

COMMITTEE OF PRIVILEGES

(FOURTH LOK SABHA)

TENTH REPORT

(Presented on the 23rd February, 1970)



सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI

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PERSONNEL OF THE COMMITTEE OF PRIVILEGES
(1969-70)

CHAIRMAN

*Shri G. G. Swell

MEMBERS

2. Shri Rajendranath Barua
3. Shri N. C. Chatterjee
4. Shri Surendranath Dwivedy
5. Shri Shri Chand Goyal
6. Shri Hem Raj
7. Shri Thandavan Kiruttinan
8. Shri P. Govinda Menon
9. Shri H. N. Mukerjee
10. Shri Raja Venkatappa Naik
11. Shri G. L. Nanda
12. Shri K. Raghuramaiah
13. Shri P. Ramamurti
14. Chaudhuri Randhir Singh
15. Shri K. Narayana Rao.

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

*Appointed with effect from 15-12-69 *vice* Shri R.K. Khadilkar resigned.

TENTH REPORT OF THE COMMITTEE OF PRIVILEGES (FOURTH LOK SABHA)

1. Introduction and Procedure

I, the Chairman of the Committee of Privileges, having been authorised to submit the report on their behalf, present this their Tenth Report to the House on the question of privilege raised¹ by Shri J. M. Biswas, M.P., and referred² to the Committee by the House on the 4th December, 1968, regarding his alleged illegal detention and re-arrest by the police at Purulia on the 19th and 20th September, 1968 and non-intimation thereof to the Speaker, Lok Sabha.

2. The Committee held eleven sittings. The relevant minutes of these sittings form part of the report.

3. At the first sitting, held on the 16th December, 1968, the Committee directed that the Ministry of Home Affairs be asked, in the first instance, to obtain from the Government of West Bengal, and furnish to the Committee, a full statement of the facts of the matter in respect of the allegations made by Shri J. M. Biswas, M.P., while raising the question of privilege in the House on the 3rd December, 1968, as also the written statements of the following concerned officers in the matter:—

- (i) Superintendent of Police, Purulia;
- (ii) Shri S. K. Ganguly, Magistrate, First Class, Purulia; and
- (iii) Shri J. N. Sarkar, Sub-Divisional Magistrate, Purulia.

4. At the second sitting, held on the 14th February, 1969, the Committee decided to examine in person Shri J. M. Biswas, M.P., and Shri B. C. Sen, Superintendent of Police, Purulia.

5. At the third sitting, held on the 6th March, 1969, the Committee examined in person Shri J. M. Biswas, M.P., on the facts of the case. The Committee also decided that the following Officers of the Government of West Bengal might be called, through the Ministry of Home Affairs, for examination in person before the Committee:—

- (i) Shri D. Bhowmic, *then* Deputy Superintendent of Police (Headquarters), Purulia;

¹ L.S. Deb., dt. 3-12-1968, cc 211—15.

² L.S. Deb., dt. 4-12-1968, c. 131.

(ii) Shri B. C. Sen, Indian Police Service, *then* Superintendent of Police, Purulia; and

(iii) Shri J. N. Sarkar, *then* Sub-Divisional Magistrate, Purulia.

6. At the fourth sitting, held on the 25th March, 1969, the Committee examined on oath Shri J. N. Sarkar, Sub-Divisional Magistrate, Purulia (on leave preparatory to retirement).

7. At the fifth sitting, held on the 26th March, 1969, the Committee examined on oath Shri D. Bhowmic, Deputy Superintendent of Police (Headquarters), Purulia and Shri B. C. Sen, I.P.S., Superintendent of Police, Purulia.

8. At the sixth, seventh and eighth sittings, held on the 7th May and 16th and 17th July, 1969, the Committee deliberated on the matter.

9. At the ninth sitting, held on the 26th August, 1969, the Committee decided to examine further Shri B. C. Sen, Superintendent of Police, Purulia and Shri D. Bhowmic, Deputy Superintendent of Police, Purulia.

10. At the tenth sitting, held on the 14th November, 1969, the Committee examined further on oath Shri B. C. Sen, Superintendent of Police, Purulia and Shri D. Bhowmic, Deputy Superintendent of Police, Purulia and came to their conclusions.

11. At the eleventh sitting held on the 24th December, 1969, the Committee considered their draft Report and adopted it.

III. Facts of the Case

12. On the 3rd December, 1968, Shri J. M. Biswas, M.P., raised¹ in the House a question of privilege regarding his alleged illegal detention and re-arrest by the Police at Purulia (West Bengal) on the 19th September, 1968 and non-intimation thereof to the Speaker, Lok Sabha. While raising the question of privilege, Shri J. M. Biswas stated *inter alia* as follows:—

"I was arrested by the Police at Adra, Purulia District in West Bengal on the 19th September, 1968 at about 6-30 A.M. under section 147/353 IPC, section 5 of the Ordinance of September, 1968 and section 100B of the Indian Railways Act. I was then produced before Shri S. K. Ganguli, Magistrate Ist Class, Purulia, at about 4 P.M. The Magistrate immediately released me on the ground that the investigating officer did not send copy of case diary and the first information report of the case. But I was kept under detention by the police unlawfully till

¹ L.S. Deb., dt. 3-12-1968, cc 211—15.

1 A.M. of 20th September, 1968. At 4 P.M., I was released by the Magistrate but the police detained me upto 1 A.M. without any authority and without any warrant of arrest.

While under unlawful detention by the police, I was re-arrested at about 1 A.M. on 20th September, 1968, and produced before the Sub-Divisional Magistrate, Purulia, at about 2-20 A.M. on 20th September, who ordered for my release on PR bond at about 2-30 A.M.

From the above it will be seen that I was held in custody by the police even after my release at 4 P.M. on the 19th September till 1 A.M. on the 20th. It appears that no information was sent to the Lok Sabha Secretariat about this arrest and the illegal detention. The Magistrate who released me on PR bond did not also inform the Lok Sabha Secretariat. All these constitute a clear breach of privilege of a member of the House and the House itself."

13. The Minister of Home Affairs (Shri Y. B. Chavan) stated that he would give the details of the case after ascertaining the position.

14. On the 4th December, 1968, the Minister of Home Affairs stated⁴ in the House as follows:—

"I have looked into the papers furnished by the State Government of West Bengal and the copy of the document furnished to the hon. Speaker. Since the position is not quite clear on one or two points, I have no objection to the matter being referred to the Committee of Privileges."

15. The matter was, therefore, referred to the Committee of Privileges by the House.

16. In regard to the alleged arrest and release of Shri J. M. Biswas, M.P., the following communications were received in the Lok Sabha Secretariat:—

- (i) Wireless message⁵ from the Superintendent of Police, Purulia, dated the 19th September, 1968 (received on the 20th September, 1968);
- (ii) Telegram⁶, dated the 19th September, 1968, from the Magistrate, Purulia (received on the 23rd September, 1968);
- (iii) Telegram⁷ regarding arrest and release of Shri J. M. Biswas on the 19th September, 1968 by Sub-Divisional Magistrate, Purulia (received on the 3rd October, 1968); and

⁴ L.S. Deb., dt. 4-12-1968, c. 131.

⁵ See Appendix I.

⁶ See Appendix II.

⁷ See Appendix III.

- (iv) Letter⁹ No. 3023J, dated the 19th September, 1968 from Sub-Divisional Magistrate, Purulia (received on the 4th October, 1968).

As the House was not then in session, the communication at Serial Numbers (i) and (ii) above were published in the Lok Sabha Bulletin Part—II, dated the 23rd September, 1968, para Nos. 857 and 858, respectively. As the communications at Serial Numbers (iii) and (iv) above intimated the release of Shri J. M. Biswas, M.P., on the 19th September, 1968 which fact had already been published in the Lok Sabha Bulletin Part—II, dated the 23rd September, 1968, these communications were not published in the Lok Sabha Bulletin, in view of the proviso to Rule 231 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifth Edition).

17. All these communications mentioned of the arrest and release of Shri J. M. Biswas, M.P., on the 19th September, 1968 only. None of those indicated any time of his release.

III. Findings of the Committee

18. The Committee perused the statement⁹ of facts obtained by the Ministry of Home Affairs from the Government of West Bengal and furnished to the Committee, and the written statements¹⁰ of the following concerned officers, received through the Ministry of Home Affairs:

- (i) Shri B. C. Sen, Superintendent of Police, Purulia;
- (ii) Shri S. K. Ganguli, Magistrate, 1st Class, Purulia; and
- (iii) Shri J. N. Sarkar, Sub-Divisional Magistrate, Purulia.

19. The Committee note from the written statements received from the Government of West Bengal, the Superintendent of Police and the Sub-Divisional Magistrate, Purulia, that Shri Biswas was re-arrested and subsequently released at about mid-night of the 19th September, 1968, whereas Shri Biswas had contended in his statement in the House on the 3rd December, 1968 that while under unlawful detention, he was re-arrested at about 1 A.M. on the 20th September, 1968 and released at about 2-30 A.M. on the 20th September, 1968 for which no intimation was sent to the Speaker. The Government of West Bengal, the Superintendent of Police and the Sub-Divisional Magistrate, Purulia, denied in their written statements that

⁹ See Appendix IV.

¹⁰ See Appendix V.

¹¹ See Appendices VI, VII and VIII respectively.

Shri Biswas had been kept under detention after his release at about 16-00 hours on the 19th September, 1968 till he was re-arrested at about mid-night on the same day.

20. In order to find out the correct position, the Committee examined on oath Shri J. N. Sarkar, Sub-Divisional Magistrate, Purulia, Shri D. Bhowmic, Deputy Superintendent of Police (Headquarters), Purulia and Shri B. C. Sen, IPS, Superintendent of Police, Purulia. The Committee also examined Shri J. M. Biswas, M.P.

Summary of Evidence

21. Shri J. M. Biswas, M.P., in his evidence before the Committee on the 6th March, 1969, deposed that Shri S. K. Ganguli, Magistrate 1st Class, Purulia, had ordered his release at 4 P.M. on the 19th September, 1968 but he was not actually released by the Police. Instead, he was taken away from the court room to the court *Hazat* by the police where arrested persons were detained. He informed the Committee that: "They (the police) never told me that I was released. Rather when my lawyer asserted on them that we were released by the Magistrate, the police had no jurisdiction to keep us detained, they told my lawyer to get out. They detained me in a lock-up. . . . Actually Deputy Superintendent of Police was waiting for the Superintendent of Police to come. Superintendent of Police had to come at 11 O'clock in the night". He also added that "we were 38. Inside the room was small. So when we were offered food, we were asked to go outside"

22. Shri J. M. Biswas, M.P., also filed with the Committee attested copies¹¹ of the order of Shri J. N. Sarkar, Sub-Divisional Magistrate, Purulia, and the Memorandum submitted by Shri Biswas, on his own behalf and on behalf of his colleagues, to the Sub-Divisional Magistrate, Purulia, on the 20th September, 1968 at about 2-35 A.M.

23. Shri J. N. Sarkar, Sub-Divisional Magistrate, Purulia, in his evidence before the Committee on the 25th March, 1969, stated that on the 19th September, 1968, he was requested by the Inspector, Purulia, to come to his Court from his residence at about 11 P.M. for some urgent work. On reaching the Court, he received a petition from the Superintendent of Police for warrants to arrest certain persons including Shri J. M. Biswas, M.P., because of serious apprehension of trouble. After going through the petition, he issued a warrant of arrest against Shri Biswas. He further stated that an order was placed before him and after applying his judicial mind, he

¹¹ See Appendices IX and X, respectively.

signed the order with some modification. He admitted that it was not a normal practice to place prepared orders before Magistrates for signature. Shri Sarkar further stated that the papers for informing the Speaker, Lok Sabha, regarding the release of Shri Biswas, after his re-arrest were ready on the 19th September, 1968. The Committee asked him that according to the statement of Shri B. C. Sen, Superintendent of Police, the release of Shri Biswas took place after mid-night of 19th September, 1968 and, therefore, how a telegram intimating his release could be sent on the 19th September, 1968. Shri Sarkar replied: "It was a mistake. I prepared the papers on the 19th". He, however, sincerely regretted "for the several irregularities in this regard".

24. Sarvashri B. C. Sen, Superintendent of Police, Purulia, and D. Bhowmic, Deputy Superintendent of Police (Headquarters), Purulia, who were examined by the Committee on the 26th March, 1969, maintained in their evidence that Shri J. M. Biswas, M.P., and others were not in custody after their release at about 16-00 hours till their re-arrest at about midnight on the 19th September, 1968, but that Shri Biswas and others with him continued to stay on of their own accord in the police office which is also located in the same compound as the court, in order to meet the Deputy Commissioner and the Superintendent of Police, to seek the release of three of their other compatriots, to get medical aid for the injured persons and to secure transport facilities, food, etc., for them. When asked whether he wanted those persons, though not in actual custody, to be kept there because if they went to the Station, it would be difficult to maintain law and order, the Superintendent of Police (Shri B. C. Sen) replied 'Yes'.

25. Shri D. Bhowmic, Deputy Superintendent of Police, also stated that he had accompanied Shri Biswas and others to the Hospital after their release at about 16-00 hours because he was "thick and thin" with them, although it was not his official duty to do so. He further stated that after the orders of the Court to release a person, he should not be taken to *Hazat* and that he did not know whether or not Shri Biswas was brought to *Hazat* after the orders of his release.

Conclusions

26. After a careful consideration of the circumstances of the case, oral evidence given before the Committee and the documents made available to the Committee by the authorities concerned, the Committee have come to the conclusion that Shri J. M. Biswas, M.P., was either illegally detained or put under some kind of restraint or guard or surveillance by the police on the 19th September, 1968, between

about 16-00 hours when the Magistrate, First Class, Purulia (Shri S. K. Ganguly) released him and about 23-30 hours, when he was produced before the Sub-Divisional Magistrate, Purulia (Shri J. N. Sarkar).

27. When the Committee re-examined Sarvashri B. C. Sen, then Superintendent of Police, Purulia and D. Bhowmic, then Deputy Superintendent of Police (Headquarters), Purulia, on the 14th November, 1969, both of them offered their unqualified regret when apprised that the finding of the Committee was that there was some sort of restraint or surveillance on Shri J. M. Biswas, M.P., on the 19th September, 1968, after he had been released by the Magistrate, First Class, Purulia at about 16-00 hours, till about 23-30 hours, when he was produced before the Sub-Divisional Magistrate, Purulia.

28. In view of the unqualified regret expressed by Sarvashri J. N. Sarkar, then Sub-Divisional Magistrate, Purulia, B. C. Sen, then Superintendent of Police, Purulia and D. Bhowmic, then Deputy Superintendent of Police, Purulia, the Committee feel that no further action may be taken in the matter.

29. The Committee, however, feel that the conduct of the Magistracy and the Police authorities in this case leaves much to be desired. They would like to reiterate the recommendation made by them in their 8th Report (Fourth Lok Sabha) that all the forms and rules of law must be strictly and scrupulously observed by the police and the magistracy in all cases, more particularly when their conduct results in the deprivation of personal liberty of a citizen.

IV. Recommendation of the Committee

30. The Committee recommend that no further action be taken by the House in the matter.

NEW DELHI;
Dated the 24th December, 1969.

G. G. SWELL,
Chairman,
Committee of Privileges.

MINUTES

I

First Sitting

New Delhi, Monday, the 16th December, 1968

The Committee met from 16-00 to 16-15 hours.

PRESENT

Shri R. K. Khadilkar—*Chairman*

MEMBERS

2. Shri S. M. Joshi
3. Shri H. N. Mukerjee
4. Shri Anand Narain Mulla
5. Shri Raja Venkatappa Naik
6. Dr. Ram Subhag Singh.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. The Committee considered the question of privilege raised by Shri J. M. Biswas, M.P., regarding his alleged illegal detention and re-arrest by the Police at Purulia on the 19th and 20th September, 1968 and non-intimation thereof to the Speaker, Lok Sabha, and referred to the Committee by the House on the 4th December, 1968.

3. The Committee directed that the Ministry of Home Affairs be asked, in the first instance, to obtain from the Government of West Bengal, and furnish to the Committee by the 15th January, 1969, a full statement of facts of the matter in respect of the allegations made by Shri J. M. Biswas, M.P., while raising the question of privilege in the House on the 3rd December, 1968 and also the written statements of the following concerned officers on the matter:—

- (i) Superintendent of Police, Purulia;
- (ii) Shri S. K. Ganguly, Magistrate, First Class, Purulia; and
- (iii) Shri J. N. Sarkar, Sub-Divisional Magistrate, Purulia.

4. The Committee decided to meet again a few days before the commencement of the next Session of Lok Sabha to consider the matter further.

The Committee then adjourned.

II

Second Sitting

New Delhi, Friday, the 14th February, 1969.

The Committee met from 11-00 to 11-30 hours.

PRESENT

Shri R. K. Khadilkar—*Chairman*

MEMBERS

2. Shri Hem Raj
3. Shri S. M. Joshi
4. Shri Bal Raj Madhok
5. Lt. Col. H.H. Maharaja Manabendra Shah of Tehri Garhwal
6. Shri H. N. Mukerjee
7. Shri Anand Narain Mulla
8. Shri Raja Venkatappa Naik
9. Shri G. L. Nanda
10. Shri Biswanarayan Shastri.

