to help the Parliament by collecting information continue to suffer ; many of them have been demoted, and so on. All these came to the light of the present Lok Sabha...

ATTORNEY-GENERAL : I have read the proceedings on which the present motion is founded. The motion moved by Shri Madhu Limaye is founded on certain facts. The charge was that officers of the Government were obstructed...

SHRI RAM JETHMALANI : When the nature of the obstruction is such that the information ceases to be available for all time, is it not a breach of privilege ?



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**ATTORNEY-GENERAL :** It will have to be examined whether that itself constitutes a breach of privilege of the present Parliament. The reason why I am taking this view is this. I was first inclined to take the view that it was a continuing one. The question is whether all the three constituents—mentioned in article 79—are continuing. The only constituent which continues is the Council of States. The President may go. The Lok Sabha is not constituted for all the time. The Constitution, when it comes to Speaker, says in article 94 that, notwithstanding the dissolution of Lok Sabha, he shall be deemed to continue in his office. I was first inclined to take the view that it was a continuing one with a perpetual succession, one being the successor of the other...

**SHRI RAM JETHMALANI :** This argument cannot apply to the upper House.

**ATTORNEY-GENERAL :** I am now talking of Parliament, and the Lok Sabha...

**SHRI RAM JETHMALANI :** Each House is competent to punish a breach of its privileges: it is not Parliament which does it as a whole.

**ATTORNEY-GENERAL :** I am wondering whether there is any continuity between the earlier Lok Sabha and the new Lok Sabha.

**SHRI RAM JETHMALANI :** Then, an anomaly will be that the Rajya Sabha will be able to punish a breach of privilege even if it had taken place 15 years ago.

**ATTORNEY-GENERAL :** But, unfortunately, anomalies do not create jurisdictions or destroy them.

**PROF. P. G. MAVALANKAR :** We are talking of the privileges of Parliament and not one of the Houses of Parliament.

**SHRI RAM JETHMALANI :** No, each House of Parliament has separate privileges.

**ATTORNEY-GENERAL :** If you read Art. 105, it makes the position clear. You

may not have the privileges of the Rajya Sabha at all. It says so in terms :

“...The powers, privileges and immunities of each House of Parliament, and of the members of the committees of each House, shall be such as may from time to time be defined by Parliament by law...”

meaning the two Houses separately. So, I am actually wondering whether the Lok Sabha is a continuing body with a perpetual succession, as it were.

**SHRI KRISHAN KANT :** Such a question has not come up in the last twenty years. Here, Government officers who were working in the service of Parliament were influenced by the powers that be. So, if no action is to be taken by this Privileges Committee or the new Lok Sabha, then the Government can go on doing what it likes and the future Parliament can take no action.

**ATTORNEY-GENERAL :** I would have to answer that question on a hypothetical basis that if there is a breach, it is a continuing breach of privilege of the earlier Lok Sabha. Otherwise, the position would be different altogether.

**PROF. P. G. MAVALANKAR :** It is a breach of privilege of the earlier Lok Sabha continuing to the present Lok Sabha.

**ATTORNEY-GENERAL :** I don't think that would be the position.

**SHRI NARENDRA P. NATHWANI :** If I remember aright, the basis for this plea that the breach relates to the Fifth Lok Sabha and this Lok Sabha is therefore not competent to examine it is Rule 224 which says :

“The right to raise a question of privilege shall be governed by the following conditions, namely :

(ii) the question shall be restricted to a specific matter of recent occurrence ;

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So, those who say that this breach relates to the earlier Lok Sabha relied strongly upon the expression 'of recent occurrence'. But when some matter comes to light just now and it was not within our knowledge then, it becomes a recent occurrence. This expression has been construed in that sense.

ATTORNEY-GENERAL : Perhaps it would be better if you can send these aspects to me for examination: I will give a written opinion. If you can kindly send the material to me as to what the practice in the House of Commons is, I can look into it.

MR. CHAIRMAN : May's Parliamentary Practice says in terms that libel of the previous Parliament can be taken cognizance of by the new Parliament.

ATTORNEY-GENERAL : That is consistent with my opinion that if the privilege is a continuing one . . .

