

COMMITTEE OF PRIVILEGES

(FIFTH LOK SABHA)

EIGHTEENTH REPORT

(Laid on the Table on the 16th August, 1976)

(Adopted on the 20th August, 1976)



LOK SABHA SECRETARIAT
NEW DELHI

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PERSONNEL OF THE COMMITTEE OF PRIVILEGES
(1976-77)

Shri N. K. P. Salve—*Chairman*

MEMBERS

2. Shri Chakleshwar Singh
3. Shri Somnath Chatterjee
4. Shri H. R. Gokhale
5. Shri Indrajit Gupta
6. Shri Vikram Mahajan
7. Shri Aravinda Bala Pajanor
8. Kumari Maniben Vallabhbhai Patel
9. Shri Natwarlal Patel
10. Shri K. Raghu Ramaiah
11. Shri Vayalar Ravi
12. Shrimati Maya Ray
13. Shri Arjun Sethi
14. Dr. H. P. Sharma
15. Shri R. P. Ulaganambi

SECRETARIAT

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

EIGHTEENTH REPORT OF THE COMMITTEE OF PRIVILEGES (FIFTH LOK SABHA)

I. Introduction and procedure

I, the Chairman of the Committee of Privileges, having been authorised by the Committee to submit the Report on their behalf, present this their Eighteenth Report to the Speaker regarding the request received from the Deputy Inspector General of Police (Inv-I), Central Bureau of Investigation, Government of India, Department of Personnel, Cabinet Secretariat, New Delhi, for making available to them "admitted writings of Shri George Fernandes", who was a Member of Fourth Lok Sabha (1967—1971).

The matter was referred to the Committee by the Speaker on the 24th July, 1976, under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifth Edition).

2. The Committee held two sittings. The relevant minutes of these two sittings form part of the Report and are appended hereto.

3. At the first sitting held on the 30th July, 1976, the Committee considered the matter and came to their conclusions.

4. At the second sitting held on the 9th August, 1976, the Committee considered their draft Report and adopted it.

II. Facts of the Case

5. The Deputy Inspector General of Police (Inv-I), Central Bureau of Investigation, New Delhi, in his letter No. 3/2/76-CIU(A)-1543 dated the 12th July, 1976, addressed to Secretary-General, Lok Sabha, stated as follows:

"In connection with the investigation of the Baroda Dynamite Seizure Case [R.C. No. 2/76-CIU(A)] we urgently require admitted writings of Shri George Fernandes. Shri George Fernandes was a member of the Lok Sabha from 1967 to 1971. I shall be grateful if the admitted writings of Shri Fernandes could be made available to us from your records."

6. In reply, the Deputy Inspector General of Police, Central Bureau of Investigation, was informed *vide* Lok Sabha Secretariat

letter No. 17/68/CI/76 dated the 14th July, 1976, that the procedure for making available for investigation or production in courts of documents connected with the Lok Sabha or its Committees had been laid down in the First Report of the Committee of Privileges of Second Lok Sabha which was adopted by Lok Sabha on the 13th September, 1957.

The Committee of Privileges in their First Report, Second Lok Sabha, had observed *inter alia* as follows:

“...The Committee are of the opinion that no member or officer of the House should give evidence in a Court of Law in respect of any proceedings of the House or any Committee of the House or any other document connected with the proceedings of the House or in the custody of the Secretary of the House without the leave of the House being first obtained.

When the House is not in Session, the Speaker may in emergent cases allow the production of the relevant documents in Courts of Law in order to prevent delays in the administration of justice and inform the House accordingly of the fact when it reassembles. In case, however, the matter involves any question of privilege, especially the privilege of a witness, or in case the production of the document appears to him to be a subject for the discretion of the House itself, he may decline to grant the required permission and refer the matter to the Committee of Privileges for examination and report.

The Committee recommend that whenever any document relating to the proceedings of the House or any Committees thereof is required to be produced in a Court of Law, the Court or the parties to the legal proceedings should request the House stating precisely the documents required, the purpose for which they are required and the date by which they are required. It should also be specifically stated in each case whether only a certified copy of the document should be sent or an officer of the House should produce it before a Court of Law.

When a request is received during Sessions for producing in a Court of Law, a document connected with the proceedings of the House or Committees or which is in the custody of the Secretary of the House, the case may be

referred by the Speaker to the Committee of Privileges. On a report from the Committee, a motion may be moved in the House by the Chairman or a member of the Committee to the effect that the House agrees with the Report and further action should be taken in accordance with the decision of the House."