SPECIAL INVITEE

Shri K. Raghuramaiah.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

* * * * *

3. The Committee took up further consideration of the question of privilege raised by Shri J. M. Biswas, M.P., regarding his alleged illegal detention and re-arrest by the police at Purulia on the 19th and 20th September, 1968 and non-intimation thereof to the Speaker, Lok Sabha and decided to take evidence of Shri J. M. Biswas, M.P. and Shri B. C. Sen, Superintendent of Police, Purulia. The evidence of Shri Biswas was to be taken at the sitting of the Committee to be held on the 6th March, 1969.

The Committee then adjourned.

*•Paragraph 2 relates to another case and has accordingly been omitted.

III

Third Sitting

New Delhi, Thursday, the 6th March, 1969.

The Committee met from 16-00 to 16-20 hours and again from 16-45 to 17-25 hours.

PRESENT

Shri R. K. Khadilkar—*Chairman*.

MEMBERS

2. Shri Surendra Nath Dwivedy
3. Shri Hem Raj
4. Shri S. M. Joshi
5. Shri Bal Raj Madhok
6. Lt. Col. H.H. Maharaja Manabendra Shah of Tehri Garhwal
7. Shri H. N. Mukerjee
8. Shri Anand Narain Mulla
9. Shri Raja Venkatappa Naik
10. Shri Biswanarayan Shastri
11. Shri K. Raghuramaiah

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary*.

Shri J. R. Kapur—*Under Secretary*.

WITNESS

Shri J. M. Biswas, M.P.

2. At the outset, the Committee decided to make available to Shri J. M. Biswas, M.P., for perusal copies of the following documents received through the Ministry of Home Affairs:

- (i) Statement of facts furnished by the Government of West Bengal;
- (ii) Statement of Shri B. C. Sen, IPS, Superintendent of Police, Purulia;
- (iii) Statement of Shri S. K. Ganguly, Deputy Magistrate and Magistrate, 1st Class, Malda; and
- (iv) Statement of Shri J. N. Sarkar, Sub-Divisional Officer, Purulia.

3. The Committee then examined Shri J. M. Biswas on the facts of the case.

4. The Committee then decided that the following Officers of the Government of West Bengal might be called, through the Ministry of Home Affairs, for examination by the Committee:—

- (1) Shri D. Bhowmic, then Dy. S.P. (Headquarters), Purulia.
- (2) Shri B. C. Sen, IPS, then Superintendent of Police, Purulia.
- (3) Shri J. N. Sarkar, then Sub-Divisional Officer, Purulia.

5. The Committee decided to hear the evidence of the above named officers on Tuesday, the 25th March, 1969 at 15-00 hours.

The Committee then adjourned.

IV

Fourth Sitting

New Delhi, Tuesday, the 25th March, 1969,

The Committee met from 15-30 to 16-40 hours.

PRESENT

Shri R. K. Khadilkar—*Chairman.*

MEMBERS

2. Shri Hem Raj
3. Shri S. M. Joshi
4. Lt. Col. H.H. Maharaja Manabendra Shah of Tehri Garhwal
5. Shri H. N. Mukerjee
6. Shri Anand Narain Mulla
7. Shri G. L. Nanda
8. Shri Biswanarayan Shastri
9. Shri K. Raghuramaiah

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

WITNESS

Shri J. N. Sarkar,

Sub-Divisional Officer,

Purulia (on leave preparatory to retirement).

2. The Committee decided that it was not necessary to invite Shri J. M. Biswas, M.P., to be present when the Committee examined the witness.

3. Shri J. N. Sarkar was then called in and examined by the Committee on oath.

(The witness then withdrew)

4. The Committee decided to meet again on Wednesday, the 26th March, 1969 at 15-30 hours to examine the other two witnesses in the case.

The Committee then adjourned.

V

Fifth Sitting

New Delhi, Wednesday, the 26th March, 1969.

The Committee met from 15-30 to 16-40 hours and again from 17-00 to 17-50 hours.

PRESENT

Shri R. K. Khadilkar—*Chairman*

MEMBERS

2. Shri Hem Raj
3. Shri S. M. Joshi
4. Lt. Col. H.H. Maharaja Manabendra Shah of Tehri Garhwal
5. Shri H. N. Mukerjee.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

WITNESSES

1. Shri D. Bhowmic, Dy. S. P. (Headquarters), Purulia.
2. Shri B. C. Sen, IPS, Superintendent of Police, Purulia.
2. Shri D. Bhowmic, Deputy S.P. (Headquarters), Purulia, was called in and examined on oath.

(The witness then withdrew)

3. Shri B. C. Sen, IPS, Superintendent of Police, Purulia, was called in and examined on oath.

(The witness then withdrew)

- 4 Shri D. Bhowmic was re-called and further examined.

(The witness then withdrew)

The Committee then adjourned.

VI

Sixth Sitting

New Delhi, Wednesday, the 7th May, 1969

The Committee met from 16·00 to 16·40 hours.

PRESENT

Shri R. K. Khadilkar—*Chairman*

MEMBERS

2. Shri N. C. Chatterjee
3. Shri Surendranath Dwivedy
4. Shri Shri Chand Goyal
5. Shri Hem Raj
6. Shri Thandavan Kiruttinan
7. Shri Raja Venkatappa Naik
8. Shri G. L. Nanda
9. Shri K. Narayana Rao

SECRETARIAT

Shri J. R. Kapur—*Under Secretary.*

* * * * *

3. The Committee then took up consideration of the question of privilege raised by Shri J. M. Biswas, M.P., regarding his alleged illegal detention and re-arrest by the Police at Purulia on the 19th and 20th September, 1968 and non-intimation thereof to the Speaker, Lok Sabha, and desired that the verbatim record of the evidence given before the Committee in this case might be circulated to all the members of the Committee. The Committee also decided that it was not necessary to examine any further witnesses in this case.

* * * * *

6. The Committee decided to meet again to consider all these cases on Monday, the 30th June, 1969 at 9·00 hours and, if necessary, also to meet on Tuesday, the 1st July, 1969.

The Committee then adjourned.

*Paragraphs 2, 4 and 5 relate to other cases and have accordingly been omitted.

VII

Seventh Sitting

New Delhi, Wednesday, the 16th July, 1969

The Committee met from 10-30 to 12-15 hours.

PRESENT

Shri R. K. Khadilkar—*Chairman*.

MEMBERS

2. Shri N. C. Chatterjee
3. Shri Surendranath Dwivedy
4. Shri Shri Chand Goyal
5. Shri Hem Raj
6. Shri Thandavan Kiruttinan
7. Shri H. N. Mukerjee
8. Shri Raja Venkatappa Naik
9. Chaudhuri Randhir Singh

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary*,

Shri J. R. Kapur—*Under Secretary*.

WITNESS

Shri G. M. Laud, Editor, *Financial Express*, Bombay.

2. At the outset, the Committee decided that Shri A. N. Mulla, M.P., who was a Member of the previous Committee of Privileges and who was present at the sittings of the Committee when some of the witnesses in the case regarding the question of privilege raised by Shri J. M. Biswas, M.P., regarding his alleged illegal detention and re-arrest by the police at Purulia on the 19th and 20th September, 1968, were examined, might be requested to attend the sitting of the Committee when they considered that matter.

The Committee decided to defer consideration of the question of privilege relating to the alleged illegal detention and re-arrest of Shri J. M. Biswas to their next sitting.

* * * * *

The Committee then adjourned.

*Paragraphs 3 to 5 relate to other cases and have accordingly been omitted.

VIII

Eighth Sitting

New Delhi, Thursday, the 17th July, 1969

The Committee met from 11-30 to 12-15 hours.

PRESENT

Shri R. K. Khadilkar—*Chairman.*

MEMBERS

2. Shri N. C. Chatterjee
3. Shri Surendranath Dwivedy
4. Shri Hem Raj
5. Shri Thandavan Kiruttinan
6. Shri H. N. Mukerjee
7. Shri Raja Venkatappa Naik
8. Shri P. Ramamurti
9. Chaudhuri Randhir Singh

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary,*

Shri J. R. Kapur—*Under Secretary.*

* * * * *

3. The Committee deliberated on the question of privilege relating to the alleged illegal detention and re-arrest of Shri J. M. Biswas, M.P., by the police at Purulia on the 19th and 20th September, 1968. The Committee directed that a note on the law of privilege relating to freedom from arrest of Members of Parliament incorporating therein the synopses of important British and Indian cases might be prepared by the Secretariat and circulated to the members of the Committee before their next sitting.

The Committee then adjourned to meet again on Friday, the 25th July, 1969 at 16.00 hours.

*Paragraph 2 relate to another case and has accordingly been omitted.

IX**Ninth Sitting**

New Delhi, Tuesday, the 26th August, 1969

The Committee sat from 16·00 to 17·00 hours.

PRESENT

Shri R. K. Khadilkar—*Chairman.*

MEMBERS

2. Shri Rajendranath Barua
3. Shri N. C. Chatterjee
4. Shri Hem Raj
5. Shri Thandavan Kiruttinan
6. Shri Raja Venkatappa Naik
7. Shri P. Ramamurti
8. Shri K. Narayana Rao

SPECIAL INVITEE

Shri Anand Narain Mulla, M.P.

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

* * * * *

4. The Committee then took up for further consideration the question of privilege raised by Shri J. M. Biswas, M.P., regarding his alleged illegal detention and re-arrest by the Police at Purulia on the 19th and 20th September, 1968 and non-intimation thereof to the Speaker, Lok Sabha.

After considering the oral evidence given before the Committee by Shri J. M. Biswas, M.P., Shri B. C. Sen, Superintendent of Police, Purulia, Shri D. Bhowmic, Deputy Superintendent of Police, Purulia and Shri J. N. Sarkar, Sub-Divisional Officer, Purulia, and the documents made available to the Committee by the authorities concerned, the Committee felt that Shri J. M. Biswas, M.P., had been illegally detained or put under some kind of restraint or guard by the Police on the 19th September, 1968 between about 16·00 hours when the Magistrate, First Class, Purulia released him and about 23·30 hours when he was produced before the Sub-Divisional Officer, Purulia.

*Paragraphs 2 & 3 relate to other cases and have accordingly been omitted.

The Committee, however, directed that Shri B. C. Sen, Superintendent of Police, Purulia and Shri D. Bhowmic, Deputy Superintendent of Police, Purulia be asked to appear before the Committee on the 30th October, 1969 for further examination.

* * * * *

6. The Committee decided to meet again on Thursday, the 30th October, 1969 at 15.00 hours and, if necessary on the 31st October, 1969.

The Committee then adjourned.

X

Tenth Sitting

New Delhi, Friday, the 14th November, 1969

The Committee sat from 11.00 to 11.40 hours.

PRESENT

Shri N. C. Chatterjee—*In the Chair.*

MEMBERS

2. Shri Rajendranath Barua
3. Shri Surendranath Dwivedy
4. Shri Shri Chand Goyal
5. Shri Hem Raj
6. Shri Thandavan Kiruttinan
7. Shri Raja Venkatappa Naik
8. Chaudhuri Randhir Singh

SPECIAL INVITEE

Shri Anand Narain Mulla, M.P.

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

WITNESSES

Shri B. C. Sen, IPS, *then* Superintendent of Police, Purulia.

Shri D. Bhowmic, *then* Dy. S.P. (Hqrs), Purulia.

2. In the absence of the Chairman, the Committee chose Shri N. C. Chatterjee to act as Chairman.

*Paragraph 5 relates to another case and has accordingly been omitted.

3. The Committee took up further consideration of the question of privilege regarding the alleged illegal detention and re-arrest of Shri J. M. Biswas, M.P., by the Police at Purulia on the 19th and 20th September, 1968 and non-intimation thereof to the Speaker, Lok Sabha.

4. Shri B. C. Sen, IPS, was called in and examined on oath.

Shri B. C. Sen expressed his unqualified regret in case the finding of the Committee was that there was some sort of restraint on Shri J. M. Biswas, M.P., on the 19th September, 1968, after he had been released by the Magistrate, First Class, Purulia at about 16·00 hours, till about 23·30 hours, when he was produced before the Sub-Divisional Officer, Purulia.

(The witness then withdrew)

5. Shri D. Bhowmic was then called in and examined on oath.

Shri D. Bhowmic also expressed his unqualified regret in case the finding of the Committee was that there was some sort of restraint on Shri J. M. Biswas, M.P., on the 19th September, 1968, after he had been released by the Magistrate, First Class, Purulia at about 16·00 hours, till about 23·30 hours, when he was produced before the Sub-Divisional Officer, Purulia.

(The witness then withdrew)

6. The Committee decided to recommend to the House that in view of the unqualified regret expressed by Sarvashri B. C. Sen and D. Bhowmic, no further action be taken by the House in the matter.

* * * * *

The Committee then adjourned.

Eleventh Sitting*New Delhi, Wednesday, the 24th December, 1969*

The Committee sat from 16.00 to 16.50 hours.

PRESENT**CHAIRMAN**

Shri G. G. Swell

MEMBERS

2. Shri Rajendranath Barua
3. Shri Hem Raj
4. Shri Thandavan Kiruttinan
5. Shri H. N. Mukerjee
6. Shri Raja Venkatappa Naik
7. Shri K. Narayana Rao

SECRETARIATShri B. K. Mukherjee—*Deputy Secretary*Shri J. R. Kapur—*Under Secretary*

2. The Committee considered their draft Tenth Report on the question of privilege raised by Shri J. M. Biswas, M.P., regarding his alleged illegal detention and re-arrest by the police at Purulia on the 19th and 20th September, 1968 and non-intimation thereof to the Speaker, Lok Sabha. The Committee adopted the draft Report with the addition of the following paragraph after paragraph 28:—

“The Committee, however, feel that the conduct of the Magistracy and the Police authorities in this case leaves much to be desired. They would like to reiterate the recommendation made by them in their 8th Report (Fourth Lok Sabha) that all the forms and rules of law must be strictly and scrupulously observed by the police and the magistracy in all cases, more particularly when their conduct results in the deprivation of personal liberty of a citizen.”

3. The Committee authorized the Chairman to present their Report to the House in the beginning of the next Session.

The Committee then adjourned.

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** Paragraphs 4 to 7 relate to other cases and have accordingly been omitted.

MINUTES OF EVIDENCE TAKEN BEFORE THE COMMITTEE
OF PRIVILEGES

Thursday, the 6th March, 1969

PRESENT

Shri R. K. Khadilkar.—*Chairman.*

MEMBERS

2. Shri Surendra Nath Dwivedy
3. Shri Hem Raj
4. Shri S. M. Joshi
5. Shri Bal Raj Madhok
6. Lt. Col. H. H. Maharaja Manabendra Shah of Tehri Garhwal
7. Shri H. N. Mukerjee
8. Shri Anand Narain Mulla
9. Shri Raja Venkatappa Naik
10. Shri Biswanarayan Shastri
11. Shri K. Raghuramaiah.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

WITNESS

Shri J. M. Biswas, M.P.

(The Committee met at 16.00 hours.)

Evidence of Shri J. M. Biswas, M.P.

MR. CHAIRMAN: Mr. Biswas, we would like to know the facts of the case.

SHRI J. M. BISWAS: Sir, on the 19th September, 1968 at 4 P.M. Shri Ganguli, 1st Class Magistrate ordered for my release but I was actually not released by the police.

I, along with others, was brought by the police out of the court.

On page 407 of Memorandum No. 13, Statement of Shri S. K. Ganguli shows: "The prevailing practice was to take the accused

persons to Court Hajat after orders were passed in Court and then to release them from there if on verification of papers it was found that they were not required to be detained in connection with other cases. So, Shri J. M. Biswas and others were taken away from the Court Room.'

That is very clear, Sir, that I was taken away from the Court Room by the Police. Subsequently to cover up anomalously, the Statement was made by S.P. that after my release I had been to the Police Office at my own and demanded tea, food and they gave me tea and food. Sir, for tea and food they charge from the Government. I was not alone. We were about 38 persons. For all of them they offered tea, food on Government account.

SHRI RAJA VENKATAPPA NAIK: Was tea and food served on your request?

SHRI J. M. BISWAS: No. I was taken into custody early in the morning.

SHRI S. M. JOSHI: What is Court Hajat.

SHRI J. M. BISWAS: It is a place where arrested persons are detained.

SHRI S. M. JOSHI: According to their prevailing practice when they took you there they should have told you that now you are released.

SHRI J. M. BISWAS: They never told me that I was released. Rather when my lawyer asserted on them that we were released by the Magistrate, the police had no jurisdiction to keep up detained, they told my lawyer to get out. They detained me in a lock up. We were 38.

Inside, the room was small. So, when we were offered food, we were asked to go outside.

SHRI RAJA VENKATAPPA NAIK: What is the name of your lawyer?

SHRI J. M. BISWAS: Mahadev Mukerjee. He told the D.S.P. that the Magistrate had given clear order for Biswas's release. Unless there is any other issue you have no right to detain him.

D.S.P. told him to get out.

Actually D.S.P. was waiting for the S.P. to come. S.P. had to come at 11 O'clock in the night.

AN HON'BLE MEMBER: What is the time lag between your release and the coming of S.P.

PARLIAMENT LIBRARY
(Library & Reference Service)
Central Govt. Publications.

SHRI J. M. BISWAS: Seven hours.

At 1 A.M. this D.S.P. came and told, gentlemen, you are again arrested. I told, we are already arrested.

It is a fact that some of us were treated harshly by the police as a result of which some sustained grievous injuries.

We were taken to D.M.O. under police guard.

SHRI S. M. JOSHI: This statement is very relevant i.e. when a lawyer asked the D.S.P. why are you detaining them when the Magistrate has released them, D.S.P. said, no no, you go out and you have no business to say so. We should take evidence of the Advocate.