MR. CHAIRMAN : May is very clear in saying that contempt against one Parliament may be punished by another.

ATTORNEY-GENERAL : I only wanted to know that. Unless such a jurisdiction is one of the Privileges of Parliament . . .

PROF. P. G. MAVALANKAR : There is another problem which is not clear. As Mr. Jethmalani has pointed out, it is an anomaly that the Rajya Sabha is a continuing body while the Lok Sabha is dissolved every five years. Does it mean, therefore, that the Rajya Sabha can go on having this Privilege because it is continuous, and the Lok Sabha cannot. This may also be gone through.

MR. CHAIRMAN : Mr. Gupte, in your second note, concluding part, you have mentioned :

"The Committee has jurisdiction to continue the proceedings and punish, but whether it should do so or not, lest prosecution and punishment by it should make possible the plea of protection by the accused before the court

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trying the offences under the Indian Penal Code, is not a question of law, I must refrain from dealing with it."

Would you kindly explain the matter to us.

ATTORNEY-GENERAL : It is for the Committee. Supposing the Committee takes the view that it will not be possible to make such a plea to be raised, it may be a worthless plea.

SHRI RAM JETHMALANI : It is for the Committee to consider whether you punish her or not. This is not a simple offence under Section 186 of the Indian Penal Code; it is grave interference.

MR. CHAIRMAN : It concerns certain Privileges of the House; this is a serious type of offence. It has never happened before. This is an unprecedented case in the whole history of Parliament, perhaps the world.

Mrs. Gandhi in her statement raised the question whether the officers of the Ministry of Industry and Commerce who were allegedly obstructed or harassed for collecting information to prepare a reply to a question to be answered in Parliament could be deemed to be officers or servants of the House or employed by the House or entrusted with the execution of orders of the House or could be deemed to be in the service of Parliament.

ATTORNEY-GENERAL : Lot of facts would be necessary to answer this question. So many facts would have to be investigated.

SHRI RAM JETHMALANI : This is not necessary; Why do you want to ask this to him ?

MR. CHAIRMAN : I want to give the benefit of doubt to the accused.

SHRI RAM JETHMALANI : There cannot be any doubt from the point of law.

MR. CHAIRMAN : There is no harm.

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**SHRI KRISHNA KANT :** The present case is going to set the pace for many other things.

**MR. CHAIRMAN :** Mrs. Gandhi in her statement has sought permission to appoint a Counsel to defend her. The difficulty we are facing is that if we allow a Counsel to defend her, that would mean that we have to produce all the papers before him. But, according to the rules of procedure, every matter before the Privileges Committee is confidential. Then how to adjust the two contradictory things? Natural justice demands one thing but then we will be violating another rule.

**ATTORNEY-GENERAL :** Such a situation is a matter of facility then of argument.

**SHRI RAM JETHMALANI :** It is consistent with the rules as they are today. It is permissible under the rules and we are not supposed to go about tomtomming and unnecessarily issuing Press statements.

**MR. CHAIRMAN :** Please do not try to oversimplify the matter. Confidential is confidential. It will be known only to the 15 members and even a 16th not know it besides the officials.

**SHRI RAM JETHMALANI :** Under the Indian Evidence Act...

**MR. CHAIRMAN :** I am sorry I am not in a position to accept that position. Even to my wife I will not tell what is happening in the Committee. At least that is what I have understood from the rules.

**ATTORNEY-GENERAL :** What you have to consider is that when the rule of natural justice is invoked, you have to consider it. Then all logical consequences follow.

**MR. CHAIRMAN :** Then to have some kind of a compromise of both the things, is it possible even theoretically that we can allow her to examine, not by any Counsel but by herself, those witnesses and also those relevant portions which directly affect her or directly mention her.

**SHRI RAM JETHMALANI :** Why not? We should.

**ATTORNEY-GENERAL :** Otherwise, giving benefit of the rule of natural justice has no meaning.

**SHRI KRISHAN KANT :** It has never happened in the Rules Committee.

**SHRI NARENDRA P. NATHWANI :** Under Rule 271,

"A Committee may, under the direction of the Speaker, permit a witness to be heard by a counsel appointed by him and approved by the Committee."