7. The Deputy Inspector General of Police, Central Bureau of Investigation, was also requested to clarify the term "admitted writings of Shri George Fernandes".

8. The Deputy Inspector General of Police (Inv-I), Special Police Establishment, Central Bureau of Investigation, in his further letter No. 3|2|76-CIU (A)-1604 dated the 23rd July, 1976, stated *inter alia* as follows:

- "(1) The writings and (or) signatures of Shri George Fernandes, who was a Member of the Lok Sabha from 1967—71, are required by us to establish the authorship of some writings and signatures of Shri George Fernandes, which have come to light during our investigation of the Baroda Dynamite Seizure Case.
- (2) The writings and (or) signatures are, at present, required for purposes of investigation and not for production in Court.
- (3) Admitted writings are writings executed in the ordinary course of business which are purported to be in the handwriting of the person concerned the authorship of which is not in dispute.
- (4) If no admitted writings are available, we would like to get the original documents on which Shri George Fernandes has made his signatures in the ordinary course of business.

Field investigation of the Baroda Dynamite Seizure Case has already been completed. It is, therefore, requested that the documents bearing admitted writings and (or) signatures of Shri George Fernandes may be made available to us as early as possible so as to enable us to finalise the investigation of our case."

III. Observations/recommendations of the Committee

9. During the Second Lok Sabha, when a request was received from the Superintendent of Police, Special Police Establishment, for making available to him certain documents in the handwriting of Shri Ganpati Ram, MP, in connection with the investigation of a case, the Speaker had referred that matter to the Committee of Privileges. The Committee of Privileges, in para 7 of their Tenth Report laid on the Table of Lok Sabha on the 4th September, 1959, and adopted by Lok Sabha on the 7th September, 1959, had stated as follows:

“7. It is quite possible that the documents in question in the present case may have to be produced in a Court of Law. The Committee, therefore, recommend that the following documents may, with the permission of the House, be made available to the Superintendent of Police, Special Police Establishment, Ministry of Home Affairs:

- (i) Letter dated 9th May, 1959, purported to have been addressed by Shri Ganpati Ram, M.P., to the Chairman, House Committee of the Lok Sabha, regarding allotment of a suite of rooms in the Constitution House to Acharya R. H. Dube.
- (ii) Two arrival and departure reports submitted by Shri Ganpati Ram, M.P.”

10. In the present case, the Committee have perused two notices dated the 29th June, 1967 and the 26th March, 1969, from the files* of the Lok Sabha Secretariat, purported to be in the handwriting of Shri George Fernandes, *ex-M.P.* (See Appendices I & II respectively).

11. Although the Deputy Inspector General of Police, Central Bureau of Investigation, has stated that the writings of Shri George Fernandes, *ex-M.P.*, are at present, required for purposes of investigation and not for production in Court, it is quite possible that these documents may have ultimately to be produced in a Court of Law.

12. The Committee recommend that the two notices dated the 29th June, 1967 and the 26th March, 1969, mentioned in para 10 above, purported to be in the handwriting of Shri George Fernandes, *ex-M.P.*, and purporting to bear his signatures may, with the

*Files Nos. 34/7/67/T. Vol. II and 34-7-69-T, respectively.

permission of the House, be made available to the Deputy Inspector General of Police, Special Police Establishment, Central Bureau of Investigation, Department of Personnel, Cabinet Secretariat, Government of India, New Delhi.

NEW DELHI;

The 9th August. 1976.

N. K. P. SALVE

Chairman,

Committee of Privileges.

NOTE BY SHRI SOMNATH CHATTERJEE

As I stated during the deliberations of the Committee, a criminal investigation should not be allowed to be hampered but a question of procedure is involved when documents are required from the custody of the Lok Sabha by an Investigating Agency.

In the present case, the Central Bureau of Investigation requires "admitted writings of Shri George Fernandes" "to enable us to finalise the investigation of our case". After the receipt of the request and after the matter was referred to the Committee of Privileges by the Hon'ble Speaker, at the first meeting of the Committee discussing the matter, copies of two notices were placed. But it is not known who selected such notices, and what was the procedure for the selection of such notices. It is assumed that there would be a large number of documents purporting to bear the hand-writing or the signature of the person concerned. I am not impressed that it is the duty of the Lok Sabha Secretariat to find out one or two documents out of numerous documents that may be available with the Lok Sabha Secretariat.