SHRI J. M. BISWAS: Mrigen Babu, a journalist of 'Juganter Patrika' of West Bengal was there. They came when we were being detained without warrant.

Now, Sir, I would like to point out second thing regarding intimation. Sir, pressure was brought on Sub-Divisional Magistrate by the Deputy Commissioner and D.S.P. that he should show my arrest from 5 P.M. which is after the release from the court. This is to cover the gap.

Here is the order of Shri J. N. Sarkar, S.D.M.

"19-9-68. Seen the report of Supdt. of Police, Purulia with prayer to issue W/A against the accused persons forwarded to the Court today in c/w Adra G.R.P.S. case No. 9 dated 19-9-68 u/s 147/353 I.P.C. read with section 5 of Ordinance 9 of 1968 and section 100-B of Indian Rly. Act, who have been discharged for want of Formal F.I.R. and copy of C.D.

Perused the report of Supdt. of Police as also the forwarding report of I.O. it is clear there is sufficient material against the accused persons to prove the allegations against the accused persons and to justify the issue of W/A against them.

In view of the abnormal circumstances and the gravity of situation now prevailing issue fresh warrant against them."

In the morning, when I was taken before the Magistrate, I gave this memo to the Magistrate:

Dated 20th Sept., 1968

at 2/35 A.M.

To

The Sub-divisional Magistrate, Purulia.

Sir,

We would like to submit the following to you.

We were arrested at 6-30 A.M. at Adra on the 19th September, 1968. We were taken to the Police Court at Purulia at 1 P.M. and were produced before Shri S. K. Ganguly, Magistrate, who very kindly released us from police custody.

We, however, were not released and were detained unlawfully till 1 A.M. of the 20th September, 1968. We learnt at 1 A.M. from the Court Inspector that we were re-arrested at 1 A.M. and orders were given for our release on P.R. bonds at 2-30 A.M. This may kindly be kept in record."

MR. CHAIRMAN: Mr. Biswas filed certified copies of relevant documents.

SHRI J. M. BISWAS: Further, Sir, kindly call the Divisional Commissioner who conducted the enquiry. The Magistrate under the direction of the Police Superintendent was going to change the record. Even my memo was not in the file. The Magistrate may also be called. He will tell the entire history how the judicial Department is being dictated by the Police Department. The first Magistrate was transferred because he released me on some legal points because there was no FIR. This Magistrate wanted a week's extension because his wife was sick but that was denied to him. Further, Sir, whatever I have said before the Parliament while moving the Privilege Motion I stand by it and my every word is correct and I can produce sufficient documentary evidence for that.

SHRI S. M. JOSHI: When was the warrant served on you?

SHRI J. M. BISWAS: I was told at 1 A.M.

SHRI S. M. JOSHI: Then he was not re-arrested on the 19th but on the 20th.

SHRI RAJA VENKATAPPA NAIK: The dates are not clearly given in the telegrams.

SHRI S. M. JOSHI: When was this third telegram issued? It is written here 14-20 hours.

(The witness then withdrew.)

The Committee then adjourned.

Tuesday, the 25th March, 1969.

The Committee met from 15-30 to 16-40 hours.

PRESENT

Shri R. K. Khadilkar—*Chairman.*

MEMBERS

2. Shri Hem Raj
3. Shri S. M. Joshi
4. Lt. Col. H.H. Maharaja Manabendra Shah of Tehri Garhwal
5. Shri H. N. Mukerjee
6. Shri Anand Narain Mulla
7. Shri G. L. Nanda
8. Shri Biswanarayan Shastri
9. Shri K. Raghuramaiah.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

WITNESS

Shri J. N. Sarkar,
Sub-Divisional Officer,
Purulia (On leave preparatory
to retirement).

(The Committee met at 15-30 hours)

(Evidence of Shri J. N. Sarkar, Sub-Divisional Officer, Purulia)

MR. CHAIRMAN. May I know your name?

SHRI J. N. SARKAR: J. N. Sarkar.

MR. CHAIRMAN: Are you Sub-Divisional Magistrate, Purulia?

SHRI J. N. SARKAR: Yes. But now on leave.

MR. CHAIRMAN: You will have to take the oath.

SHRI J. N. SARKAR: "I, J. N. Sarkar, do solemnly affirm that the evidence which I shall give in this case shall be true and that I will conceal nothing and that no part of my evidence shall be false."

MR. CHAIRMAN: Do you remember whether on 19th September, 1968 you got some information from Inspector, Purulia?

SHRI J. N. SARKAR: It is correct.

MR. CHAIRMAN: What was the information regarding?

SHRI J. N. SARKAR: I was just requested to come to court from my residence at about 11 P.M.

MR. CHAIRMAN: But was there any request for issue of warrant?

SHRI J. N. SARKAR: That I received when I came to court. I just got a telephonic message in my residence that I am requested to go to the court for some urgent work. Then I hastened to the court and opened the court room and sat there.

MR. CHAIRMAN: Then.

SHRI J. N. SARKAR: Then I received one petition submitted by S.P. with the prayer for arrest of certain persons including Shri J. M. Biswas.

MR. CHAIRMAN: So, you immediately issued orders i.e. warrant.

SHRI J. N. SARKAR: I immediately did so.

MR. CHAIRMAN: You did not question.

SHRI J. N. SARKAR: I went through the petition and then I issued warrant.

MR. CHAIRMAN: Petition by whom?

SHRI J. N. SARKAR: By S.P.

MR. CHAIRMAN: What was there in the petition?

SHRI J. N. SARKAR: I do not remember all the details.

MR. CHAIRMAN: It is a serious thing. You had been asked to issue warrant.

SHRI J. N. SARKAR: Certain persons were required to be detained and there were serious apprehensions of trouble. That was the report.

MR. CHAIRMAN: So, before issuing the warrant as an S.D.O. you applied your mind as to whether the report submitted to you deserved immediate action or further enquiry was called for.

SHRI J. N. SARKAR: It was considered. The gravity of the situation was taken into consideration and I passed order.

MR. CHAIRMAN: So, accordingly you issued a warrant.

SHRI J. N. SARKAR: Yes.

MR. CHAIRMAN: Then what happened after the issue of warrant?

SHRI J. N. SARKAR: The accused persons were produced before me and I then passed orders. At first I offered PR for the M.P. and offered bail to other accused persons. On their prayer that they cannot find bail at that hour—at the dead of night and they wanted to be released, I released all of them on Personal Recognizance Bond.

MR. CHAIRMAN: Do you remember the exact time when they were brought before you?

SHRI J. N. SARKAR: I do not remember the exact time. I just started say ten or eleven minutes after 11 in the night. I started writing the record when the accused were produced before me.

MR. CHAIRMAN: How long did it take?

SHRI J. N. SARKAR: It took about one or two hours. I do not exactly remember I offered them bail and then I re-considered. I offered them PR.

MR. CHAIRMAN: It must be between 12 and 1 in the night.

SHRI J. N. SARKAR: It had crossed mid-night. I do not remember the time. As I was not looking at the watch, I could not tell even at that time.

SHRI S. M. JOSHI: Is the record of this case available?

SHRI J. N. SARKAR: Yes.

SHRI S. M. JOSHI: Can we see the order which you passed?

(The order was shown by Shri J. N. Sarkar to Shri S. M. Joshi)

SHRI S. M. JOSHI: Whether this order was actually dictated by you or the order was ready and you were asked to sign that order. But you changed it because this was wrong. You corrected it very correctly. You have said he was accused. Then where was the need to stop warrants and something like that.

MR. CHAIRMAN: If you are dictating, the writer had no business to add something on his own. The presumption is some wrong document was placed before you and you were asked to sign. But you exercised your judicial mind and thought that this portion is no good and it was scratched. Is it correct or not?

Have you any instance when the Magistrate dictates, somebody interpolates something of his own?

SHRI J. N. SARKAR: It is not a question of interpolation. It is a question of writing out an order. It has been written in view of the abnormal circumstances and gravity of situation then prevailing so as to issue fresh warrant.

Should I explain them?

SHRI HEM RAJ: He was not issuing.

SHRI J. N. SARKAR: You can see other orders. That is the practice.

MR. CHAIRMAN : Judicial scrutiny leads to the conclusion ; something was placed before you. You just scratched rightly something and then you signed. Is it correct?

SHRI J. N. SARKAR: Yes.

SHRI S. M. JOSHI: If I were in your position and if I find it correct, I may sign it. It was kept ready. There is nothing wrong on your part.

SHRI J. N. SARKAR: I did not remember all the details.

MR. CHAIRMAN: Is it usual practice? You have admitted that orders are placed before you. Sub-divisional magistrates are to carry out the orders. Is it usual practice or this was some exceptional thing?

SHRI J. N. SARKAR: It was an exceptional thing. We do not hold court at night.

MR. CHAIRMAN. When order is placed before you, you are to rubber-stamp your name. Is it usual practice or this was exceptional case?

SHRI J. N. SARKAR: This is never the practice.

MR. CHAIRMAN: Does it mean that you were alert enough to cut that sentence? Is that the correct position?

SHRI J. N. SARKAR: I can say this much. Further I cannot say.

MR. CHAIRMAN: There is a paper for signature. You scrutinised it. You scratched some portion. You were alert enough at the moment. Is that correct?

SHRI J. N. SARKAR: That is correct.

SHRI S. M. JOSHI: The original says: "In view of the abnormal circumstances and the gravity of the situation now prevailing the accused persons, fresh warrant of arrest against them are issued. They are re-arrested". For that, changes were made and the changed version says:

"In view of the abnormal circumstances and the gravity of the situation now prevailing, issue fresh warrant of arrest against them."

This is the change. Accused and all that has been removed.

SHRI HEM RAJ. He is ordered by somebody else, to issue the warrant. He did not apply his mind even then.

SHRI J. N. SARKAR: This is the usual wordings of order.

SHRI S. M. JOSHI: Before proceeding to that, this order dated 19-9-1968 was written. If this was kept ready for you, well, that means, you will also not remember whether it was 20th or 19th when, you signed this paper.

SHRI J. N. SARKAR: That may happen.

SHRI S. M. JOSHI: In this order, on the top of it, it is stated that the date is 19-9-68. And if this goes further up on the 20th? You have signed it at a time when it was night....

SHRI J. N. SARKAR: Final order signed at midnight.

SHRI S. M. JOSHI: The man signing the order has to put the date 19-9-68 because he has ordered that order on the 19th.

MR. CHAIRMAN: That is very clear.

SHRI S. M. JOSHI: That means, re-arrest was effected on 20th.

MR. CHAIRMAN: I would like to ask one question in between. You have to intimate to the Speaker of Lok Sabha. Do you remember once having sent telegram to the Speaker the same day?

SHRI J. N. SARKAR.: Yes.

MR. CHAIRMAN: I have got a copy. I will read it.

SHRI S. M. JOSHI: Let us see if he has put 20th and those people have informed us as 19th.

MR. CHAIRMAN: I will read out the telegram you sent to Speaker. This is the Telegram:

Purulia STE 66—The Speaker, Lok Sabha New Delhi
No. 3022 J.

I have the honour to inform you that Shri J. M. Biswas Member of the Lok Sabha who was arrested on 19-9-68 for commission of offences under sections 148/353 IPC Section 5 of Ordinance 9/68 and Section 100B of the Indian Railway Act was released on the same date on personal recognizance bond. Sub-divisional Magistrate.

On same day you have sent it. You have informed correct time of arrest and release. From this it is clear that order was there ready.

You signed it with a little modification and immediately you sent the telegram. Arrest as well as release has to be informed to

the Speaker. You did it. The whole thing came to a close on the 19th according to the telegram. You are not supposed to give an order saying, arrested on the 19th and released on the early hours of the 20th. You have not said anything. It is clear from the telegram. You had given this telegram to the Speaker.

SHRI J. N. SARKAR : Yes.

MR. CHAIRMAN : You later on sent written communication also. You said :

"In continuation of my telegraphic intimation No. 3022J dated 19-9-68, on the subject noted above, I have the honour to inform you that Shri J. M. Biswas, M.P. who was arrested by the Supdt. of Police, Purulia for alleged commission of offences under Section 147/353 IPC Section 5 of Ordinance No. 9 of 1968 and Section 100B of the Indian Railways Act, was produced before my Court on 19-9-68 and was released on the same date on furnishing personal recognizance bond. For 10-10-68 to stand his trial."

You have sent written communication. The wording is the same.

SHRI J. N. SARKAR : Yes.

MR. CHAIRMAN : The whole drama of arrest and release was finished before the midnight of 19th. That is what we see from the telegram. You had no intention to misinform the Speaker, obviously. You wanted to inform the Speaker of the true state of affairs. Shall I take it like that?

SHRI J. N. SARKAR : Yes.

SHRI S. M. JOSHI : You yourself admitted in the beginning that the arrest and the release were about past midnight.

SHRI J. N. SARKAR : That was the release.

SHRI S. M. JOSHI : The telegram also speaks of the release. The telegram was sent after the release. Was that so?

SHRI J. N. SARKAR : Yes.

SHRI S. M. JOSHI : Or, was it that somebody sent the telegram and you did not know it?

SHRI G. L. NANDA : It is all a question of the time of the order of release and the time of the telegram. What was the time?

SHRI J. N. SARKAR : I did not mention any time.

SHRI G. L. NANDA : The telegram was sent after midnight?

SHRI J. N. SARKAR : Yes.

SHRI G. L. NANDA : It is not clear from this record as to when the release was effected.

SHRI J. N. SARKAR : You can take it like that.

SHRI G. L. NANDA : It might have been that the telegram of release was on the 19th. But it did not mention that the release had occurred at a particular time.

SHRI S. M. JOSHI : In your order you said about the 'prevailing circumstances'. You are certainly expected to apply your mind before you pass an order. Therefore, I would like to know what was the prevailing situation. For example, you must have asked them why they were arrested. Then they would tell you that they were arrested because of the token strike for one day. Then you would have said : Now it is midnight. There is not going to be any strike tomorrow and why should you arrest a Member of Parliament? If you had applied your mind, certainly you would have put these questions. In the order, you had scratched certain words, but retained the term 'prevailing situation'. That being so, you would have made yourself sure of prevailing situation. You would have certainly asked : Is the token strike going to continue? If it is not, why should a Member of Parliament be arrested? When a Magistrate issues a fresh warrant, these questions should obviously occur to him.

Mr. Sarkar, I am not trying to confuse you. I am just trying to get at certain facts. This is something which I cannot understand. When the strike was only for one day, a Member of Parliament was arrested. You yourself said that they called you at about 11-15 midnight. After that the matter went on till 1 A.M. on the 20th. If that is so, naturally it occurs to the mind of a Magistrate as to why this man is arrested again when the strike is over.

SHRI J. N. SARKAR : The strike was not over.

SHRI S. M. JOSHI : You could have got this information from them.

SHRI J. N. SARKAR : It was to continue till the next morning—till sunrise.

SHRI S. M. JOSHI : Therefore you arrested him and kept him till the next morning.

SHRI J. N. SARKAR : Then I released him.

SHRI S. M. JOSHI : It was at about 1 a.m. that this whole thing happened. It seems that you were asked to re-arrest him to oblige the Police. They wanted to detain him and even chain him. Suppose I say that in one of the orders it was said that he should be detained and chained, what have you got to say?

SHRI J. N. SARKAR : This I do not remember.

SHRI H. N. MUKERJEE : You are familiar with Mr. S. K. Ganguly, who is the First Class Magistrate in your area?

SHRI J. N. SARKAR : Yes.

SHRI H. N. MUKERJEE : On the 19th September, you were away most of the time during the day time?

SHRI J. N. SARKAR : Yes.

SHRI H. N. MUKERJEE : You know that Mr. S. K. Ganguly, before whom Mr. Biswas was produced on the 19th September, was asked to sign an order for his arrest and he did not do so, but released him sometime in the afternoon. Are you aware of that?

SHRI J. N. SARKAR : I am aware that he passed an order releasing him.

SHRI H. N. MUKERJEE : You now tell us that somewhere near midnight or late in the night you were given some material on the basis of which you ordered the arrest of Mr. Biswas with some other people?

SHRI J. N. SARKAR : Yes.

SHRI H. N. MUKERJEE : That is what you told us. Did you make any enquiry about what had happened in regard to the order of release which Shri Biswas had from Mr. Ganguly?

SHRI J. N. SARKAR : That I do not know.

SHRI H. N. MUKERJEE : You knew nothing at all about that at that time?

SHRI J. N. SARKAR : No.

SHRI H. N. MUKERJEE : Mr. Biswas was produced before you at a time when a report against him was given?

SHRI J. N. SARKAR : Yes.

SHRI H. N. MUKERJEE : And you just signed the order on that basis. You made no enquiry about what had happened to Mr. Biswas during the previous period or earlier in the afternoon?

SHRI J. N. SARKAR : The order-sheet is clear.

SHRI H. N. MUKERJEE : According to your information, Mr. Biswas was released earlier and therefore he was not in police custody till when he was produced before you later on on the basis of some evidence which they placed before you? Is that what you say?

SHRI J. N. SARKAR : How can I say that? That will be the presumption.

SHRI H. N. MUKERJEE : You knew that he was released?

SHRI J. N. SARKAR : Yes. So, I had to take order for re-arrest.

SHRI H. N. MUKERJEE : After release from the custody of the police?

SHRI J. N. SARKAR : He was released earlier—seven hours before.