That provision is there.

**MR. CHAIRMAN :** That has happened in the case of another Committee where a witness was allowed to take the assistance of a counsel, but there is no precedent whatsoever or any convention whatsoever that in the case of the Privileges Committee, any witness or any accused was allowed to be assisted by any Counsel at any time or the witness was allowed to cross-examine any other witness. That is the difficulty.

**SHRI NARENDRA P. NATHWANI :** The question is : when you say that there is no precedent, we should also inquire whether any witness has claimed that right.

**MR. CHAIRMAN :** Whether anybody has claimed that right or not is not the matter.

**SHRI NARENDRA P. NATHWANI :** I have merely quoted the rule whatever it is.

**MR. CHAIRMAN :** Any more question?

**HON. MEMBERS :** No.

**MR. CHAIRMAN :** Kindly help us for two or three days more. Thank you for coming to this Committee and giving advice.

29th July, 1978

*Shri S. V. Gupte*

ATTORNEY-GENERAL : Normally all opinions are sought through the Ministry of Law and Justice.

The Speaker on the last occasion raised a question and he also sent that through the Ministry of Law and Justice. The Minister may be requested to have a look at that and pass on the papers to me. If you think that it is confidential, you send it with usual care. You may make a formal request to the Minister not to show the papers to any member of the staff.

MR. CHAIRMAN : In other cases, Lokpal, etc., those were sent directly. Privileges Committee has the privilege not to surrender the right to anyone.

ATTORNEY-GENERAL : Appearance before Parliament is one thing and giving opinion is another thing. I shall ring up if I want any more material.

MR. CHAIRMAN : Thank you.

*(The Attorney-General withdrew)*

*(The Committee then adjourned)*

Saturday, the 19th August, 1978

PRESENT

Professor Samar Guha—*Chairman*

MEMBERS

2. Shri O. V. Alagesan
3. Shri Hitendra Desai
4. Shri Ram Jethmalani
5. Shri Krishan Kant
6. Professor P. G. Mavalankar
7. Dr. V. A. Seyid Muhammed
8. Shri Narendra P. Nathwani
9. Shri Ravindra Varma

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer*

Shri I. Pershad—*Chief Legislative Committee Officer*

Shri M. P. Gupta—*Senior Legislative Committee Officer*

WITNESSES

- (1) Shrimati Indira Gandhi (*former Prime Minister of India*).
- (2) Shri R. K. Dhawan (*former Additional Private Secretary to the then Prime Minister*).

(*The Committee met at 10.30 hours*)

(i) Evidence of Shrimati Indira Gandhi

MR. CHAIRMAN : I am sorry, Mrs. Gandhi, you had to wait for some time, because some matter came up before the Committee very late, and we had to take some *impromptu* decision. Because of that, there was delay in calling you before this Committee.

I want to draw your attention, Mrs. Gandhi, to these points. You have been asked to appear before this Committee to give evidence in connection with the question of privilege regarding alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information

Shrimati Indira Gandhi

for answers to certain Questions in Lok Sabha on Maruti Ltd. I hope you will state the factual position, and your version will be frank and truthful, to enable this Committee to arrive at a correct finding.

I may inform you that under rule 275 of the Rules of Procedure of Lok Sabha, the evidence that you may give before the Committee is to be treated by you as confidential, till the report of the Committee and its proceedings are presented to the Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. The evidence which you will give before this Committee may be reported to the House.

Now I draw your special attention to this. As already intimated to you, your statements dated 1st March, 16th June and 5th July 1978 have been considered by the Committee. The Committee have the power to administer the oath or affirmation to you under rule 272 of the Rules of Procedure of Lok Sabha. The only option available to you is to either take oath or make an affirmation. Refusal to take oath or make an affirmation when asked by the Committee to do so, would amount to a breach of privilege and contempt of the House, about which you must be aware as well.

Should you feel that the answer to any particular question that may be asked by the Committee is likely to incriminate you in any prosecution, you may point it out, and the Chairman/Committee will consider your plea and decide it on merits.

