

COMMITTEE OF PRIVILEGES

THIRD REPORT

(THIRD LOK SABHA)

(Presented on the 20th September, 1965)



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LOK SABHA SECRETARIAT
NEW DELHI

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PERSONNEL OF THE COMMITTEE OF PRIVILEGES

CHAIRMAN

Shri S. V. Krishnamoorthy Rao

MEMBERS

2. Shri N. C. Chatterjee
3. Shri Sachindra Chaudhuri
4. Shri P. K. Ghosh
5. Sardar Kapur Singh
6. Shri Nihar Ranjan Laskar
7. Shri H. N. Mukerjee
8. Shri V. C. Parashar
9. Shri Purushottamdas R. Patel
10. Shri Shivram Rango Rane
11. Shrimati Yashoda Reddy
12. Shri Asoke K. Sen
13. Shri Satya Narayan Sinha
14. Shri Sumat Prasad
15. Shri Indulal Kanaiyalal Yajnik.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

THIRD REPORT OF THE COMMITTEE OF PRIVILEGES

(THIRD LOK SABHA)

I. Introduction and Procedure

I, the Chairman of the Committee of Privileges, having been authorised to submit the report on their behalf, present this report to the House on the question of privilege raised by Shri Homi F. Daji, M.P., in the House on the 24th August, 1965 and referred to the Committee by the Speaker in the House on the 27th August, 1965, regarding the alleged seizure of printed forms of a petition addressed to Lok Sabha, by a Sub-Inspector of Police at Indore while arresting one Santosh Kharade under Section 151, Criminal Procedure Code.

2. The Committee held two sittings.

3. At the first sitting held on the 9th September, 1965, the Committee considered the matter and came to their conclusions.

4. At the second sitting held on the 14th September, 1965 the Committee considered their draft report and adopted it.

II. Facts of the Case

5. The question of privilege raised by Shri Homi F. Daji, M.P., on the 24th August, 1965, was in the following terms:

“Shri Bhadoria, sub-inspector of police, attached to the Sarafa Police Station, Indore City, arrested one Shri Santosh Kharade, under section 151 Cr.P.C. and started proceedings under section 107 Cr.P.C. against him and seized two forms of petitions addressed to the Lok Sabha demanding release of the students and reopening of the colleges at Indore. Shri Bhadoria was clearly informed that these forms were to be submitted to the Lok Sabha through the Member of Parliament from Indore. The printed forms seized were themselves self-explanatory. Nonetheless, he took the aforesaid action with a view to prevent Shri Kharade to collect signatures and to terrorise others from doing the same.

To petition the Lok Sabha is a constitutional right of a citizen, and Shri Bhadoria's action was aimed at preventing communication from the citizens of Indore to their Member of Parliament to raise the issue before Lok Sabha and was, therefore, clear and palpable breach of privilege of the House. A copy of the petition has been enclosed herewith.

I, therefore, move that Shri Bhadoria, S.I. Police, Sarafa Police Station, Indore, be summoned before the House and be committed for the breach of privilege of the House and be punished for the same as the circumstances of the case require."

During the discussion on the question of privilege, Shri Homi F. Daji said that his motion was "not based so much on the arrest" of Shri Santosh Kharade. He added:

"My motion is specifically on this point, that two forms have been seized by the police from the custody and house of this person, forms which were addressed to the Lok Sabha. If your own forms addressed to the Lok Sabha are seized even after the Inspector was told that they were to be sent to a Member of Parliament to be presented to the Lok Sabha, it constitutes contempt without any further ascertainment of facts."

6. The Minister of Home Affairs (Shri G. L. Nanda) said that he would ascertain the facts of the case as early as possible which might show "that there was absolutely no case in support of the motion."

7. The Speaker observed that he would wait for the facts to be ascertained by the Minister of Home Affairs.

8. On the 27th August, 1965, the Minister of Home Affairs (Shri G. L. Nanda) informed the House that the facts of the case as ascertained by him through the District authorities were as under:

"It would appear that one Santosh, son of Basant Kharade, was arrested under Section 151 Cr.P.C. on the 15th August, 1965 at about 8 P.M. While effecting the arrest, three documents were seized, one of them being a printed form of petition addressed to the Lok Sabha in which some space had been left blank for signatures. This form, however, did not contain even a single signature. The arrest was in no way connected with the obtaining of the signatures on the petition meant to be presented to the Lok Sabha. Santosh Kharade was released on bail at 11 P.M. the same day. Proceedings have been initiated against him under sections 107 and 112 of the Criminal Procedure Code on the 16th August, 1965, before the Sub-Divisional Magistrate, Indore. The printed form which was seized at the time of his arrest is now part of the court records."

9. The Speaker asked Shri Daji whether he accepted the facts as stated by the Minister of Home Affairs. Shri Daji replied that "these facts have already been accepted excepting this that the form was

seized not from the person who was arrested but from his residence”.

Shri Daji added:

“There were two forms in the petition. One was blank, one was signed. Now it appears from the Home Minister’s statement that the signed form has been whisked away, and only the unsigned form has been taken to the court. The original petition contained two forms.”