SHRI H. N. MUKERJEE : You are telling us that as far as you know, Mr. Biswas had been released from police custody earlier.

SHRI J. N. SARKAR : Yes.

SHRI H. N. MUKERJEE : And that he was brough before you afresh.

SHRI J. N. SARKAR : You can see the order. The order-sheet is very clear.

SHRI H. N. MUKERJEE : Even in regard to the order, certain points have been raised and we have to go into them to find out how far things have been done properly. Something was placed before you which you signed? Did you just sign an order which was placed before you or did you apply your judicial mind to it?

SHRI J. N. SARKAR : I applied my judicial mind.

SHRI H. N. MUKERJEE : We shall find out.

SHRI A. N. MULLA : I shall try to take your mind away from the questions that have been put to you. I would like to ask you about the procedure. Is it a fact that the second presentation of the prayer for re-arrest of Mr. Biswas was only a continuation of the earlier prayer made by the investigating agency?

SHRI J. N. SARKAR : I do not agree.

SHRI A. N. MULLA : It is a separate prayer according to you. It is not a continuation. When this prayer was placed before you, you had come to know that Mr. Ganguly had ordered the release of

Mr. Biswas. I want to know whether the actual file of the case in which that order was passed was placed before you or not along with this prayer.

SHRI J. N. SARKAR : The order-sheet was there.

SHRI A. N. MULLA : Is it a fact or not that the order-sheet is written on the front side?

SHRI J. N. SARKAR : Yes.

SHRI A. N. MULLA : Is it a practice in your court that the order-sheets are not written in continuation, but blanks are left and you don't pass an order on the back of that paper but you take a separate sheet to pass your order? Is it not ordinary judicial practice that the order-sheets are in a continuation and no blanks are left anywhere?

SHRI J. N. SARKAR : It is the practice that usually the order-sheet should be in continuation.

SHRI A. N. MULLA : Can you explain why did you not pass the order on the back of the page on which Mr. Ganguly passed his order and why did you take a fresh sheet to write your order?

SHRI J. N. SARKAR : Usually the practice is to keep continuity.

SHRI A. N. MULLA : You can deny my suggestion or accept it. I suggest that the first order-sheet was not placed before you and therefore it was a second sheet that you used?

SHRI J. N. SARKAR : That I don't remember exactly.

SHRI A. N. MULLA : You said that you applied your judicial mind. Apart from the prayer to re-arrest which was there before you, were there any papers submitted to you on which you applied your mind or you exercised your judicial mind only on the prayer of re-arrest?

SHRI J. N. SARKAR : Only on the prayer of re-arrest I applied my judicial mind.

SHRI A. N. MULLA : You know Mr. Biswas remained all along after he was released by Mr. Ganguly at the Police Station right upto the time when you passed the second order. Therefore, Mr. Biswas could not possibly have done anything or said anything which could have changed the case against him from the one which was before Mr. Ganguly. On the same case, on the same facts, on the same conduct, on which Mr. Ganguly released him, you came to the conclusion, after applying your judicial mind that the order of re-arrest should be issued.

SHRI J. N. SARKAR : He was not at the Police Station.

SHRI A. N. MULLA : There was no further occasion to make any speech or do anything which spoiled his case further. What kind of exercise of judicial mind you did? Your brother officer exercised his judicial mind and released him. That did not weigh with you. On the same prayer of the investigating agency, you took the opposite view to re-arrest him.

SHRI J. N. SARKAR : May I take your permission to say that I was never trained to see and follow what brother officers had done. It is not a question of what the brother officer has done. It is a question of what the situation demanded.

SHRI A. N. MULLA : The conduct of Mr. Biswas which necessitated his arrest was the same at 4 o'clock as it was at 12 o'clock midnight when you passed the second order. There is no additional act to that conduct.

SHRI J. N. SARKAR : What am I to reply?

SHRI A. N. MULLA : What kind of judicial mind you exercised?

SHRI J. N. SARKAR : I said I applied my mind. If you don't agree what can I say?

SHRI A. N. MULLA : I am giving an opportunity to you to explain, if you can. We will of course come to our own conclusions. You did not care to see that a judicial mind has operated earlier, which had not agreed to accept the prayer of the investigating agency. On the same conduct you issued the order to re-arrest, on the same prayer of the investigating agency.

SHRI J. N. SARKAR : How can I get into the details now? There are certain points which need clarification to give reply to this question.

SHRI A. N. MULLA : You cannot get away like that, Mr. Sarkar. What were the particular circumstances you saw which were not before the other Magistrate?

MR. CHAIRMAN : You don't get confused. You have already stated that your brother Magistrate had that afternoon passed an order of release.

SHRI J. N. SARKAR : He also did not dismiss the case.

MR. CHAIRMAN : He passed an order of release. The same person was produced before you late at night. You also admitted that a sheet of paper was presented along with the so-called accused and

you signed the order. In that case, the presumption is that at the late hour, you did not apply your mind and you had not enough time. Sometimes it happens in services.

SHRI J. N. SARKAR: It is a very difficult question to answer without going into details.

SHRI A. N. MULLA: The conduct is very difficult to explain. That is why it becomes very difficult to explain the facts. My suggestion is, when you say you applied your judicial mind, you only looked to the fresh prayer that was placed before you and for whatever reasons it might be, you thought it proper to grant that prayer. Do not bring in the question of applying your judicial mind. Whatever may be the reason a second prayer was made before you and you said, "Well, I will grant this prayer." When you say you applied your judicial mind then all the trouble starts.

SHRI J. N. SARKAR: I applied my judicial mind.

SHRI A. N. MULLA: Now, can you tell me in whose handwriting the prayer was made? Who was the person who made the written request?

SHRI J. N. SARKAR: He is Mr. B. C. Sen, S.P.

SHRI A. N. MULLA: You recognise his handwriting.

SHRI J. N. SARKAR: Signature is his.

SHRI A. N. MULLA: You do not know in whose handwriting it is.

SHRI J. N. SARKAR: I do not know.

SHRI A. N. MULLA: Is the entire order-sheet in your handwriting or you simply signed it.

SHRI J. N. SARKAR: Not wholly in my handwriting.

SHRI A. N. MULLA: I would like you to compare the writing on this order-sheet and the writing on the prayer. Whether they are in the same handwriting or not.

SHRI J. N. SARKAR: Not in the same handwriting.

SHRI A. N. MULLA: Is it customary that a written order-sheet is placed before you for signing? Are the judicial orders passed in your part of the country in the manner that order-sheets are not written by the judicial officer himself but a draft is put in by somebody else?

SHRI J. N. SARKAR: Order-sheets are written or dictated by the judicial officer.

SHRI A. N. MULLA: Please do not evade the question. It is neither your dictation nor your handwriting. Is it possible that the orders should neither be your dictation nor your handwriting and a third agency should write the orders?

SHRI J. N. SARKAR: No. It is not.

SHRI A. N. MULLA: Then is it a fact or not that the petition and the order-sheets came before you as if some higher officer is giving a direction to you to sign the dotted line and you simply obeyed that direction? Even the order-sheet was written for you.

SHRI J. N. SARKAR: It is for you to infer.

SHRI A. N. MULLA: Therefore, I am suggesting that where along with a petition after a judgement goes against the investigating agency the investigating agency for its own reasons insists to disregard that order. It puts in a fresh application before another magistrate and not only puts in that application but it feels strong enough to put an order-sheet also merely to be signed by the Magistrate and you just change a word here and there and sign it.

SHRI J. N. SARKAR: It is not* correct.

SHRI HEM RAJ: The order of former magistrate was before you. So far as the first order of the first magistrate was on the order-sheet and that magistrate had rejected it simply because the first information report was not there—when the papers were placed before you—whether you saw to it that the first information report has reached you.

SHRI J. N. SARKAR: I did not enquire about it.

SHRI HEM RAJ: Is it the practice that in criminal case the first information report must be attached to it?

SHRI J. N. SARKAR: Not necessarily. This prayer was there.

SHRI HEM RAJ: Simply the prayer will do.

SHRI J. N. SARKAR: The First Information Report can come later on.

SHRI HEM RAJ: Therefore, I say the first magistrate had rejected the application for warrants simply because the first information report was not there. What is the practice in your court?

*While giving evidence before the Committee, the witness had said, "It is correct". Subsequently, however, when the transcript of the proceedings was shown to him for confirmation, he changed it to "It is not correct".

Whether the first information report should accompany or it can be got afterwards.

SHRI J. N. SARKAR: It can be got afterwards.

SHRI HEM RAJ: On that very day did the accused M.P. put some paper before you and if that paper was put, is it in your file?

SHRI J. N. SARKAR: They put some papers before me.

SHRI HEM RAJ: This is a paper by Mr. Biswas, M.P. dated 20th September, 1968 at 2-35 A.M.

SHRI J. N. SARKAR: I remember that I got such a prayer and I kept that on the record.

SHRI HEM RAJ: This means that paper was produced before you at the time when you were ordering that thing.

SHRI J. N. SARKAR: When they were all released.

SHRI HEM RAJ: After how much time from the time of your passing the order was that paper produced before you?

SHRI J. N. SARKAR: I do not remember. But it was given after the entire proceeding was over.

MR. CHAIRMAN: Did you verify if the contention of Mr. Biswas and others was correct or incorrect?

SHRI J. N. SARKAR: I simply kept in with the file.

MR. CHAIRMAN: You did so without looking on it or reading it. You did not enquire what happened in the intervening period.

SHRI J. N. SARKAR: I did not enquire.

MR. CHAIRMAN: On the 19th the arrest and release had taken place. You had communicated the fact and nothing else to the Speaker.

SHRI J. N. SARKAR: Papers were ready on the 19th.

SHRI G. L. NANDA: The statement by Shri B. C. Sen is before you. That Statement says that the release took place after mid-night. It is stated here. If it is in the record that the release was after mid-night of 19th how could a telegram go on the 19th stating that the release had taken place.

SHRI J. N. SARKAR: It was a mistake. I prepared all the papers on the 19th.

MR. CHAIRMAN: Could you tell me at what hour was the telegram handed over to the post office?

SHRI J. N. SARKAR: I do not know. I simply signed it and passed it on.

MR. CHAIRMAN: Will you find it from the office when it was handed over and who handed over the telegram? Under your signatures the telegram was received.

SHRI J. N. SARKAR: I am on leave preparatory to retirement. I have already left service.

MR. CHAIRMAN: I want to give you the last opportunity. Are you sincerely regretting for the several irregularities in this regard?

SHRI J. N. SARKAR: Yes.

MR. CHAIRMAN: Members are desirous of asking questions. I cannot ask them not to put questions. Tomorrow we will finish this.

SHRI HEM RAJ: At what time?

MR. CHAIRMAN: At about 3-30 P.M. we can meet. All Members may please be present and we will complete the work.

(The witness then withdrew.)

The Committee then adjourned.

Wednesday, the 26th March, 1969.

PRESENT

Shri R. K. Khadilkar—*Chairman*

MEMBERS

2. Shri Hem Raj.
3. Shri S. M. Joshi.
4. Lt. Col. H. H. Maharaja Manabendra Shah of Tehri Garhwal.
5. Shri H. N. Mukerjee.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

WITNESSES

1. Shri D. Bhowmic, Dy. S.P. (Hqrs)., Purulia.
2. Shri B. C. Sen, IPS, Superintendent of Police, Purulia.

(The Committee met at 15.30 hours)

Evidence of Shri D. Bhowmic, Dy. S. P. (Hqrs.), Purulia.

(The witness took the oath)

MR. CHAIRMAN: Mr. Bhowmic, in what capacity you are appearing here?

SHRI D. BHOWMIC: In my capacity as Dy. S.P.

MR. CHAIRMAN: Would you tell the Committee what happened after the Magistrate, Shri Ganguly, released Mr. Biswas, M.P. and others some time in the afternoon of 19th September, 1968. Do you remember the happenings on that day?

SHRI D. BHOWMIC: On that day I was in Anara, some distance away from Purulia on law and order duty. I returned to Headquarters at about 1930 hours and went home. I got a ring at my house from a Police Officer that Mr. Biswas and his party were making *hulla* there. When I got that ring, I was taking bath in my house. I straight away went to the Office and found Mr. Biswas and others about 32 men—sitting in our Police Office. Mr. Biswas complained to me that no medical arrangement was made for the injured compatriot and they were not served any meal. Moreover, three of their compatriots were not released by the Magistrate; they were kept in jail custody. I came back to Mr. Biswas. After taking tea I went to the D.M.O.

Afterwards, as it was already late—about 8.30 or 9 P.M. Mr. Biswas requested me to arrange for some food. I contacted some local shopkeepers and they agreed to supply the food. All of them were served with food—rice, curry, meat, etc.

After the D.M.O. came to the police station, he advised them to go to hospital for medical treatment. I accompanied Mr. Biswas in my jeep to the Sadar Hospital, where they could get better treatment. Mr. Biswas insisted that these things should be done by us: Number one, the injured persons should be given medical treatment; number two, they should be given meal; third, three of their compatriots must be released by the Magistrate. Fourthly he said that as it was already too late at night they could not go to their place for want of conveyance and we have to arrange for it also.

I arranged for their food, for medical treatment and about the release of the three persons. I told Mr. Biswas that I shall exert my influence to have the release of the three compatriots. Mr. Biswas and some others were sitting in my room. They wanted to meet the S.P. about their grievances.

At about 11 in the night, when the S.P. returned, I told him that they wanted to meet him. I persuaded him to meet them but he was not prepared to meet them. Afterwards, the S.P. told that they would

be re-arrested. Then the misunderstandings might have arisen that I may have detained them.....

MR. CHAIRMAN: Apart from this story, you know he was released. After the release, was it your duty to look after them and accompany them, because you went along with him to the medical officer? Was it your duty to accompany them there after their release?

SHRI D. BHOWMIC: It is not my duty. But that is a part of my human duty.

MR. CHAIRMAN: Were you supposed to accompany them to hospital and take them again to the other places you have mentioned?

SHRI D. BHOWMIC: No, Sir. I just took them in my jeep and then I came back.

MR. CHAIRMAN: And then you reached the Magistrate second time?

SHRI D. BHOWMIC: They came to the police office. They wanted the release of the three persons.

MR. CHAIRMAN: I am not concerned with the three other persons here. Did they go to the Magistrate on their own, requesting the Magistrate to re-arrest them?

SHRI D. Bhowmic: No.

MR. CHAIRMAN: Under whose orders they were re-arrested? Who passed the order?

How can a Magistrate arrest without a report?

SHRI D. BHOWMIC: The S.P. submitted the report.

MR. CHAIRMAN: Have you nothing to do with that?

SHRI D. BHOWMIC: No. Sir.

MR. CHAIRMAN: In between when they were free, the Superintendent, Police asked you to look after them, so that they could be easily available for re-arrest? Was that not so?

SHRI D. BHOWMIC: No, Sir. The Superintendent of Police was not there.

MR. CHAIRMAN: How you got the First Information Report after they were released? Who gave it to you? The Superintendent, Police was not there. You were present when they were brought to the Magistrate. Were you not present?

SHRI D. BHOWMIC: I was not present before the court. I was in my office.

MR. CHAIRMAN: Who presented the First Information Report to the Magistrate? You have taken an oath to tell the truth. This is a very serious matter. Have you not presented the report?

SHRI D. BHOWMIC: No, Sir.

MR. CHAIRMAN: You presented Mr. Biswas there.

SHRI D. BHOWMIC: No, Sir, I asked the S.P.....

MR. CHAIRMAN: How did you happen to be there?

SHRI D. BHOWMIC: I was in the control room. I was supposed to be there.

MR. CHAIRMAN: The whole story goes to prove throughout your accompanying Mr. Biswas till he was brought to the Magistrate.

SHRI D. BHOWMIC: No, Sir.

MR. CHAIRMAN: The magistrate passed the orders in your presence.

SHRI D. BHOWMIC: No.

MR. CHAIRMAN: Who was present at that time on behalf of police authorities?

SHRI D. BHOWMIC: The court inspector. He is incharge of court matters on behalf of police.

SHRI HEM RAJ: Could you tell us when they were first arrested at Adra who accompanied them to be taken to the court of Mr. Ganguli? And who was the person who arrested Mr. Biswas?

SHRI D. BHOWMIC: Mr. B. B. Ghosh.

SHRI HEM RAJ: Who was the person who took him to the court of Mr. Ganguli?

SHRI D. BHOWMIC: The Inspector of Police accompanied him and then court inspector on duty produced him in the court. We have nothing to do with the court.

SHRI HEM RAJ: You came in the picture after the release order of Mr. Ganguli when they came back to the Police station.

SHRI D. BHOWMIC: Yes. They did not come to the police station but to the Police Office.

SHRI H. N. MUKHERJEE: According to you Mr. Biswas was arrested at Adra and taken to Purulia. At Purulia he was released by a magistrate named Mr. Ganguli at about 4 o'clock. After release did you prevail upon Mr. Biswas to leave the court room and the custody of the police? Did you keep him in your custody after release?

SHRI D. BHOWMIC: I was not at Purulia. I was at Adra. I came to Purulia at 1930 hours.

SHRI H. N. MUKERJEE: You found Mr. Biswas in police custody when you came.

SHRI D. BHOWMIC: He was in the Police Office.

SHRI H. N. MUKERJEE: Your case is he on his own was staying on in the police office.

SHRI D. BHOWMIC: Yes, Sir.

SHRI H. N. MUKERJEE: Do you wish us to believe that after release by an order of the Magistrate a Person continues to stay on in the police office?