The question of double jeopardy does not arise in this case at all, as you have neither been prosecuted nor punished so far, at a formal trial by a court of competent jurisdiction or a judicial tribunal for the same offence.

Now, Madam, please take the oath or make an affirmation, as you like.

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Shrimati Indira Gandhi

**SHRIMATI INDIRA GANDHI :** Last time when we met, Mr. Chairman, I had expressed some doubts and why I was unable to take the oath. Since then certain things have happened, which have further confirmed the apprehensions which had expressed, and they have now come true; and the First Information Report has been filed against me, as you know. And I would like to state why it is not possible for me to take the oath.

**MR. CHAIRMAN :** Yes, you can.

**SHRIMATI INDIRA GANDHI :** I feel I have a right to be heard, because as I have already said, I am not legally bound to take the oath or to answer any interrogatories. May I state my reasons ?

**MR. CHAIRMAN :** Yes.

**SHRIMATI INDIRA GANDHI :** I am reading my statement :

"I am in receipt of your letter No. 18/3/C-I/ii dated the 31st July 1978 whereby I am called to appear before the Committee of Privileges of Lok Sabha on 19th and 20th August 1978..."

**MR. CHAIRMAN :** Have you got any additional copy of this ?

**SHRIMATI INDIRA GANDHI :** Well, I have got one copy of it.

**MR. CHAIRMAN :** Would you kindly let me have it so that it would help us to understand it ?

*(A copy was handed over to the Chairman)*

**SHRI RAM JETHMALANI :** This is nothing but in justification of her refusal to take oath or affirmation. The position is that she is bound to take oath or affirmation. If she refuses to take oath or affirmation, then certainly she has every right to tell us why she does not want to take oath or affirmation.

**MR. CHAIRMAN :** She has made it clear that she is not willing to take oath or affirmation. She is going to explain only that aspect of the reason and nothing else.

**SHRI RAM JETHMALANI :** I want to be very clear about it. Is it that she is making a submission why we should not ask her to take oath or affirmation ? Is it that she has decided to refuse to take oath or affirmation and that she is now justifying it ?

**MR. CHAIRMAN :** There is not much of difference. Let us hear her. If you feel at any point of time that she exceeds the limit of her point of submission, if you feel that she goes to some other aspect in justification of her stand, then you can point it out. Now she has made it very categorically clear that she will state before this Committee only that aspect why she does not feel obliged to take oath or affirmations.

**SHRI RAM JETHMALANI :** This Committee has decided that she is under obligation to take oath or affirmation.

**MR. CHAIRMAN :** That is what I have already communicated to her.

**SHRIMATI INDIRA GANDHI :** "I submit that when I appeared before this Committee I was apprehending that a prosecution on the same grounds was impending. My apprehension has now come true, as a formal First Information Report has been registered by the Delhi Special Police Establishment and investigation has already been ordered against me in respect of offences under section 167, 182, 186, 189, 211 and 448/109 I.P.C. I am enclosing herewith a copy of the First Information Report.

I am, therefore, now a formal accused on the same charges on which I have been summoned to appear before the Lok Sabha Privileges Committee in connection with the proceedings initiated against me for the alleged breach of privilege.

I am thus put in an unenviable position of being called upon to give evidence in the proceedings for the alleged breach of privilege before the Privileges Committee and simultaneously parallel proceedings are continuing against me with the same offences. My appearance before the

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Committee of Privileges and submission to interrogation in respect of the offences for which I have been formally charged in the aforesaid First Information Report and before the Committee of Privileges will be violative of my fundamental rights guaranteed under Article 20(2) and (3) of the Constitution. I submit I cannot be subjected to prosecution and punishment for the same offences in two parallel proceedings and subjected to double jeopardy. Further, to answer questions which by their very nature would be incriminating, and my answers are bound to be also 'self-incriminating' whether examined on oath or not. In this question I may quote the following observations of Prof. Glanville Williams from his well known book—"Proof of Guilt":

"The strong insistence, after the abolition of Star Chamber, that the administration of oath to a defendant was contrary to the Law of God and the law of nature, was a race memory from those evil days". He further writes, "this rule may be called the accused's right not to be questioned. In America, it is termed the right against self-incrimination. The latter expression is more apt as the name for another rule, the privilege of any witness to refuse to answer incriminating questions; this is different from the rule under consideration which while applied to persons accused of crime, prevent the question from being asked. The person charged with the crime is not merely at liberty not to answer a question incriminating himself, he is freed from the embarrassment of being asked the question. The privilege against self-incrimination as applied to witness generally must be expressly claimed by the witness, when the question is put to him in the witness box; whereas the accused's freedom from being questioned prevents the prosecution from asking much less compelling him, to enter the witness box and from addressing questions to him in the dock."