The Draft Report refers to those two writings as "purported to be in the hand-writing of Shri George Fernandes, Ex. M.P." When the Investigating Agency wants "admitted" writings, it is not clear to me what purpose will be served by recommending that the two documents "purported" to be in the hand-writing of the person concerned should be made available to the Agency. Further when the documents are wanted for the purpose of finalising the investigation, why any reference should at this stage be made to the possible production thereof in a Court of Law? In my view, that goes beyond the scope of the reference to the Committee.

I wish to make it clear that what I feel is that a satisfactory procedure in matters like this should be evolved for future guidance.

NEW DELHI;

The 9th August, 1976.

ORDERS OF THE SPEAKER

Approved for laying it on the Table.

Sd/- B. R. BHAGAT,
12-8-1976

MINUTES

I

First Sitting

New Delhi, Friday, the 30th July, 1976.

The Committee sat from 15.30 to 16.30 hours.

PRESENT

Shri N. K. P. Salve—*Chairman*

MEMBERS

2. Shri Chakleshwar Singh
3. Shri Somnath Chatterjee
- 4 Shri H. R. Gokhale
5. Shri Vikram Mahajan
6. Kumari Maniben Vallabhbbhai Patel
7. Shri Vayalar Ravi
8. Shri Arjun Sethi

SECRETARIAT

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

Shri H. L. Malhotra—*Senior Legislative Committee Officer.*

* * * * *

5. The Committee then considered the request received from the Deputy Inspector General of Police, Central Bureau of Investigation, for making available to them admitted writings of Shri George Fernandes, who was a member of Fourth Lok Sabha. The Committee decided to recommend to the House that the two notices dated the 29th June, 1967 and 26th March, 1969, purported to be

***Paras 2—4 relate to other cases and have accordingly been omitted.

in the hand-writing of Shri George Fernandes, ex. M.P., contained in the Lok Sabha Secretariat files Nos. 34/7/67/T Vol. II and 34/7/69/T, respectively, might, with the permission of the House, be made available to the Central Bureau of Investigation.

6. The Committee decided to meet again on the 9th August, 1976, to consider their draft report on this matter.

The Committee then adjourned.

II

Second Sitting

New Delhi, Monday, the 9th August, 1976

The Committee sat from 15.30 to 16.10 hours.

PRESENT

Shri N. K. P. Salve—*Chairman*

MEMBERS

2. Shri Chakleshwar Singh
3. Shri Somnath Chatterjee
4. Shri Indrajit Gupta
5. Kumari Maniben Vallabhbhai Patel
6. Shrimati Maya Ray

SECRETARIAT

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

2. The Committee considered their draft Eighteenth Report regarding the request received from the Deputy Inspector General of Police, Central Bureau of Investigation, for making available to them admitted writings of Shri George Fernandes, who was a member of Fourth Lok Sabha, and adopted it.

3. Shri Somnath Chatterjee desired to submit a separate note for being appended to the Report. The Committee gave him time upto the 11th August, 1976 for the purpose.

4. The Committee authorised the Chairman to submit the Report to the Speaker after appending the note which may be given by Shri Somnath Chatterjee.

The Committee then adjourned.

APPENDIX I

(See para 10 of the Report)

MEMBER OF PARLIAMENT
(LOK SABHA)

New Delhi,
29-6-1967

The Secretary,
Lok Sabha.

Dear Sir,

Under Rule 377, I propose to raise the matter of the Deputy Speaker's ruling expunging certain portion of the proceedings of the half-an-hour discussion raised by Dr. Ram Manohar Lohia on the Dharma Teja issue. The matter is sought to be raised in the context of Speaker's ruling on 28.6.67 on the issue of expunction.

I may be given the opportunity to raise the matter.

Yours faithfully,
Sd/-

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APPENDIX II

(See para 10 of the Report)

New Delhi,
26-3-69

The Speaker,
Lok Sabha.

Sir,

It was highly improper for the Prime Minister to keep her mouth shut yesterday in the House when the Government could not muster adequate support for clause 2 of the Constitution Amendment Bill. Apart from being the Prime Minister, she is also the Leader of the House and the least she should have done was to express an apology to the House and to the Assam Hill people.

Whether the Government has the moral authority to continue or not can be a matter of debate. But the Prime Minister should be at least called upon by you to make a statement on her lapse yesterday.

Yours sincerely,
Sd/-
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