10. The Speaker, thereupon, observed:

“He was arrested first, and then his house was searched and a form was also found in his house which was blank. There were no signatures on it, and among other papers that was also taken away.

* * * *

...in the course of that search one document was found, a printed form of a petition that can be addressed to the Lok Sabha. No signatures had yet been obtained.

* * * *

Then the only question for determination is this: if the police is searching in the discharge of its duties and if there is some form also, an application that can be and is intended to be used for a petition to Parliament, whether taking possession of that also is a breach of privilege. This much I will send to the Committee to see on that limited point whether this case really forms a breach of privilege.”

III. Findings of the Committee

11. The position obtaining in the House of Commons, U.K., regarding obstruction of, or interference with, the petitioners etc. in the exercise of their rights, has been described by *May* as follows* :—

“Petitioners and other persons soliciting business before either House or its committees, e.g. counsel, agents and solicitors, are considered as under the protection of the High Court of Parliament, and obstruction of, or interference with such persons in the exercise of their rights or the discharge of their duties, or conduct calculated to deter them or other persons from preferring or prosecuting petitions or bills or from discharging their duties may be treated as a breach of privilege.

**May’s Parliamentary Practice*, 17th Ed., pp. 131-32.

The following are instances of this type of contempt:

Causing or effecting the arrest on civil process of petitioners or others soliciting business before either House, knowing them to be such, during the continuance of their privilege from arrest *eundo, morando et redeundo*.

Assaulting, insulting, or threatening persons attending to prefer petitions or others soliciting business before either House within the precincts of the House.

* * * *

Speaking scandalous and reproachful words against petitioners whose petition is appointed to be heard.

* * * *

Bringing an action against petitioners for a libel alleged to be contained in a petition presented by them to the House of Commons.

* * * *

Casting aspersions on persons for having petitioned the House of Commons."

12. The instances of breach of privilege cited in *May's Parliamentary Practice* on the subject do not thus include a case of seizure of petition forms addressed to Parliament from a person arrested by the Police on a criminal charge.

13. As regards communication of information by a citizen to his Member of Parliament for raising a matter in the House based on that information, the position has been described by *May* thus:

"While witnesses have been protected from the consequences of evidence given before the House or one of its committees, no such protection has been given to informants including constituents who provide information voluntarily to Members in their personal capacity, the question whether such information is subsequently used in proceedings in Parliament being immaterial. But while it appears unlikely that any question of an actual or constructive breach of parliamentary privilege could arise in these cases, the special position of a person providing information to a Member for the exercise of his parliamentary duties has been regarded by the courts as enjoying qualified privilege at law.

* * * *

Administrative action has also been taken to preserve the liberty of the electorate in communicating with Members of Parliament."

14. The Committee have not come across any case either in the U.K. or in India, where seizure of a petition form addressed to the House and intended to be presented to it through a Member of Parliament, by the Police, on arresting a person on a criminal charge, was raised as involving a question of breach of privilege or contempt of the House.

IV. Recommendation of the Committee

15. The Committee are of the view that in the context of their terms of reference, no question of breach of privilege or contempt of the House is involved in the matter.

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

S. V. KRISHNAMOORTHY RAO.

Chairman,

Committee of Privileges.

NEW DELHI;

The 14th September, 1965.

MINUTES

I

First Sitting

New Delhi, Thursday, the 9th September, 1965.

The Committee met from 15.00 to 15.15 hours.

PRESENT

CHAIRMAN

Shri S. V. Krishnamoorthy Rao

MEMBERS

2. Sardar Kapur Singh
3. Shri Nihar Ranjan Laskar
4. Shri V. C. Parashar
5. Shri Shivram Rango Rane
6. Shri Asoke K. Sen
7. Shri Sumat Prasad.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. The Committee considered the question of privilege referred to them by the Speaker in the House on the 27th August, 1965, on the complaint of Shri Homi F. Daji, M.P., regarding the alleged seizure of printed forms of a petition addressed to Lok Sabha by a Sub-Inspector of Police at Indore while arresting one Santosh Kharade under Section 151, Cr.P.C.

3. The Committee decided to recommend that in the context of their terms of reference, no question of breach of privilege was involved in the matter.

4. The Committee decided to meet again on Tuesday, the 14th September, 1965, at 15.30 hours, to consider their draft report.

The Committee then adjourned.

II**Second Sitting**

New Delhi, Tuesday, the 14th September, 1965.

The Committee met from 15·45 to 16·30 hours.

PRESENT**CHAIRMAN**

Shri S. V. Krishnamoorthy Rao

MEMBERS

2. Sardar Kapur Singh
3. Shri H. N. Mukerjee
4. Shri Purushottamdas R. Patel
5. Shri Shivram Rango Rane
6. Shri Asoke K. Sen
7. Shri Sumat Prasad.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

2. The Committee considered their draft Report and adopted it.

3. Shri H. N. Mukerjee expressed his dissent from the report of the Committee and desired that the Committee should ascertain the full facts of the case themselves after hearing necessary evidence, before arriving at their conclusions.

4. The Committee authorised the Chairman and, in his absence, Shri Shivram Rango Rane, to present their report to the House on the 20th September, 1965.

The Committee then adjourned sine die.



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