In India the position is not different.

The Oaths Act of 1873 provided that an oath shall be made by the following persons; namely witnesses that is to say all "persons who may lawfully be examined or given or be required to give evidence by or before any court or person having by law or consent of parties authority to examine such persons or to receive evidence".

It was further provided as follows :

"Nothing in this section shall render it lawful to administer in a criminal procedure the oath or affirmation to the accused persons who is examined as a witness for the defence . . ."

In the Criminal Procedure Code, 1898, it was specifically provided in section 342 that no oath could be administered to an accused and he could not be punished for refusing to answer any question. The Oaths Act, 1873, has been replaced by the Oaths Act of 1969. The Code of Criminal Procedure of 1898, has been replaced by the Code of Criminal Procedure of 1973. The new Acts recognise the same privilege for the accused.

Art. 20(3) of our Constitution also guarantees the same rights for an accused. In M. P. Sharma's case, reported in AIR 1954 S.C. Page 300, the Supreme Court held as follows :—

- (a) After the abolition of Star Chamber, the firm principle was established that the accused should not be put on oath.
- (b) This Principle became part of the Common Law in England.
- (c) "Thus so far as the Indian law is concerned it may be taken that protection against self-incrimination is more or less the same as in the English Common Law."

As already stated, rule 272 of the Lok Sabha Rules speaks of the right of the Committee to administer an Oath to a witness. The distinction between a witness and an accused is too well established to warrant repetition, and makes it clear that such an oath cannot be given to an accused.

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It was also laid down by the Supreme Court in the case of State of Bombay v/s. Kathikalu—A 1961 S.C. 1808 at 1815 as follows :—

“The giving of personal testimony depends upon his volition. He cannot make any kind of statement or may refuse to make any statement.”

- (a) Nandini Satpathy's case was concerned only with the mandatory powers of an Investigating Officer to question any person under Section 161 C.P.C. and had nothing to do with the rights of an accused in a trial, or before the Privileges Committee not to be a witness against himself, that is, he has the right not to be interrogated in the trial before the Privileges Committee.
- (b) I reiterate all my previous objections and especially underline the position that the present Lok Sabha has no power to hold an enquiry into an alleged breach of Privilege *vis-a-vis* the former Parliament.
- (c) Under our Constitution, the privileges of a House are the same as existing in the House of Commons, where it is well established that no House can create a new privilege for itself. By adjudicating on a matter which substantially arose in a previous Lok Sabha of which I also had the honour to be represented as a Member, and which is now *sub judice* before a Criminal Court will tantamount to the creation of a new privilege on two counts. While I have the highest respect for the Lok Sabha and the Committee of Privileges, I submit that I cannot conscientiously allow myself to be deprived of my valuable rights guaranteed under Article 20(2) and (3) of the Constitution and it is not

possible to waive these valuable rights of mine by taking the oath and to answer interrogatories concerning two parallel parliamentary proceedings and prosecutions against me substantially on the same charges. I would, therefore, humbly submit that I should be excused for my inability to take the oath and answer interrogatories on the aforesaid charges before the Privileges Committee of Lok Sabha as is required of me by your notice dated 31st July, 1978. I am, therefore, submitting this written statement and would humbly request the Committee of Privileges of Lok Sabha to drop the above proceedings and report accordingly to Lok Sabha.

MR. CHAIRMAN : Have you signed it ?

SHRIMATI INDIRA GANDHI : I am. You please exchange it with mine. I find that at one place, there is a typing mistake which is very obvious.