SHRI D. BHOWMIC: Yes, Sir. Yes, Sir. Mr. Biswas is an M.P. He was not only concerned with himself but also about other men, his compatriots. He wanted that they should get food, medical treatment, transport, etc.

SHRI H. N. MUKERJEE: The point is Mr. Biswas was released by a Magistrate. In spite of that Mr. Biswas wanted to stay in the company of the police.

SHRI D. BHOWMIC: In the police office. Not in the company of police.

SHRI H. N. MUKERJEE: Did you happen to meet any lawyer who tried to appear on behalf of Mr. Biswas?

SHRI D. BHOWMIC: Yes. One lawyer came at about 11 A.M. or 11.30 A.M. but no lawyer approached me.

SHRI H. N. MUKERJEE: Neither Mr. Biswas nor any lawyer on behalf of him put it to you that after the release order they should be free.

SHRI D. BHOWMIC: I reached after 3-4 hours of their release. If Mr. Biswas wanted to go he could go.

H. H. MAHARAJA MANABENDRA SHAH: Who was the officer-in-charge of the police station when you were not there?

SHRI D. BHOWMIC: No officer is in-charge. It is an office. The court inspector was there.

SHRI H. N. MUKERJEE: Mr. Biswas was in voluntary confinement.

SHRI D. BHOWMIC: He was not in confinement. He had gone to the hospital and he returned from the hospital.

SHRI H. N. MUKERJEE: When they were taken to a medical officer they went with a police guard.

SHRI D. BHOWMIC: As I was very much thick and thin with them so I took them.

SHRI H. N. MUKERJEE: When you in your uniform accompany me the presumption is I am in your confinement.

SHRI D. BHOWMIC: I had left them there and not brought them back.

MR. CHAIRMAN: You said that out of human consideration you put Mr. Biswas and others in a jeep and took them to the hospital. Now after the treatment there was no human consideration.

SHRI D. BHOWMIC: D.M.O. is the right person to give them the treatment.

D.M.O. had to look after them. I am a Police Officer.

MR. CHAIRMAN: D.M.O. declined to give the treatment. Can you give the proof?

SHRI D. BHOWMIC: It is the duty of the D.M.O. to give medical aid. Biswas said that D.M.O. should come over there and give them treatment. I requested D.M.O. and he came. After that he said it is not possible for him to treat everybody. So, they must go to the hospital.

MR. CHAIRMAN: From hospital they came walking to the Police Station.

SHRI D. BHOWMIC: It is less than a furlong. on the one side of the road is the Police Office and on the other is the hospital.

MR. CHAIRMAN: For them time lag was necessary for preparing the record for the next case.

SHRI D. BHOWMIC: There was no question of re-arresting them. S. P. found they were all available and he surrounded them. That is a misunderstanding.

SHRI HEM RAJ: You were in the control room.

SHRI D. BHOWMIC: I was asked by the officer to come to office.

SHRI HEM RAJ: Ordinarily you sit in the Control Room.

SHRI D. BHOWMIC: No, Sir. I was in my office.

SHRI HEM RAJ: Police Control Room and your office are two different sets.

SHRI D. BHOWMIC: Yes.

SHRI HEM RAJ: Between 4 P.M. and the rest of the time when he was with you, at what time did he request you for taking them to the hospital?

SHRI D. BHOWMIC: At about 8-30 to 9 P.M.

SHRI HEM RAJ: Between 4 P.M. and 8-30 P.M. where were these people?

SHRI D. BHOWMIC: I came to Police Office at 7-30 P.M. I found them in Police Office. I was not at Headquarters.

SHRI HEM RAJ: Before they reached you, had those people taken their meals?

SHRI D. BHOWMIC: I heard that they had been served with regular six annas or eight annas meals.

SHRI HEM RAJ: From which place had they taken meals?

SHRI D. BHOWMIC: From the contractor. That is looked after by the Magistrate's people.

SHRI HEM RAJ: When a person is arrested and taken to the Court, after the orders of the Court to release him is he taken to the Hajat or not?

SHRI D. BHOWMIC: No. He should not be taken to the Hajat.

SHRI HEM RAJ: In this case do you know whether they were taken to the Hajat or not?

SHRI D. BHOWMIC: I do not know. But I did not find them in the Hajat.

SHRI HEM RAJ: So, the procedure is whenever a person is released by the Court, he is then and there released by the police and he is not taken to the Hajat.

SHRI D. BHOWMIC: That is the procedure.

SHRI HEM RAJ: Is this also the procedure that when a person is not in the custody of the police, the police has to feed him?

SHRI D. BHOWMIC: If he is in the custody of the police, then police feeds him otherwise not.

SHRI HEM RAJ: Are you certain that they were not served by the police?

SHRI D. BHOWMIC: So far as I heard, they were fed by the police.

SHRI HEM RAJ: In this case they were fed by the Police. After they were fed by the Police they came to you. What was the time taken to approach you and they were treated by the D.M.O.?

SHRI D. BHOWMIC: They approached me at 8-30 P.M. At about 9 P.M. D.M.O. treated them.

SHRI HEM RAJ: Where did you leave them because they were free persons?

SHRI D. BHOWMIC: I left them in the hospital. They were there for half an hour.

After that Mr. Biswas came back. He had other points to settle. He wanted that his other three compatriots should also be released. Moreover, it was quite impossible for them to return from Purulia to Adra at that time. There was no transport. At about 1 or 2 after midnight, I arranged a vehicle.

SHRI HEM RAJ: According to the Report of the Bengal Government they were taken back to the Hajat for the purpose of being released. Whether it is true or was it a wrong practice?

SHRI D. BHOWMIC: I said, I do not know. But they should not be taken to the Hajat. I was not present.

MR. CHAIRMAN: You left them at the hospital. Was there any police officer there?

SHRI D. BHOWMIC: No Police Officer was there.

MR. CHAIRMAN: After 9-30 P.M. or 10 P.M. he had a leisurely walk back to the Magistrate.

SHRI D. BHOWMIC: He came to the Police Office as I said Mr. Biswas wanted to settle two points i.e. release of three of the persons and they wanted transport. They had got so many injured persons. There was no bus or any other vehicle. They were in the open air.

MR. CHAIRMAN: As a Police Officer, you keep time.

SHRI D. BHOWMIC: No, Sir. Thana mainains it.

MR. CHAIRMAN: Because three of them were not released, they thought let all of us get arrested.

Your case is that three of their comrades were not released and so they were loitering about and coming to the Police thana.

SHRI D. BHOWMIC: Not thana, but it is office. They wanted to meet some superior Police Officers there. The S. P. had left the place; I had also left. Mr. Biswas wanted to meet some superior officer and express his grievances.

H. H. MAHARAJA MANABENDRA SHAH: The Court Inspector looks into.....

SHRI D. BHOWMIC:..... court affairs.

H. H. MAHARAJA MANABENDRA SHAH: Before he does that, from whom does he get the directions as to what kind of case is to be filed, whether a person should be taken to a court, etc.?

SHRI D. BHOWMIC: The F.I.Rs and other papers are supplied to him by the Thana Officer.

H. H. MAHARAJA MANABENDRA SHAH: Who is the Officer who deals with the Court Inspector?

SHRI D. BHOWMIC: Do you want to know the name of the Court Inspector?

H. H. MAHARAJA MANABENDRA SHAH: You said that the DSP was not there; you were not there. Then, under whose directions the Court Inspector went to the Court and submitted the case?

SHRI D. BHOWMIC: He is under the Sub-Divisional Magistrate.

H. H. MAHARAJA MANABENDRA SHAH: Who briefs the Court Inspector about the case?

SHRI D. BHOWMIC: No Officer briefs him. When an accused person is arrested, the Thana Officer prepares the F.I.R. and the case; then, the accused person is sent under the custody of a constable to the Court. The Court Inspector is in charge of the Police Court. He receives the accused person and after getting the documents he places the case before the Magistrate.

H. H. MAHARAJA MANABENDRA SHAH: Who is the Police officer with whom he deals?

SHRI D. BHOWMIC: The Court Inspector does not deal with any Police officer as he is under the control of the Sub-Divisional Magistrate.

MR. CHAIRMAN: The Court Inspector is a prosecutor in the Court of the Magistrate. He is a lawyer there. No doubt, he acts under the orders of the Magistrate. But he must take up the case on some information furnished to him. Who gives that information to him?

SHRI D. BHOWMIC: The papers are sent to him by the Thana officer in whose jurisdiction the case is registered.

H. H. MAHARAJA MANABENDRA SHAH: In this case who was he?

SHRI D. BHOWMIC: Adra GRPS.

H. H. MAHARAJA MANABENDRA SHAH: You came back to the Police Office after you returned from Anara. You did not take interest in any other proceeding except taking these people to hospital or feeding them. You said you had nothing to do with any of the matters relating to all the troubles. Your responsibility was to take them to the hospital and to feed them.

SHRI D. BHOWMIC: That was done on the personal request of Mr. Biswas.

H. H. MAHARAJA MANABENDRA SHAH: On whose behalf you arranged all these things?

SHRI D. BHOWMIC: This was arranged on behalf of Mr. Biswas who said that he would settle the bills later on. The bill is still outstanding.

H. H. MAHARAJA MANABENDRA SHAH: The Court Hajat is situated where?

SHRI D. BHOWMIC: It is in the Police Court.

H. H. MAHARAJA MANABENDRA SHAH: In which building?

SHRI D. BHOWMIC: In the court building. It is nearer to Police thana.

MR. CHAIRMAN: When you were at home you got a message. After that you came back to the office. What was the duty assigned to you then? You were called on some urgent mission. Why were you called at that hour? Some indication must have been given to you on the phone. What orders were received by you when you were sent for?

SHRI D. BHOWMIC: No senior officer was present there at the headquarters. When Mr. Biswas wanted to meet a senior Police Officer and he and his men were making *hulla*, I was contacted at my home. I was taking my bath. I had to come back without taking even my food.

SHRI S. M. JOSHI: What was the time when this message came?

SHRI D. BHOWMIC: After 7-30 in the evening.

SHRI S. M. JOSHI: Who gave you the message?

SHRI D. BHOWMIC: Court Inspector, so far as I could recollect.

SHRI S. M. JOSHI: Why should he call you?

MR. CHAIRMAN: He is supposed to be working under the orders of the Magistrate. You don't try to confuse yourself. Who gave you this information or this message? Tell me the name of the person who asked you to come to the thana.

SHRI D. BHOWMIC: I could not recollect the name. I think one of the two, three officers who were there must have called me.

MR. CHAIRMAN: You will have to give me the name of that person, because he must be your superior officer.

SHRI D. BHOWMIC: No superior officer was there.

MR. CHAIRMAN: At 7-30 who gave you the information? At that hour you put on the uniform and went to the Police office. You are a police officer and if you say that you don't remember the name, nobody is going to believe that.

SHRI D. BHOWMIC: Two or three officers were there. One of them must have called me.

SHRI S. M. JOSHI: Through whom you got this message? Was it given on the phone?

SHRI D. BHOWMIC: It was on the phone.

SHRI S. M. JOSHI: Who received the message at your place?

SHRI D. BHOWMIC: Orderly or my wife, I think. I was in the bath room. Either of them must have got this message.

SHRI S. M. JOSHI: Don't you remember who told you about this message?

SHRI D. BHOWMIC: Both of them were present. We were used to get messages of this kind six to eight times a day.

SHRI HEM RAJ: You receive some message through phone. Do you recollect from which place that message came?

SHRI D. BHOWMIC: From the Control Room.

SHRI HEM RAJ: And at the Control Room who was present at that time?

SHRI D. BHOWMIC: Two or three officers are deputed.....

SHRI HEM RAJ: Could you tell us who were present at that time?

SHRI D. BHOWMIC: One was Mr. Haran Bhattacharjee. The other I don't remember.

SHRI HEM RAJ: You must give us the name of the other also.

SHRI D. BHOWMIC: It is difficult to say now as to who was present at that time. It is not a police station.

SHRI S. M. JOSHI: If I remember aright, you said that you do not know whether Mr. Biswas and others were brought to Hajat or they came themselves?

SHRI D. BHOWMIC: I have no personal knowledge about it.

SHRI S. M. JOSHI: Absolutely sure?

SHRI D. BHOWMIC: Yes.

SHRI S. M. JOSHI: Refresh your memory.

SHRI D. BHOWMIC: I have no personal knowledge about it.

SHRI S. M. JOSHI: All right, then I must ask you one question. Here is a report from Mr. Sen. He has written: "It may be stated in this connection that on my return to headquarters on that night I further came to learn from Shri D. Bhowmic, DSP, Hqrs., Purulia, that shortly after orders of their release from custody by the Magistrate, Shri S. K. Ganguli, at about 5 p.m., Shri J. M. Biswas, along with other accused persons, came to the police office...." You do not remember?

SHRI D. BHOWMIC: I have said that before 7-30 I did not meet him. He may have written that.

SHRI S. M. JOSHI: Don't be so casual. He is your superior officer?

SHRI D. BHOWMIC: Yes.

SHRI S. M. JOSHI: He has stated: ".....Shri J. M. Biswas, along with other accused persons came to the police office which is located in the compound of the Sub-Divisional Magistrate's court". Now, your superior says this. It was you who told him.

SHRI D. BHOWMIC: They wanted to meet him.....

MR. CHAIRMAN: That statement is given by your superior. You corroborate it or contradict it. He is a responsible officer. Either he is wrong or you are. You have got to give me a categorical reply.

SHRI D. BHOWMIC: He was partly correct.....

MR. CHAIRMAN: Let us be clear. When you returned, someone gave you the information; you put on your uniform and you came running because there was an order from the superior officer.....

SHRI D. BHOWMIC: No order.

MR. CHAIRMAN: All right. At about 7-30 p.m., you found Mr. Biswas there?

SHRI D. BHOWMIC: Yes, Sir.

MR. CHAIRMAN: And he informed you about the release? Or who told you?

SHRI D. BHOWMIC: I heard it from the Court Inspector. He told me, that such and such things should be done.

MR. CHAIRMAN: When you got this information after 7-30 or so, you met them. Why they were there—you did not put this question to them?

SHRI D. BHOWMIC: I had a talk with Mr. Biswas and others. I have already said that he wanted medical treatment, food to be served, etc.

MR. CHAIRMAN: You also went to the hospital along with him? Is that correct?

SHRI D. BHOWMIC: Yes, Sir.

MR. CHAIRMAN: Then, at the police office, Mr. B. C. Sen, Superintendent of Police, arrived?

SHRI D. BHOWMIC: At about 11 o'clock.

MR. CHAIRMAN: What did you tell him then?

SHRI D. BHOWMIC: I told him the whole story.....

MR. CHAIRMAN: What whole story? Beyond the hospital stage, you have no story.

SHRI D. BHOWMIC: Mr. Biswas and others were released, but they refused to go, they wanted to meet him.

MR. CHAIRMAN: You had no other source of information then?

SHRI D. BHOWMIC: No other source of information. I told him after Mr. Ganguli released him, that Mr. Biswas wanted me to arrange for the release of three persons still in custody.....

MR. CHAIRMAN: We are not concerned with that. That case is not before us. We are concerned with Mr. Biswas. Who gave this information? They soon took them to the other Magistrate, Mr. Sarkar. Who took them there?

SHRI D. BHOWMIC: The Court Inspector.

MR. CHAIRMAN: It is very serious, Mr. Bhowmic. It is my last warning to you. You give us the truth. Don't confuse. How does the Court Inspector come into the picture, unless he gets information from the Police Inspector? You do not say this again. I warn you. Who gave the order? How does the Court Inspector come into the picture? You have got to tell me here who took that order to the next Magistrate, Mr. Sarkar? Refresh your memory again. When Mr. Sen came you narrated the whole story. From there to the court of Mr. Sarkar who took Mr. Biswas?

SHRI D. BHOWMIC: I could not say definitely.

MR. CHAIRMAN: Mr. Sen was there.

SHRI D. BHOWMIC: He was present in his office.

MR. CHAIRMAN: You said after you gave the information to Mr. Sen, SP, he took Mr. Biswas to the other court of Mr. Sarkar.

SHRI D. BHOWMIC: No. It may be Court Inspector.

MR. CHAIRMAN: Court Inspector is a prosecuting man sitting with the Magistrate. Do not bring in the Court Inspector.

SHRI D. BHOWMIC: He has to present the accused before the Magistrate.

MR. CHAIRMAN: The Court Inspector must get information from a police officer. Who gave him that information or who directed him?

SHRI D. BHOWMIC: I gave the information to the S.P. and returned to my room. I cannot say whether the S.P.....

SHRI HEM RAJ: After his treatment where did you leave Mr. Biswas?

SHRI D. BHOWMIC: I left him at the hospital.

SHRI HEM RAJ: Thereafter you came to your office and at 11 p.m. you informed Mr. Sen.

SHRI D. BHOWMIC: In the meantime Mr. Biswas also arrived after half-an-hour to my office.

SHRI HEM RAJ: By that time you had not informed the S.P.

SHRI D. BHOWMIC: Yes.

SHRI HEM RAJ: So, all this time Mr. Biswas was sitting with you.

SHRI D. BHOWMIC: After returning from the hospital he was sitting some time with me and some time with his compatriots. He was not always with me. From 9-30 p.m. to 11 p.m. he was not with me.

SHRI HEM RAJ: When you informed the SP and the SP arrived at 11 p.m. the SP made another report for re-arrest. Is it so?

SHRI D. BHOWMIC: Yes.