MR. CHAIRMAN : That will be corrected. I think, we need to have a discussion among ourselves for a few minutes and I hope, you will not mind if you wait for a few minutes. We will take our decision and let you know.

SHRIMATI INDIRA GANDHI : Certainly.

(The witness then withdrew)

(The witness was called in again)

MR. CHAIRMAN : Mrs. Gandhi, we have taken into consideration all the points that you have raised in your submission before this Committee. But the Committee is of the opinion that your arguments do not conform to the views of the Committee. I want to again draw your attention to the fact that by not taking oath or affirmation



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you will be subjecting yourself to a breach of privilege or contempt of the Committee and of the House thereafter if the Committee so decides and recommends it or the House so decides. However, to give you all opportunity in fairness to our intention to deal with your case, the Committee desires to apprise you of the main pieces of evidence that has been produced before this Committee. On oath or affirmation, if you like you can make a statement thereon after hearing these pieces of evidence that has been produced before this Committee.

SHRIMATI INDIRA GANDHI : I think I have already stated my case that the way you are putting it means that the Committee is compelling me to give evidence against myself.

MR. CHAIRMAN : If you allow me to intervene, I have made it very categorically clear to you that you will not be compelled to answer any question which may amount, in your opinion, to be incriminatory. Therefore, that question does not arise that you will be compelled to depose against yourself.

SHRIMATI INDIRA GANDHI : As I said last time, I am not in a position to know which answer is innocent. The answer may be innocent, the question may be innocent, but how it will be used in a court of law I am not in a position to judge. I am a lay person. So I will not know how any particular information or answer will be used against me.

MR. CHAIRMAN : Whatever questions that will be put to you, the part of the evidence that relates to you, will be read out before you and only on the basis of those pieces of evidence you will be required to answer. Have you anything more to say ?

SHRIMATI INDIRA GANDHI : I do not have anything more to say. I think I have very clearly put my case. Because, these are not merely reasons, it is my inalienable right not to say anything against myself.

MR. CHAIRMAN : The Committee would be happy if they could agree with your view. But, unfortunately, it is not possible for the Committee to agree with you after long deliberations on all the points that you have raised. We have given you full opportunity. After you were called before the Committee, we suspended the deliberations and we had discussion for hours together on all the points, all the issues, that you have raised, legal issues and procedural issues. After that, we have come to this conclusion on this question and we have asked you to appear before this Committee to give you an opportunity so that you can defend yourself and your case. We should also want to be as fair as possible. For that reason, we are giving all kinds of opportunities. Even now, if you want to make a statement, you can do that.

SHRIMATI INDIRA GANDHI : Is the Committee in a position to give immunization for me from any future proceedings that will be taking place ?

MR. CHAIRMAN : That is not within our powers.

SHRIMATI INDIRA GANDHI : Other cases have been withdrawn by the Government. It is not unknown in recent history that cases are withdrawn. I am not saying whether it should be...

MR. CHAIRMAN : The House is a sovereign body. If it considers it so it can do it.

PROF. P. G. MAVALANKAR : I am not clear about one thing. Mr. Chairman, you said that Mrs. Gandhi has to take either oath or affirmation. The reasons she gave for not taking oath or making affirmation last time, and even today, having been reconsidered by us, what is her position now? I would like the witness to tell us that.

SHRI RAM JETHMALANI : I have no doubt left in my mind as to what is her attitude but, for the purpose of getting the records straight, clear and unambiguous, I believe it is the

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Chairman's duty to call upon her to take oath and then record whatever answers she has to give. In pursuance of this, she should be called upon to take oath or affirmation, whatever is her choice and, after that, whatever answer is given, only record that; that is all.

MR. CHAIRMAN : I have explained the position to you. I would again ask you to take oath or affirmation, as you like it.

SHRIMATI INDIRA GANDHI : I have given my submission and reasons as to why I cannot submit myself to taking an oath or affirmation, or answer any interrogatories. So, I most humbly submit I cannot assist the Committee.

SHRI RAM JETHMALANI : I think that is perfectly clear. The next question, with your permission, I would like to ask is this. We are not asking you now to answer any questions. We are only...

MR. CHAIRMAN : You may put it to me. I will ask the question.