SHRI HEM RAJ: When the report was made who took that report to the Magistrate's court?

SHRI D. BHOWMIC: That I cannot say.

H. H. MAHARAJA MANABENDRA SHAH: According to your statement it seems that it was not your job to look after this matter. Whatever you did you did on humane grounds. Under these circumstances how you had powers to assure them that you will help them in the release of their compatriots.

SHRI D. BHOWMIC: I could only have requested the officers.

SHRI S. M. JOSHI: You said you took them to the hospital because the DMO first refused to come.

SHRI D. BHOWMIC: He came to the police office but advised them to come to the hospital.

SHRI S. M. JOSHI: When you took them to the hospital you went along with them.

SHRI D. BHOWMIC: Yes, sir.

SHRI S. M. JOSHI: And you left them there and came back. What was the time?

SHRI D. BHOWMIC: 9 o'clock.

SHRI S. M. JOSHI : Then you came alone.

SHRI D. BHOWMIC : Yes, sir.

SHRI S. M. JOSHI : Afterwards you say they came back.

SHRI D. BHOWMIC : After half an hour.

SHRI S. M. JOSHI : They were there without any Police guard.

SHRI D. BHOWMIC : Yes.

SHRI S. M. JOSHI : Then your story is they came to the police station because there were three persons who were not released. Who were those three persons?

SHRI D. BHOWMIC : I do not know.

SHRI S. M. JOSHI : That mention is nowhere in the information that has been given to us. In that case you could have told Mr. Sen that they want to meet him because they want the remaining three persons to be released. Why were these three persons arrested? Were they all in one case?

SHRI D. BHOWMIC : There were two different cases.

MR. CHAIRMAN : How long have you been serving as DSP.

SHRI D. BHOWMIC : I am in service for the last 4½ years.

MR. CHAIRMAN : Who is your present superior officer?

SHRI D. BHOWMIC : Mr. Sen.

MR. CHAIRMAN : Whatever the account, I must tell you very plainly again, you refresh your memory and tell us straight, after you gave information to Mr. Sen, who took them to the Magistrate?

SHRI D. BHOWMIC : I am giving you facts.

MR. CHAIRMAN : You were there. Senior Officer was there. Somebody must have accompanied them. It is only the last question i.e. when S.P. came there, you told him the whole story as to what happened and how they were released and how you left them in the hospital. After 10-30 p.m. or 11 p.m. when S.P. came on the scene, they were taken immediately to the Magistrate—Mr. Sarkar. Now, who took them to the Magistrate. You have not given that answer. You are avoiding and from the Report it is obvious you are contradicting the statement made by your Senior Officer. This is your last chance.

SHRI D. BHOWMIC : Because S.P. and D.C. had refused to meet them, I went back home. I do not know who had taken him to the Magistrate.

H. H. MAHARAJA MANABENDRA SHAH: At what time did you give them tea?

SHRI D. BHOWMIC : At 8 p.m. or 8-30 p.m.

H. H. MAHARAJA MANABENDRA SHAH: Were the meals served by a hotel man?

SHRI D. BHOWMIC : Meals were served by a Contractor.

H. H. MAHARAJA MANABENDRA SHAH: Is it the practice?

MR. CHAIRMAN : Have you got the record to show that money has been recovered from Shri Biswas?

SHRI D. BHOWMIC : The persons whom I instructed had approached Mr. Biswas and I have heard that Mr. Biswas had told him that he would pay.

SHRI H. N. MUKERJEE : Is it your practice that you give refreshment to those people who are not in your custody?

SHRI D. BHOWMIC: Yes, sir.

SHRI H. N. MUKERJEE : As many as 35 people were fed by the Police out of sheer generosity. Is it what you are telling us to believe?

SHRI D. BHOWMIC : The food which they had to get from the police, they had taken at 5 p.m.

SHRI H. N. MUKERJEE : Is it the practice of your office also to accompany the individual to hospital and then have him treated when he or they are not in your custody?

SHRI D. BHOWMIC : That was on personal request.

SHRI H. N. MUKERJEE : Perhaps you were waiting till your S.P. came to the scene and something more could be done in regard to Mr. Biswas.

SHRI D. BHOWMIC: No, sir, it is not a fact.

SHRI S. M. JOSHI : When they asked for tea, were you present at that time?

SHRI D. BHOWMIC: Yes, sir.

SHRI S. M. JOSHI : What was the time then?

SHRI D. BHOWMIC : It was round about 8 p.m.

SHRI S. M. JOSHI: When were they released?

SHRI D. BHOWMIC : I heard they were released in the afternoon at about 4-30 p.m.

SHRI S. M. JOSHI : Did they come to the Police Office by themselves and they were served tea at 8 o'clock? They came for the sake of tea and you also took them to the hospital after 9 p.m.

SHRI D. BHOWMIC : They wanted some of the injured persons to be given proper treatment.

SHRI S. M. JOSHI: But tea was served in your presence.

SHRI D. BHOWMIC: Yes, sir.

SHRI HEM RAJ : So also the meals.

SHRI D. BHOWMIC: I do not know about meals, sir, when it was served.

MR. CHAIRMAN : This is the last opportunity to say. If you on your own want to tell something factual or of having committed any mistake, you may say, otherwise you can go.

SHRI D. BHOWMIC : I have said all the facts.

MR. CHAIRMAN : You can go. You come here by about 7-30 p.m. and correct your statement whatever you have stated.

Evidence of Shri B. C. Sen, I.P.S., Superintendent of Police, Purulia.

(The witness took the oath)

MR. CHAIRMAN : You have taken the oath. Now may I know your name?

SHRI B. C. SEN : My name is B. C. Sen.

MR. CHAIRMAN : For how long have you been Superintendent of Police at Purulia?

SHRI B. C. SEN : A little over one year.

MR. CHAIRMAN : Do you know that on the 19th September, Mr. Biswas and others were arrested?

SHRI B. C. SEN: Yes, sir.

MR. CHAIRMAN : On whose report?

SHRI B. C. SEN : They were arrested on the spot at Adra when they committed the offence. Report was submitted by an Officer at Adra—a D.S.P., Shri B. B. Ghosh, of Purulia District.

MR. CHAIRMAN : On that report they were produced before the Magistrate. At about what time?

SHRI B. C. SEN : Probably in the afternoon they were produced before the Magistrate—after 2 p.m.

MR. CHAIRMAN : Will it be 3 p.m.

SHRI B. C. SEN : I cannot exactly say.

MR. CHAIRMAN : Between 2 and 3 in the afternoon?

SHRI B. C. SEN : Yes.

MR. CHAIRMAN : What was the name of the Magistrate?

SHRI B. C. SEN : Shri S. K. Ganguly. When I returned to Purulia at about 11 p.m. the same day, I learnt from D.S.P., Shri Bhowmic, that all of them were discharged by the Magistrate on the ground that the case diary and F.I.R. did not accompany the forwarding report.

On my way to Adra, after 2 p.m. along with the Deputy Commissioner, we met the persons arrested at Adra including Shri Biswas in connection with the disturbances as they were being escorted to Headquarters; we also talked with them. They must have been presented before the Magistrate after 2 p.m. only.

MR. CHAIRMAN : What happened after their release?

SHRI B. C. SEN : I heard from Bhowmic that they were loitering near about Police Office, which is located in the same compound of the Court.

MR. CHAIRMAN : Did Mr. Bhowmic feed them?

SHRI B. C. SEN : Once tea and at night supper.

MR. CHAIRMAN : At the cost of Government?

SHRI B. C. SEN : I think Mr. Bhowmic in a friendly way bore the cost.

MR. CHAIRMAN : In a friendly way he served tea and biscuits.

SHRI B. C. SEN : Mr. Biswas often came to us and to Mr. Bhowmic. And, often they exchanged courtesies. This was also done out of courtesy. There were some ladies also.

MR. CHAIRMAN : Did you hear that Mr. Bhowmic took them to the Medical Officer in his jeep?

SHRI B. C. SEN : I don't know that. They went to the hospital which is within a furlong from the Police Office.

MR. CHAIRMAN : Mr. Bhowmic accompanied them.

SHRI B. C. SEN : I was not present then.

MR. CHAIRMAN: At 11 o'clock when you returned, Mr. Bhowmic gave you the information that they were released and that they were loitering near your office; they were taken to the medical officer; they were given tea, etc. After that, what decision did you take?

SHRI B. C. SEN : They were waiting to meet me and the D.C. Purulia. Both of us met them while they were coming to Purulia.

MR. CHAIRMAN: At 11 o'clock they were waiting to greet you.

SHRI B. C. SEN : They were very eager to meet the D.C. to say something about the arrest, etc. There was gas firing also.

MR. CHAIRMAN : What happened then? That was the only purpose of their waiting.

SHRI B. C. SEN : While we were going to Adra, when Mr. Biswas wanted to speak to the D.C. about an enquiry as to what led to gas firing etc., we assured them that on our return we would look into that.

MR. CHAIRMAN : After you returned, they greeted you.

SHRI B. C. SEN : They did not meet us. Neither the D.C. nor I met Mr. Biswas.

MR. CHAIRMAN : Then, how is it that they were taken at 11-10, or whatever the time might be, to the Magistrate?

SHRI B. C. SEN : I submitted a report to the Magistrate.

MR. CHAIRMAN : At what time?

SHRI B. C. SEN: Ten minutes after arrival. After I learnt that they had been discharged, I submitted another report to the Sub-Divisional Magistrate of Purulia that they should be taken into custody because the strike was on and they might commit some offence. They had committed offence and the case was going to be charge-sheeted. I requested the Magistrate to issue the warrant of arrest.

MR. CHAIRMAN : As a conscientious Police Officer in charge of the district, you felt that they had to be arrested again as you apprehended some trouble and the strike was on.

SHRI B. C. SEN : I thought they should be re-arrested.

MR. CHAIRMAN : After their first release and the second information report to the Magistrate on which he could issue the judicial warrant of arrest, in between you had made arrangements to keep them within your view.

SHRI B. C. SEN : I have no direct knowledge of that.

MR. CHAIRMAN : Your apprehension was that they were likely to create some trouble. But did it actually happen? When you were away, they were kept within the vicinity of your office.

SHRI B. C. SEN : I don't know that, except that Mr. Bhowmic told me that they were loitering near the office.

MR. CHAIRMAN : Who handed over the report to the Court Inspector?

SHRI B. C. SEN : I did that.

MR. CHAIRMAN : Then you left. Orders were passed on the basis of your first information report.

H. H. MAHARAJA MANABENDRA SHAH: It was not his first information report. He did not submit first information report.

MR. CHAIRMAN : You did not care to see, after you gave the report, that they were properly prosecuted, etc. You were apprehending trouble and that is why you made this report.

SHRI B. C. SEN : That is the duty of the Magistrate. We cannot do anything there. The Court Inspector was there.

MR. CHAIRMAN : He is not a Police Officer.

SHRI B. C. SEN : He is very much a Police Officer.

MR. CHAIRMAN : His main duty is prosecution. As a conscientious officer you must have seen what action was taken on your report.

SHRI B. C. SEN : My Control Room was functioning throughout the day.

MR. CHAIRMAN : Was there any Sub-Inspector there?

SHRI B. C. SEN : Mr. Bhowmic was there.

MR. CHAIRMAN : He came later on, after his law and order duty at Anara.

SHRI B. C. SEN : He came back at 7-30 or so, after his law and order duty at Anara.

MR. CHAIRMAN : When you came back he was there.

SHRI B. C. SEN : He came earlier than us. He told me about their release etc.

MR. CHAIRMAN : Immediately, as a conscientious officer you submitted a sheet for further action to the Court Inspector. You did not wait to see what was the result of the arrest because of that?

SHRI B. C. SEN : I left instructions at the Control Room with the Sub-Inspector.

MR. CHAIRMAN : He must have informed you later on?

SHRI B. C. SEN : Yes.

MR. CHAIRMAN : Then, on a personal bond, they were released. Were you informed of this?

SHRI B. C. SEN : Yes.

SHRI H. N. MUKERJEE : You were in touch with what was happening in Purulia between, let us say, 4 o'clock in the afternoon and later. You came at 11 o'clock at night. You got to know that Shri Biswas along with other people had been put before a Magistrate and they had been released, and yet you discovered that they were hovering about in the police premises. You found that they were in police custody virtually?

SHRI B. C. SEN : They were not in custody. They were loitering nearabout.

SHRI H. N. MUKERJEE : You cannot say that Mr. Biswas and the other people after release had been ordered by the Magistrate to be nearabout the police, for some reason?

SHRI SEN : Yes, sir.

SHRI H. N. MUKERJEE : Can I take it that it is the usual practice for people who are arrested, produced before a Magistrate and released, that after release they stay in the police premises?

SHRI B. C. SEN : Not all. But those who have some relation, often come back.

SHRI H. N. MUKERJEE : Is it your evidence that Mr. Biswas was having a comfortable time and companionship with his friends of the police, and after seven hours or so of detention, you released him?

SHRI B. C. SEN : I was told by Mr. Bhowmic that he wanted him to arrange for tea, meals, and also for medical treatment of some of the injured persons....

SHRI H. N. MUKERJEE : Is it your practice to spend money out of public funds for entertaining friends in police custody?

SHRI B. C. SEN : Public money is not spent like that.

SHRI H. N. MUKERJEE : In entertaining Mr. Biswas, was any private money spent?

SHRI B. C. SEN : Yes.

SHRI H. N. MUKERJEE : When Mr. Biswas and company were taken to hospital, that was done also out of generosity?

SHRI B. C. SEN : They were not taken to the hospital. They themselves went to the hospital. Only they asked Mr. Bhowmic to talk to the DMO.

SHRI H. N. MUKERJEE : Do you mean to say that the DMO is usually very happy to work and would welcome the arrival of a number of people unless he is told by police or some such public authority that he has to treat them because they are in police custody?

SHRI B. C. SEN : People can go to the General Hospital for treatment....

SHRI H. N. MUKERJEE : Your version is that very willingly and voluntarily and happily Mr. Biswas and company stayed on in the company of the police after their release?

SHRI B. C. SEN : That I was told by Bhowmic.

SHRI H. N. MUKERJEE : I would like to tell you that for a layman it is very difficult to believe this.

SHRI B. C. SEN : That may be.

SHRI S. M. JOSHI : Mr. Sen, you came back there at 11 o'clock, and when you returned, Mr. Bhowmic gave you the story and told you that these people are waiting to see you?

SHRI B. C. SEN : Yes, sir.

SHRI S. M. JOSHI : And you didn't see them?

SHRI B. C. SEN : I did not like to see them at that time. They were to be produced before the magistrate. That was an awkward position?

SHRI S. M. JOSHI : What awkward? When Mr. Bhowmic told you that these people are waiting for you, because otherwise they had no reason to wait there,—and one of them was a Member of Parliament and he wanted to see you—still you won't see him?

SHRI B. C. SEN : I told that as I had sent a report for their re-arrest, I would see him in the morning.

SHRI S. M. JOSHI : Why? You need not tell them that they are going to be arrested. You came at 11 o'clock and he was produced before the magistrate at one.

SHRI B. C. SEN : Before midnight, I think.

SHRI S. M. JOSHI : You came back unnoticed. That means that when you arrived, you knew that they were in the court room.

SHRI B. C. SEN : They were near about the police office, not the court room.

SHRI S. M. JOSHI : You came back unnoticed. That means you had knowledge that they were somewhere there?

SHRI B. C. SEN : Yes. That was an embarrassing position. I did not like to see them.

SHRI S. M. JOSHI : What is embarrassing?

SHRI B. C. SEN : Embarrassing in the sense that I was going to re-arrest them.

SHRI S. M. JOSHI : When did you decide to re-arrest them?

SHRI B. C. SEN : After hearing from Mr. Bhowmic.

SHRI S. M. JOSHI : After Mr. Bhowmic told you the whole story, you come to the conclusion that these people must be re-arrested? Correct?

SHRI B. C. SEN : Yes, Sir.

SHRI S. M. JOSHI : Did you know that the strike was only for a day?

SHRI B. C. SEN : For 24 hours.

SHRI S. M. JOSHI : What sort of situation otherwise would have been?

SHRI B. C. SEN : They might have detained the train.

SHRI S. M. JOSHI : Where?

SHRI B. C. SEN : At Purulia station, South-Eastern Railway.

SHRI S. M. JOSHI : At what time it started?

SHRI B. C. SEN : 9-15 p.m.

SHRI S. M. JOSHI : That, again at 1 o'clock they would have stopped?

SHRI B. C. SEN : That could have stopped.

SHRI S. M. JOSHI : How many trains come and go from Purulia?

SHRI B. C. SEN : There are lot of trains. Express trains and Passenger trains, there are three in the morning and three in the evening. At night, many goods trains pass, but no passenger train.

SHRI S. M. JOSHI : So, in order to keep the situation under control you thought they should be re-arrested. The Magistrate asked you about the situation.

SHRI B. C. SEN : I had no talk with the Magistrate.

SHRI S. M. JOSHI : Who went to give the warrant of arrest?

SHRI B. C. SEN : The court inspector.

SHRI S. M. JOSHI : But he will have to argue also.

SHRI B. C. SEN : He might have talked to the Magistrate.

SHRI HEM RAJ : Mr. Sen you said the first arrest of Mr. Biswas took place at Adra and was arrested by Mr. Ghosh, DSP. Now, who brought Mr. Biswas to Purulia?

SHRI B. C. SEN : One Reserve Police Inspector, Mr. R. Das, escorted them from Adra to Purulia.