SHRI RAM JETHMALANI : We are not asking her to answer any questions. But, because we are under an obligation to be scrupulously fair we should apprise her of the main pieces of evidence which tend to incriminate her on the charge of

breach of privilege of the Lok Sabha. Does she wish to be apprised of this piece of evidence? Does she wish to offer any explanation? If she wants, she can voluntarily do so.

SHRIMATI INDIRA GANDHI : That amounts to the same thing.

MR. CHAIRMAN : It was addressed to me. I have already made a declaration to you. If you like, I have told you, I repeat it, you can be apprised of the main pieces of charges...

SHRI RAM JETHMALANI : Evidence, not charges.

MR. CHAIRMAN : Yes, evidence, if you like, and if you want to make a statement thereon, you can do so.

SHRIMATI INDIRA GANDHI . I thought that I had already stated what I consider and what I have been advised is my right. If I make a statement, if I answer interrogatories, it comes to the same thing. I have not understood the difference between the two.

MR. CHAIRMAN : Thank you. You can go now.

SHRIMATI INDIRA GANDHI : Thank you.

*(The witness then withdrew)*

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(ii) Evidence of Shri R. K. Dhawan

MR. CHAIRMAN : Mr. R. K. Dhawan, you have been asked to appear before this Committee again to give your evidence in connection with the question of privilege against Shrimati Indira Gandhi and others for alleged obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answers to certain questions in Lok Sabha on Maruti Ltd.

I hope, you will state the factual position and your version of the events freely and truthfully.

I may inform you that the evidence that you may give before the Committee is to be treated by you as confidential till the report of the Committee and its proceedings are presented to the Lok Sabha. Any premature disclosure or publication of the proceedings of the Committee would constitute a breach of privilege. The evidence which you will give before the Committee may be reported to the House.

Now, you may please take the oath or affirmation as you like.

SHRI R. K. DHAWAN : I, R. K. Dhawan, swear in the name of God that the evidence which I shall give in this case shall be true, that I will conceal nothing and that no part of my evidence shall be false.

SHRI RAM JETHMALANI : In fairness to you, I want to ask one thing. Some accusation has been made against you in this case of breach of privilege. Would you like to be apprised of all the accusations which appear in the evidence against you to be dealt with by you? If you want, we will do that. If you want, to give your replies to them, you are welcome to do so.

SHRI R. K. DHAWAN : I do not know what anybody has said, anything else. I know what questions were asked and I have given my replies.

Shri R. K. Dhawan

MR. CHAIRMAN : He has answered that. All these points have already been put to him.

SHRI NARENDRA P. NATHWANI : Did you appear before the Shah Commission on 21st November, 1977 when Mrs. Gandhi made her statement? Were you present?

SHRI R. K. DHAWAN : I think it was not in the month of November but in the month of January.

SHRI NARENDRA P. NATHWANI : I am asking about November, when she made that statement, according to the report of her statement which appeared in the next day's newspapers. I have got a cutting.

SHRI R. K. DHAWAN : I did not appear before the Shah Commission in the month of November.

SHRI NARENDRA P. NATHWANI : Very well. I am merely putting this preliminary question to get your answer to the question I am going to put to you. If you were not present on the 21st November before Justice Shah when Mrs. Gandhi made the statement, have you seen the statement?

SHRI R. K. DHAWAN : I have not seen the statement and I did not appear before the Shah Commission in the month of November.

SHRI NARENDRA P. NATHWANI : Mr. Chairman, have we got a copy of Mrs. Gandhi's statement before the Shah Commission on 21st November?

MR. CHAIRMAN : No, we don't have it.

SHRI NARENDRA P. NATHWANI : This item appeared in the newspapers. I am reading from *Hindustan Times* dated 22nd November :

'I heard complaints from some persons including MPs about those officers'. (i.e. the four officers—Mr. Krishnaswamy etc.) I told Mr. Dhawan to pass on the complaints to the authorities concerned

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in order to verify whether there was any truth in the allegations'.

This is what she stated—that she told you to pass on the complaints to the authorities concerned 'in order to verify whether there was any truth in the allegations'. Is this what she told you ?