SHRI HEM RAJ : And thereafter when they were produced in the court and by the time they were released in whose charge they were?

SHRI B. C. SEN : I cannot say.

SHRI HEM RAJ : You are in charge of the whole district police. So, somebody might have been entrusted with this duty.

SHRI B. C. SEN : The court inspector who is in charge of the prosecution is in charge of these things.

SHRI HEM RAJ : So, the practice in your area is that it is the prosecuting inspector. Now, whenever an order is made for release are those people set free then and there by the court or they are taken back to the Hazat?

SHRI B. C. SEN : They are not taken back to the Hazat. They are released by the court or the bench clerk.

SHRI HEM RAJ : In this case whether Mr. Bhowmic told you that these people were released then and there?

SHRI B. C. SEN : Yes.

SHRI HEM RAJ : During the first instant when they were re-arrested there was no first information report. When you ordered the second arrest had you received the FIR?

SHRI B. C. SEN : FIR is not necessary to re-arrest. A report from police is necessary. FIR is necessary if we want the accused to be remanded to custody.

SHRI HEM RAJ : Do you think the first Magistrate was in error in discharging them because he insisted on the FIR?

SHRI B. C. SEN : I have no voracity to say but I can say he did not do legal.

SHRI HEM RAJ : And subsequently he was transferred.

SHRI B. C. SEN : I do not know why he was transferred.

SHRI HEM RAJ : During this period who was the prosecuting inspector?

SHRI B. C. SEN : Shri D. Chakravarty, the Inspector.

SHRI HEM RAJ : Did you get any report from Mr. Chakravarty as to what has happened in the court?

SHRI B. C. SEN : Yes, I got a statement.

MR. CHAIRMAN : Please produce that.

(The statement was produced.)

SHRI HEM RAJ : In this report it is mentioned that three persons were not released but Mr. Bhowmic told you all of them were released.

SHRI B. C. SEN : Three persons were brought later and not with the first batch.

SHRI HEM RAJ : In your report you had not mentioned.

SHRI B. C. SEN : It is a different case.

SHRI HEM RAJ : You had an apprehension of strike. At that time it was about 12 o'clock. At what time had the strike to end?

SHRI B. C. SEN : It was to end at about 6 o'clock next morning.

SHRI HEM RAJ : Had they not been re-arrested, then they would have gone back and stopped the train?

SHRI B. C. SEN : Yes.

H. H. MAHARAJA MANABENDRA SHAH : They were 35 people who had been arrested in one batch.

SHRI B. C. SEN : There are three cases—two from Adra and one from Anara.

H.H. MAHARAJA MANABENDRA SHAH : 35 persons were produced on that day before the Magistrate. There were injured people and you say they were released from the court. How does the police come into the picture for taking them for medical treatment?

SHRI B. C. SEN : Mr. Biswas wanted them to be taken to the hospital and we had to do at the instance of Mr. Biswas.

H.H. MAHARAJA MANABENDRA SHAH : You know, there was emergency and everybody was running away from the Railway Station. All of you were busy with the crisis that was prevailing, but still you permitted the loiterers to take your time. After all it is not the function of the Police Officer to feed and get treatment when there was emergency.

SHRI B. C. SEN : We did because of the position of Mr. Biswas.

SHRI S. M. JOSHI : Your apprehension was that if you do not re-arrest them, they will go back to the Railway Station and stop the train. Had it been so they would not have been there. Why should they have waited for you? Is it to get your permission to do so? Had they really wanted to do that they would have done it before? Did this thing not occur you? Or they came there or were there just for the sake of tea and meals?

SHRI B. C. SEN : No, that was not the case.

SHRI S. M. JOSHI : They were released at 4 O'clock and till 11 o'clock they did not go to the Railway Station but they waited for you. They did not create any trouble. You did not apply your mind to this point.

SHRI B. C. SEN : I applied my mind.

SHRI S. M. JOSHI : Since these people did not do for the last 5 or 6 hours, how is it that they would do it afterwards?

SHRI B. C. SEN : All this could be done in the twinkling of an eye.

SHRI S. M. JOSHI : They were free to move since they were not under arrest.

SHRI B. C. SEN : How could you conclude that they would not have done that?

SHRI S. M. JOSHI : If they wanted to do, they could do in about 6 or 6½ hours. You wanted to arrest a Member of Parliament. You did not see him as you had in mind if you did not arrest him at the dead of night they would go and stop the train. That brings the inference that they were actually not released. Or your apprehension is not correct.

H.H. MAHARAJA MANABENDRA SHAH : At night, you wrote it to the court that they may be served with the warrant of arrest.

SHRI B. C. SEN : I made a request to the Magistrate.

MR. CHAIRMAN : Could you tell me what is the distance between Adra and Purulia?

SHRI B. C. SEN : It is about 25 miles.

MR. CHAIRMAN : Is there a telephone connection?

SHRI B. C. SEN : Yes, Sir.

MR. CHAIRMAN : You said just now that Mr. Bhowmic was kept at Adra though there was trouble.

SHRI B. C. SEN : Bhowmic was at Anara.

MR. CHAIRMAN : On that day did you allow Mr. Bhowmic to go-home and when you sent for him he was taking bath and all that.

SHRI B. C. SEN : Bhowmic was sent to Anara when there was trouble and I left for Adra. On tackling law and order situation Bhowmic came back to Purulia.

MR. CHAIRMAN : It was emergency. You said the telephone connection is there and Police Offices at Headquarters—Adra and Purulia have telephones. They were kept informed of the situation. They need not wait to take orders from you till you return because you were over-all incharge of the situation. You must also be giving some orders after assessing the situation to the Headquarters at Purulia and so on. You were in constant touch, I presume.

SHRI B. C. SEN : Yes.

MR. CHAIRMAN : In such a situation when you felt disappointed because the First Class Magistrate released them and as a senior officer incharge of the law and order, situation, you felt if they get out of it, it would not help law and order. That was your assessment and on that basis you issued whatever instructions you wanted to give. Is it correct?

SHRI B. C. SEN : Yes.

MR. CHAIRMAN : You wanted to see that till you returned they should, though not in actual custody, be kept there. You felt that if they went to the station, it would be difficult to maintain law and order. Is it correct?

SHRI B. C. SEN : Yes.

MR. CHAIRMAN : On whose orders the telegram was sent to the Speaker informing him about arrest and their release?

SHRI B. C. SEN : First of all I sent the radiogram, when Mr. Biswas was arrested in the morning. Afterwards, probably the Court sent another telegram.

MR. CHAIRMAN : When was he first arrested?

SHRI B. C. SEN : Probably at quarter to seven in the morning of 19th. I got this information from Adra that Mr. Biswas and others had been arrested early in the morning at quarter to seven. On that information I sent the telegram to the Speaker.

MR. CHAIRMAN : About his release, who sent the information?

SHRI B. C. SEN : That was given by the Court. Mr. Ganguly sent; Mr. Sarkar sent.

MR. CHAIRMAN : Did you send information about his re-arrest?

SHRI B. C. SEN : I did not arrest them. It is the duty of the Magistrate to send the information to the Speaker when they were produced before him.

MR. CHAIRMAN : You are a conscientious officer and your deposition makes it quite clear. Your conscience was pricking you as it was not a question of release and re-arrest; they were just manoeuvred to be kept there before their re-arrest. You passed on the Report to the Magistrate.

SHRI B. C. SEN : I have seen the law and the Police is not required to send anything. The Magistrate sends both the arrest and release orders if one is committed to custody.

MR. CHAIRMAN : You produced them before the Magistrate and got the warrant of arrest issued.

SHRI B. C. SEN : The Court Inspector did that.

H.H. MAHARAJA MANABENDRA SHAH : Did you keep contacts with your Control Room?

SHRI B. C. SEN : Yes.

H.H. MAHARAJA MANABENDRA SHAH : Then the Control Room must have informed you of their first release.

SHRI B. C. SEN : They did not contact us.

H.H. MAHARAJA MANABENDRA SHAH : No radio contact facilities there?

SHRI B. C. SEN : No.

MR. CHAIRMAN : What is the distance between Purulia Station and the Control Room?

SHRI B. C. SEN : About two miles.

SHRI S. M. JOSHI : Is it a fact that Mr. Bhowmic accompanied them to the hospital in his jeep?

SHRI B. C. SEN : I don't know. I did not hear about this.

MR. CHAIRMAN : What is your procedure in such serious situations? The D.S.P. went home for a couple of hours and suddenly at 7-30 p.m. he got a telephone call from somebody and he returned. His orderly or his wife took the call for him. On that day you must have issued orders to your Police Officers that they must be present in the Police Office.

SHRI B. C. SEN : He should have come back to the Control Room first and before he went to his home, he must have informed someone there.

SHRI HEM RAJ : Shri Ganguly has stated that the prevailing practice was to take the accused persons in custody to Court Hajat after orders were passed in Court and then to release them from there if on verification of papers it was found that they were not required to be detained in connection with other cases. Were they taken to the Court Hajat?

SHRI B. C. SEN : In the case of those who are from jail custody, when they are free from court, they have to be taken back for checking. When the Court issues discharge order, he is automatically discharged.

SHRI HEM RAJ : Were they released then and there or were they taken back to the police court at Hajat and were released there? Did you try to ascertain this?

SHRI B. C. SEN : I learnt there that they were released by the court. They were released from the court.

SHRI HEM RAJ : The statement of Mr. Ganguly is something different.

SHRI B. C. SEN : Might be.

MR. CHAIRMAN : Thank you, Mr. Sen.

(Mr. B. C. Sen then withdrew and Mr. D. Bhowmic was again called in at 4-45 p.m.)

MR. CHAIRMAN : Was a lawyer present there, by name Mahadev Mukerjee?

SHRI D. BHOWMIC : Yes.

MR. CHAIRMAN : He was present. Was he asked to get out?

SHRI D. BHOWMIC : No, Sir.

MR. CHAIRMAN : At what time did you see him there?

SHRI D. BHOWMIC : At night, I found him loitering there.

MR. CHAIRMAN : He was also loitering?

SHRI D. BHOWMIC : Yes. He is not only an advocate, but a leader.

MR. CHAIRMAN : But is it a fact that he was asked to get out?

SHRI D. BHOWMIC : No, Sir.

MR. CHAIRMAN : But he was present there.

SHRI D. BHOWMIC : Yes, Sir.

MR. CHAIRMAN : You may withdraw.

(The statement was produced.)

The committee then adjourned.

Friday, the 14th November, 1969

The Committee sat from 11-00 to 11-40 hours.

PRESENT

1. Shri N. C. Chatterjee—*In the Chair.*
2. Shri Rajendranath Barua
3. Shri Surendranath Dwivedy
4. Shri Shri Chand Goyal
5. Shri Hem Raj
6. Shri Thandavan Kiruttinan
7. Shri Raja Venkatappa Naik
8. Chaudhuri Randhir Singh.

SPECIAL INVITEE

Shri Anand Narain Mulla, M.P.

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

WITNESSES

Shri B. C. Sen, IPS, *then Superintendent of Police, Purulia.*

Shri D. Bhowmic, *then Dy. S.P. (Hqrs.), Purulia.*

(The committee met at 11·00 hours)

(Evidence of Shri B. C. Sen, I.P.S., *then Superintendent of Police, Purulia*)

MR. CHAIRMAN: Your name is Shri B. C. Sen.

MR. B. C. SEN: Yes, Sir.

MR. CHAIRMAN: Please take an oath.

You are Superintendent of Police.

MR. B. C. SEN: Yes.

MR. CHAIRMAN: For how long have you been there?

MR. B. C. SEN: I was at Purulia for nearly two years. Now at the present moment I have taken over charge as the Special Superintendent of Police, Enforcement Branch, West Bengal.

MR. CHAIRMAN: When did you give charge of this post?

MR. B. C. SEN: On the 2nd November, 1969.

MR. CHAIRMAN: You remember you came here and gave evidence.

MR. B. C. SEN: I do.

MR. CHAIRMAN: The Committee finds that some steps have been taken, as the evidence shows, some kind of restraint has been put on Mr. Biswas. There was no arrest, they were let off, but that is the feeling that they had.

Mr. Sarkar, I think, he was the Magistrate, he came here and expressed his regret for that. Are you prepared to express regret so that we can finish it.

MR. B. C. SEN: Actually Mr. Biswas was not under arrest after 5 P.M. till 11 P.M., nor his movement was restrained, but he was there. If some facts show or give impression like that, then I am sorry and I regret that.

MR. MULLA: You have made a statement that so far as your knowledge goes you were personally not present there. But so far the impression has been gathered by you, no restraint was put on Mr. Biswas. So, therefore, speaking for yourself you cannot depose whether he was put under restraint or not and on the evidence that has come before this Committee, the Committee came to the conclusion that the explanations which have been offered as to how Mr. Biswas voluntarily continued to remain there or not is not very satisfactory. Can you express unequivocal regret?

MR. B. C. SEN: In that case I express my unqualified regret.

MR. CHAIRMAN: I would not trouble you any more.

(The witness then withdrew)

Evidence of Shri D. Bhowmic, then Dy. S.P. (Hqrs.), Purulia.

MR. CHAIRMAN: You are Deputy Superintendent of Police.

SHRI D. BHOWMIC: Yes, Sir.

MR. CHAIRMAN: Are you still there?

SHRI D. BHOWMIC: I am posted now in Cortei (Midnapur).

MR. CHAIRMAN: You remember that you came here for evidence. You said something about Mr. Biswas. The Committee has considered your evidence and also evidence of Mr. Biswas and they were satisfied that there was some kind of restraint put on Mr. Biswas.

Mr. Sarkar has expressed his regret. Mr. B. C. Sen has also expressed his regret. Are you prepared to express your regret?

SHRI D. BHOWMIC: Yes, Sir, if there is any misunderstanding. Actually Mr. Biswas was not under arrest. If he thinks that he was under restraint, I am sorry for it.

SHRI MULLA: Can you offer unequivocal regret?

SHRI D. BHOWMIC: If Mr. Biswas thinks that he was under any sort of arrest.

SHRI MULLA: Now on your evidence, on the evidence of Mr. Biswas, on the other evidence that was before the Committee, the Committee assessing it in the manner evidence is there came to the conclusion that the allegation made on your behalf that Mr. Biswas voluntarily continued to remain, does not seem to be right and some

sort of restraint was placed on him. Now, if that is the finding, are you still going to challenge the finding that that is not correct, or you are going to express unequivocal regret?

SHRI D. BHOWMIC: When the Committee has arrived at a decision I have nothing to say.

SHRI MULLA: You are willing to offer unequivocal regret.

SHRI D. BHOWMIC: Yes.

(The witness then withdrew)

The Committee then adjourned.

APPENDICES

APPENDIX I

(See para 16 of the Report)

COPY

MESSAGE FORM

Reg. No. 99

IN CALL	PRIORITY	TRANS	INSTRUCTIONS	NR	GR
66	OE		2	392	122

To:

Speaker, Lok Sabha,
New Delhi.

From

S.P. DIB Purulia.

No. 3754 (5) 19/9

I beg to inform you that I have found it my duty in the exercise of my power under sections 147/353 IPC section 5 of Ordinance 9/68 and section 100B of the Indian Railways Act to direct that Shri J. M. Biswas, Member of the Lok Sabha be arrested for commission of the offences under the aforesaid sections at Adra Railway Station *vide* Adra GRPS Case No. 9 dated 19-9-68. Shri J. M. Biswas, M.P. was accordingly arrested and taken into custody at 0645 Hrs. on 19-9-68 and is being produced before magistrate at Purulia.

APPENDIX II

(See para 16 of the Report)

COPY

INDIAN POST AND TELEGRAPHS DEPARTMENT B/H 8439/22
X 1820 A23 PURULIA 19 STE 73

—SPEAKER LOK SABHA NEW DELHI.....

.....NO 3020J // I HAVE THE HONOUR TO INFORM YOU THAT SHRI J M BISWAS MEMBER OF THE LOK SABHA WHO WAS ARRESTED ON 19/9/68 FOR COMMISSION OF OFFENCES

UNDER SECTIONS QRU 353 IPC ETC WAS RELEASED ON THE GROUND THAT THE INVESTIGATING OFFICER DID NOT SEND COPY OF CASE DIARY AND THE FIRST INFORMATION REPORT OF THE CASE——S K GANGULY MAGISTRATE PURULIA——

COPD AT 0958

BR

APPENDIX III

(See para 16 of the Report)

COPY

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

X 1420 2 PURULIA—STE 66 THE SPEAKER LOK SABHA NEW DELHI—NO 3022 J I HAVE THE HONOUR, TO INFORM YOU THAT SHRI J. M. BISWAS MEMBER OF THE LOK SABHA WHO WAS ARRESTED ON 19/9/68 FOR COMMISSION OF OFFENCES UNDER SECTIONS 148/353 IPC SECTION 5 OF ORDINANCE 9/68 AND SECTION 100B OF THE INDIAN RAILWAY ACT WAS RELEASED ON THE SAME DATE ON PERSONAL RECOGNITION BOND—SUB DIVISIONAL MAGISTRATE

APPENDIX IV

(See para 16 of the Report)

COPY

Government of West Bengal

Office of the Sub Divisional Magistrate, Purulia.

Judicial Department

No. 3023 J Dt. 19-9-68

From

Shri J. N. Sarkar,
Sub Divisional Magistrate (I), Purulia.

To

The Speaker,
Lok Sabha, New Delhi.

Subject: Arrest, detention and release of Shri J. M. Biswas, M.P.,
Purulia.

Dear Mr. Speaker,

In continuation of my telegraphic intimation No. 3022 J. dated 19th September 1968, on the subject noted above, I have the honour

to inform you that Shri J. M. Biswas, M.P., who was arrested by the Superintendent of Police, Purulia for alleged commission of offences under Sections 147/353 I.P.C., Section 5 of Ordinance No. 9 of 1968 and Section 100B of the Indian Railways Act, was produced before my Court on 19th September 1968 and was released on the same date on furnishing Personal Recognition Bond for 10th October 1968 to stand his trial.

Yours faithfully,
Sd/- J. N. SARKAR
Sub Divisional Magistrate (I)
Purulia.

APPENDIX V

(See para 18 of the Report)

Statement of facts furnished by the Government of West Bengal.

Shri J. M. Biswas, M.P., was arrested on 19th September 1968 at 0645 hours at Adra Railway Station in connection with Adra G.R.P.S. Case No. 9 under sections 147/353 IPC, Section 5 of Ordinance 9 of 1968 and Section 100 (b) of the Indian Railway Act. Shri Biswas was produced on the same day at about 4 P.M. before Shri S. K. Ganguly, Magistrate, 1st Class, Purulia, who released him on the ground that the Investigating Officer had not sent a copy of the case diary and F.I.R. of the case. The Superintendent of Police later on the same day submitted a prayer in writing to the Sub-Divisional Magistrate, Purulia, for issuing a warrant of arrest against Shri Biswas as according to him there was sufficient evidence against Shri Biswas. The Sub-Divisional Magistrate, Purulia, on the prayer of the Superintendent of Police issued a warrant of arrest against Shri Biswas who was arrested and produced before the court at about mid-night. Shri Biswas was then released on P.R. Bond by the Sub-Divisional Magistrate.

2. Shri Biswas in his Privilege Motion has made two statements in connection with his arrest and re-arrest on the 19th and 20th September, 1968. The first is that no intimation was sent to the Speaker when he was arrested, released, re-arrested and then released. The second is that from the time of his discharge by Shri S. K. Ganguly to his re-arrest on the strength of a warrant of arrest issued by the Sub-Divisional Magistrate, Purulia, he was kept detained by the police unlawfully.

3. With regard to the first point it may be stated that intimations were sent to the Speaker, Lok Sabha, at all stages of the proceedings. The arrest of Shri Biswas at Adra was duly intimated to the Speaker by the Superintendent of Police by his Radiogram No. 3754(5) of the 19th September, 1968. The release of Shri Biswas by Shri S. K. Ganguly, Magistrate, 1st Class, was communicated to the Speaker by a Telegram on the 19th September, 1968, with a copy by post forwarded in confirmation. A letter was also sent to the Speaker by Shri S. K. Ganguly by his letter No. 3021J, dated 19th September, 1968. The information about Shri Biswas's re-arrest on the strength of a warrant of arrest and release on P.R. Bond was also communicated to the Speaker by a single telegram bearing No. 3022J, dated 19th September, 1968 and subsequently on the same day by a letter in proper form bearing No. 3023J of the same date and copies thereof were sent to the Ministry of Home Affairs.

4. The second point is that though Shri Biswas was produced before Shri S. K. Ganguly, Magistrate, 1st Class, at about 4 P.M. and the Magistrate immediately released him, Shri Biswas was kept in police custody illegally from the time of his release by the Magistrate till his re-arrest on the strength of a warrant of arrest issued by the Sub-Divisional Magistrate. On this issue the reports of the local officers on what actually happened at the time have already been sent.

5. It appears from the facts available to the State Government that the local officers concerned did not act in any illegal manner nor was there any illegal detention. The complaint may have been due to some misapprehension of facts somewhere which the State Government consider unfortunate. There was no intention on the part of any official of doing any act which might be construed as a breach of privilege of a Member of Parliament.

APPENDIX VI

(See para 16 of the Report)

Statement of Shri B. C. Sen, I.P.S., Superintendent of Police, Purulia.

On 19th September, 1968 at about 14-00 hours, on receipt of an information of suspension of railway traffic in Adra area, with the Deputy Commissioner, Purulia. I left for Adra with extra force. On the way we met the persons arrested at Adra including Shri J. M. Biswas, M.P., in connection with the disturbances as they were being escorted to Headquarters and also talked with them.

At Adra, we met the Dy. S.P. (Admin.), Purulia, who had already been deputed to deal with the situation, Asstt. Security Officer,

R.P.F. and other police officers. I looked into the investigation of Adra GRPS Case No. 9, dated 19th September, 1968 u/s 147/353 IPC/sections 4 and 5 of Ordinance 9 of 1968 and section 100-B of the Indian Railway Act. Later, we called on the Division Superintendent, S.E. Rly., Adra, with a view to ascertaining from him the reasons for not resuming the running of the trains held up at Adra in spite of assurances of all help given to them by the Dy. S.P. (Admin.). The Divisional Superintendent, S.E. Rly., was further requested by both the Deputy Commissioner, Purulia, and myself to resume the train services with the assurance of all possible help including the security of the railway personnel (drivers, etc.). We then went to the railway station, Adra, cabin of the ASM and remained there till 22-00 hours and arranged for running of detained trains. The trains started running from 21-15 hours. Then we left for Headquarters. On the way, I stopped at Anara and looked into Purulia GRPS Case No. 4, dated 19th September 1968 u/s 147/148/149/353 IPC/126/121/100-A and B of Indian Railway Act. I returned back to Headquarters at 23-00 hours.

On return to Headquarters, I came to know from Shri D. Bhowmic, Deputy S.P. (Headquarters), Purulia, that all the persons arrested in connection with Adra GRPS Case No. 9, dated 19th September 1968 had been released by Shri S. K. Ganguly, Magistrate, 1st Class, Purulia from custody as soon as they were produced before him on the ostensible ground that case diary and F.I.R. did not accompany the forwarding report. As in course of supervision of investigation of the case at Adra, there was sufficient evidence against all the accused persons who were arrested at the spot at the time of committing the offence and the situation was still grave, threatening to law and order and as there was serious apprehension of repetition of the same offence if the persons were set at large, I submitted a prayer in writing to the Sub-Divisional Magistrate, Purulia, for issuing warrants of arrest against the persons with a request to detain them in custody.

Accordingly, warrants of arrest were issued by the Sub-Divisional Magistrate, Purulia, and they were arrested and produced before the Court before mid-night on the strength of the warrants of arrest issued by the magistrate.

It may be stated in this connection that on my return to Headquarters on that night, I further came to learn from Shri D. Bhowmic, Dy. S.P. (Headquarters), Purulia, that shortly after orders of their release from custody by the Magistrate (Shri S. K. Ganguly) at about 5 P.M., Shri J. M. Biswas, M.P., along with all other accused persons came to the Police Office, which is located in the compound of the

Sub-Divisional Magistrate's court, and in a friendly way, asked for tea, etc. Tea was served to them and as it was already night, they subsequently requested for food which was also supplied to them. It was about 9 P.M. by the night food was supplied and then as some of the accused persons had injuries, Shri Biswas wanted that the D.M.O., Purulia, should come to the Police Office and attend to them. The D.M.O., however, refused to come and then all the accused persons went over to the Sadar Hospital where their injuries were attended to. After that they came back once again to the court compound and waited there to meet the Deputy Commissioner, Purulia, and myself, who were to return from Adra. The Deputy Commissioner and myself kept our arrival unnoticed. Shortly afterwards, I submitted a written prayer to the Sub-Divisional Magistrate, Purulia, for issue of warrants of arrest.

(Sd.) B. C. SEN,

26-12-1968.

*Superintendent of Police,
Purulia.*

APPENDIX VII

(See para. 18 of the Report)

Statement of Shri S. K. Ganguly, Magistrate, 1st Class, Malda.

In September, 1968 I was posted at Purulia and was working as Senior Deputy Collector then. Shri Sircar, Deputy Magistrate and Magistrate 1st Class used to take up General File and Police papers. On 19th September, 1968 Shri Sircar was away from headquarters on duty. On that day I took up General File and Police papers under orders of the Deputy Commissioner, Purulia. On 19th September, 1968 in the afternoon while I was working in my office one Police Officer attached to Police Court came there and informed me that some accused persons had been received and produced papers before me for orders being passed. I told him that I would pass orders only in Court and that too after the accused persons were produced before me. Then I went to the Court room where Shri J. M. Biswas and 5 others were produced before me in connection with Adra G.R.P.S. Case No. 9, dated 19th September 1968. When I asked for the case diary, the Police Officer who produced the prayer of the Investigating Officer, informed me that no copy of case diary had been received. The prayer of the Investigating Officer runs as follows—
“They may kindly be detained in custody for a period of fortnight pending investigation of the case”. Section 167(2) is the only section
6—2856 L.S.

in the whole of the Criminal Procedure Code which enables a Magistrate to pass such an order. In my opinion sub-section (2) of Section 167 Cr.P.C. is not an independent section. A Magistrate cannot pass any order under sub-section (2) unless sub-section (1) of the aforesaid section is fully complied with. Section 167(1) requires the Investigating Officer to forward a copy of the case diary to the Magistrate and also to forward the accused. In the instant case, Police Officer did not forward the copy of the case diary and thereby violated the mandatory provision of the law. Section 167(1)Cr.P.C. was not complied with and so no order could be passed u/s 167(2) Cr.P.C., for, section 167(2) comes into operation only after condition imposed under section 167(1) is fulfilled. I, therefore, held that I had no jurisdiction to pass any order detaining the accused persons in custody and so I immediately passed orders for their release. The prevailing practice was to take the accused persons to Court Hajat after orders were passed in Court and then to release them from there if on verification of papers it was found that they were not required to be detained in connection with other cases. So Shri J. M. Biswas and others were taken away from the Court room. It was the duty of the Police Officer attached to Court to carry out the orders passed. The exact time when the order for release was passed was not noted in the judicial record of the case. The order was passed sometime between 4 P.M. and 5 P.M.

(Sd.) S. K. GANGULY,

30-12-1968.

*Deputy Magistrate and
Magistrate 1st Class,
Malda.*

APPENDIX VIII

(See para. 18 of the Report)

Statement of Shri J. N. Sarkar, Sub-Divisional Magistrate, Purulia.

At about 11 P.M. on the 19th September, 1968, on receipt of an information from the Court Inspector, Purulia, I had been to my Court when a written report submitted by the Superintendent of Police, Purulia, with a prayer for issue of warrants of arrest against the accused persons was laid before me. I applied my judicial mind and considering the gravity of the situation which was clear from the report of the Superintendent of Police, I ordered issue of warrants of arrest against the accused persons including Shri J. M. Biswas, M.P.,

which were issued accordingly. Subsequently, the accused persons including Shri J. M. Biswas, M.P., were produced by police under arrest before me on the strength of the warrants of arrest, before mid-night but the proceedings continued till after mid-night.

Information regarding production and subsequent release on P.R. Bond of Shri J. M. Biswas, M.P., were immediately communicated to the authorities concerned.

I did not mention any time in my order-sheets of the case as it was not the usual practice.

(Sd.) J. N. SARKAR,

26-12-1968.

Sub-Divisional Officer,
Purulia.

APPENDIX IX

(See para. 22 of the Report)

Copy

Date of application for the copy	Date fixed for notifying the requisite number of stamps and folios.	Date of delivery of the requisite stamps and folios.	Date on which the copy was ready for delivery.	Date of making over the copy to the applicant
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1654/7-10-68

8-10-68/
9-10-68

8-10-68/
9-10-68

9-10-68

9-10-68

Seen.

(Sd.) J. N. Sarkar,
S.D.M., Purulia.

To

The Sub-Divisional Magistrate, Purulia.

Ref. : Adra
G.R.P.S. case
No. 94/19-9-68
u/s 147/353 I. P. C.
read with Sec. 5
of Ordinance 9 of
1968 and Sec. 100 B
Indian Rly. Act.

Sir,

I beg to report that the following accd. persons were forwarded to court to-day in con. with the marginally noted case, Sr. J. M. Biswas and others (the accd. persons) led a mob of one hundred including

females and entered into the Rly. Track, shouting "in Bengali" and prevented the movement of Train i.e., 398 DN. At their instigation the mob became furious and commenced assaulting Police Officers and R.P.F. men on duty forming unlawful assembly armed with deadly weapons.

The accd. persons have been discharged illegally by the magistrate.

There is sufficient evidence against all these accd. persons who were arrested at the spot at the time of committing the offences.

I have visited the spot and supervised the case locally. The situation is still grave and there is chance of recurrence of the same offence.

In this case charge-sheet is going to be submitted against all the accused persons.

I, therefore, pray warrant of arrest may be issued against the accd. persons and they may be detained in custody.

Yours faithfully,

(Sd.) B. SBN,

19-9-68

Superintendent of Police, Purulia.

Names of the accd. persons :

- (1) J.N. Biswas, M.P, s/o Sri Jamini Mohan Biswas of Namopara, Purulia.
- (2) Sri Prabir Kr. Mallik, s/o Lt. Prafulla Mallik of Nilkuthidanga, P.S. Purullia (T), Dt. Purulia.
- (3) Nirmal Kr. Mandal, s/o Lt. Adhir Chandra Mandal of—Head Clerk, Adra.
- (4) Chitta Ranjan Ghosh, s/o Lt. Haridas Ghosh, S.B.A., Electrical Foreman, Adra.
- (5) Prafulla Kr. Bhattacharjee, s/o Tarapada of A.S.M., Adra.
- (6) Mandal Mukhi, s/o Lt. Budhu of Adra Colony, P.S. Kashipur, Dt. Purulia.

Date of application for the copy	Date fixed for notifying the requisite number of stamps and folios	Date of delivery of the requisite stamps and folios	Date on which the copy was ready for delivery	Date of making over the copy to the applicant
1654/7-10-68	9-10-68	9-10-68	9-10-68	

File.

(Sd.) J. N. Sarkar,

S. D. M.

20-9-68.

Dated 20th Sept, 1968.

at 2/35 A.M.

To

The Sub-Divisional Magistrate, Purulia.

Sir,

We would like to submit the following to you. We were arrested at 6-30 A.M. at Adra on the 19th Sept., 1968. We were taken to the Police Court at Purulia at 1 P.M. and were produced before Shri S. K. Ganguly, Magistrate, who very kindly released us from Police custody.

We, however, were not released and were detained unlawfully till 1 A.M. of the 20th Sept., 1968. We learnt at 1 A.M. from the Court Inspector that we were re-arrested at 1 A.M. and orders were given for our release on P. R. Bonds at 2-30 A.M. This may kindly be kept in record.

Yours faithfully,
(Sd.) J. M. BISWAS

APPENDIX X

(See para. 22 of the Report)

Copy

Date of application for the copy	Date fixed for notifying the requisite number of stamps and folios	Date of delivery of the requisite stamps and folios	Date on which the copy was ready for delivery	Date of making over the copy to the applicant
1631/23-9-68	24-9-68	24-9-68	24-9-68	24-9-68

Ref. : Adra G.R.P.S. Case No. 9, dt. 19-9-68
u/s 147/353 I.P.C. read with Secs. 4 and 5 of Ordinance 9 of 1968 100B Indian Rly. Act.

ORDER SHEET FOR MAGISTRATES' RECORDS

District

In the Court of

No of 19

Versus

Serial No. of Order.	Date of Order.	Order with Signature of the Magistrate	Office note as to action taken on order (if any) and date
19-9-68		Accd. (1) J. M. Biswas, (2) Prfulla Kr. Bhattacharjee, (3) Nirmal Kr. Mandal, (4) Chitta Ranjan Ghose, (5) Prabir Kr. Mallick, (6) Mondai Mukhi are brought under arrest in connection with this case u/s 147/353 I.P.C. read with Secs. 4 and 5 of Ordinance 9 of 1968 and Sec. 100B of Indian Rly. Act. F.I.R. not received. No copy of C.D. received. Accused persons cannot therefore be detained. The accused persons are released from custody.	

(Sd.) S. K. GANGULY.

19-9-68

Seen the report of Supdt. of Police, Purulia with prayer to issue W/A against the accused persons forwarded to the Court to-day in c/w Adra G.R.P.S. case No. 9, dated 19-9-68 u/s 147/353 I.P.C. read with Sec. 5 of Ordinance 9 of 1968 and Section 100B of Indian Rly. Act, who have been discharged for want of Formal F.I.R. and copy of C.D.

Perused the report of Supdt. of Police as also the forwarding report of I.O. it is clear there is sufficient material against the accused persons to prove the allegations against the accused persons and to justify the issue of W/A against them.

In view of the abnormal circumstances and the gravity of situation now prevailing issue fresh w/a against them.

(Sd.) J. N. SARKAR,
S.D.M.

19-9-68
(Later)

Accused (1) J. M. Biswas, (2) Prafulla Kumar Bhattacharjee, (3) Nirmal Kumar Mondal, (4) Chitta Ranjan Ghosh, (5) Prabir Kumar Mallick, and (6) Mondal Mukni are produced. Accused J. M. Biswas, M.P. be released on a P. R. Bond for Rs. 50/- and the other 5 accused persons may find bail of Rs. 100 each I/D to J/C till 27-9-68.

(Sd.) J. N. SARKAR,
S.D.M.

Later—Heard the learned lawyer for the accused persons who pray for release of accused persons on P. R. Bonds. Considered. The accused persons may be released on P. R. Bonds of Rs. 50 each I/D to J/C.

Put up on 10-10-68.

(Sd.) J. N. SARKAR,
S. D. M.



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