**SHRI R. K. DHAWAN :** I have already told the Hon. Committee what she had told me.

**SHRI NARENDRA P. NATHWANI :** I am asking you specifically whether she told you this or not. She says : 'I told Mr. Dhawan to pass on the complaints'.

**DR. V. A. SEYID MUHAMMED :** Mr. Chairman, a newspaper report is not a solemn statement.

**MR. CHAIRMAN :** Mr. Nathwani, this very question was put to Mr. Dhawan earlier.

**SHRI R. K. DHAWAN :** Yes, and I have answered it also.

**SHRI NARENDRA P. NATHWANI :** If he has answered it, I have no desire to pursue it further but, according to me, this question has not been asked.

**SHRI KRISHAN KANT :** What he is asking is about what Mrs. Gandhi had said before the Shah Commission : this question was never put to him.

**MR. CHAIRMAN :** Without referring to the press report, you may directly ask him the question.

**SHRI KRISHAN KANT :** I do not know what is wrong about referring to press reports. He can ask that question and Mr. Dhawan can give whatever reply he wants.

**SHRI NARENDRA P. NATHWANI :** According to me, Mr. Dhawan has repeatedly told us that what she had told him was to 'verify the antecedents' if I remember the words correctly. I am now drawing attention to the fact that, before Justice Shah, she stated : 'I told Mr.

*Shri R. K. Dhawan*

Dhawan to pass on the complaints to the authorities concerned in order to verify whether there was any truth in the allegation'.

**SHRI R. K. DHAWAN :** She told me 'There are complaints about these officers : get their antecedents checked'.

**SHRI NARENDRA P. NATHWANI :** "... in order to verify whether there was any truth in the allegations . . ."

**SHRI R. K. DHAWAN :** She said, 'Some Members and others have complained about these officers; you get their antecedents checked'.

**SHRI NARENDRA P. NATHWANI :** Not antecedents. I am asking this question specifically. It is said, "... pass on the complaints to the authorities concerned in order to verify whether there was any truth in the allegations".

**SHRI R. K. DHAWAN :** She told me, 'Some MPs and others have complained about these officers; you get their antecedents checked'.

**SHRI NARENDRA P. NATHWANI :** Not the complaints ?

**SHRI R. K. DHAWAN :** Get their antecedents checked.

**SHRI NARENDRA P. NATHWANI :** She did not ask you to have the complaints checked ?

**SHRI R. K. DHAWAN :** She did not mention the complaints to me. She did not elaborate on what complaints were there. She only said that there were some complaints and asked me to get their antecedents checked.

**PROF. P. G. MAVALANKAR :** Did she give you the names of those officers ?

**SHRI R. K. DHAWAN :** She did.

**SHRI RAM JETHMALANI :** Would you like to say anything more voluntarily ?

**SHRI R. K. DHAWAN :** No.

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*Shri R. K. Dhawan*

**SHRI NARENDRA P. NATHWANI :**  
You said that you had some shareholding in Maruti Ltd. You were a promoter also. You have signed the Memorandum and the Articles of Association. . .

**SHRI R. K. DHAWAN :** Yes ; I have.

**SHRI NARENDRA P. NATHWANI :**  
You must have acted as a Director in the beginning for some time.

**SHRI R. K. DHAWAN :** No ; I was never a Director nor any office-holder in that company for any moment.

**SHRI NARENDRA P. NATHWANI :**  
You have signed the Memorandum and the Articles of the Association.

**SHRI R. K. DHAWAN :** That is how I became a promoter.

**SHRI NARENDRA P. NATHWANI :**  
You never acted as a Director ?

**SHRI R. K. DHAWAN :** I never acted in any capacity.

**SHRI NARENDRA P. NATHWANI :**  
You continued to remain a shareholder. . .

**SHRI R. K. DHAWAN :** Yes.

**SHRI NARENDRA P. NATHWANI :**  
But you never acted as a Director ?

**SHRI R. K. DHAWAN :** I never acted as a Director ?

**MR. CHAIRMAN :** Any question from anybody ? None.

Thank you, Mr. Dhawan.

*(The witness then withdrew.)*

*(The Committee then adjourned.)*