

**COMMITTEE OF PRIVILEGES
(FOURTEENTH LOK SABHA)**

13

THIRTEENTH REPORT

**(Presented to Speaker, Lok Sabha on 17 December, 2008)
(Laid on the Table on 19 December, 2008)**

SEAL

**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2008/Agrahayana, 1930 (Saka)

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PERSONNEL OF THE COMMITTEE OF PRIVILEGES (FOURTEENTH LOK SABHA)

Shri V.Kishore Chandra S.Deo - Chairman

MEMBERS

2. Shri Omar Abdullah
3. Shri Sartaj Singh Chhatwal
4. Shri Anantkumar Hegde
5. Shri Virendra Kumar
6. Shri Hemlal Murmu
7. Shri Brajesh Pathak*¹
8. Shri Shriniwas Patil
9. Dr. Sebastian Paul
10. Shri Varkala Radhakrishnan
11. Shri Raju Rana
12. Shri D. Vittal Rao
13. Shri Iqbal Ahmed Saradgi
14. Choudhary Bijendra Singh
15. Shri Beni Prasad Verma

SECRETARIAT

- | | | |
|----------------------------|---|----------------------|
| 1. Shri V.K. Sharma | - | Additional Secretary |
| 2. Shri Ravindra Garimella | - | Deputy Secretary |
| 3. Shri Ashok Sajwan | - | Deputy Secretary-II |

* ceased to be member of Lok Sabha w.e.f.14 .11.2008

**THIRTEENTH REPORT OF THE COMMITTEE OF
PRIVILEGES
(FOURTEENTH LOK SABHA)**

I . INTRODUCTION AND PROCEDURE

I, the Chairman of the Committee of Privileges, having been authorized by the Committee to submit the Report on their behalf, present this their Thirteenth Report to the Speaker, Lok Sabha regarding casting of reflections on the impartiality of the Speaker, Lok Sabha in news items published in 'The Free Press Journal' and 'The Business Standard' dated 29 September, 2008 .

2. The Committee held 4 sittings. The relevant minutes of these sittings form part of the Report and are appended hereto.

3. At their first sitting held on 24 October, 2008, the Committee considered the matter. The Committee decided to take evidence of Shri T. N. Ninan, Editor, the Business Standard and Shri Virendra Kapoor, Consultant Editor, the Free Press Journal in the matter on 31 October, 2008.

4. At their second sitting held on 31 October, 2008, the Committee examined on oath Shri T. N. Ninan, Editor, 'The Business Standard' and took note of the clarification and apology published by 'The Business Standard'. The Committee also examined Shri Virendra Kapoor, Consultant Editor, 'The Free Press Journal' who informed the Committee that clarification and apology

had already been published in the newspaper. The Committee directed him to furnish a copy of clarification and apology stated to have been published by 'The Free Press Journal'.

5. At their Third sitting held on 5 December, 2008, the Committee considered the matter and after taking note of the clarification and apology published in 'The Free Press Journal', directed the Secretariat to prepare a draft Report in the matter for consideration of the Committee.

6. At their Fourth sitting held on 15 December, 2008 the Committee considered their draft Report in the matter and adopted the same.

II. Facts of the case

7. On 29 September, 2008 a news-item² appeared in 'The Free Press Journal', Mumbai edition under the caption "Partial Expulsions" which *inter-alia* reported as follows:-

"It is remarkable that of all the MPs who have been expelled from the Lok Sabha so far for defying the anti-defection law, a vast majority are those who had voted against the Government in the recent trust vote...Indeed, in the opposition circles the credibility of the Lok Sabha Speaker, Somnath Chatterjee has further suffered because of his failure to proceed equally promptly against pro-Government defectors. Also the Speaker's role in not initiating the impeachment process against the Calcutta High Court judge

² Pl. see Appendix I

despite such a course being canvassed by the Chief Justice of India too has attracted adverse comment. It is pointed out that the said Calcutta High Court judge had begun his legal career as a junior in Chatterjee's chamber and had later worked with his son. Whether accidental or deliberate, the truth is that the Lok Sabha was yet to take the first step in initiating the impeachment process."

8. Similarly, on 29 September, 2008 another news-item³ appeared in 'The Business Standard', New Delhi under the caption "Not so impartial" which *inter alia* reported as follows:-

"Of the MPs who have been expelled from the Lok Sabha for flouting the anti-defection law, the vast majority are those who voted against the Government in the recent anti-trust vote...What is even more curious, Speaker Somnath Chatterjee has not initiated the impeachment process against a Calcutta High Court judge despite the Chief Justice of India being in favour of this."

9. On 1 October, 2008, the Speaker, Lok Sabha in exercise of his powers under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha referred the matter to the Committee of Privileges for examination, investigation and report.

III. EVIDENCE

Evidence Of Shri T.N.Ninan, Editor, 'The Business Standard'

10. During his evidence before the Committee on 31 October, 2008, Shri T.N.Ninan, Editor, 'The Business Standard' *inter-alia* stated as follows:-

³ Pl see Appendix II

“Mr. Chairman, Sir, first, I would like to apologise for what we published. We realised the mistake a couple of days after this came out. On our own, we published the correction which I had sent by mail and fax, I think, yesterday to the Deputy-Secretary who had sent me the notice for this meeting for me to appear here. So, I pointed out in that that we have carried the clarification⁴ with the correction and apology.

If I can just elaborate on that, I would like to say that we are responsible people. We have never faced the situation before.

In fact, we have not faced such a situation in court either. As soon as we realised that there was a mistake, we corrected it. We have a correction policy where we automatically correct any mistake that we come across and so we carried a correction in the same place where the original item was carried. We did not try to hide it anywhere and we highlighted it with a box so that it is prominently displayed and it is not hidden in small type in some place. We both carried a correction and an apology because we realised that something which had come out should not have been printed and we knew that this was a serious issue. We did not know that this is going to be a privilege issue, but we wanted to correct it anyway. So, we just corrected it immediately and I am sorry that this has happened.”

Evidence of Shri Virendra Kapoor, Consultant Editor, ‘The Free Press Journal’

11. During his evidence before the Committee on 31 October, 2008, Shri Virendra Kapoor, Consultant Editor, ‘The Free Press Journal’ *inter-alia* stated as follows:-

“I made a mistake. I have expressed regrets and I deeply apologise for the fact that I probably got carried away. I hold the office of the Speaker in high esteem. He is the custodian of our democracy and I meant to cause no aspersion at all on the office of the Speaker. I like to be condoned for this lapse.”

⁴ Pl see Appendix III

12. When it was pointed out to Shri Kapoor that the Committee do not have a copy of the paper which carried the correction and an apology in the matter, he replied, “ I am afraid the Bombay office could not send that because I am not actually on the staff of the Free Press Journal. I am only a contributing columnist... I would be happy to have it send to your office. We have, in fact, published very prominently whatever I told you just now.”

13. On 3 November, 2008 Shri G.L. Lakhotia, the Managing Editor, The Free Press Journal *vide* his letter⁵ addressed to the Chairman, Committee of Privileges *inter- alia* stated as follows :-

“...We would like to submit that we had already published a clarification⁶ in our issue of 7 October, 2008. We had no intention to cast any aspersion whatsoever on the independence and impartiality of the Hon’ble Lok Sabha Speaker. As the occupant of the constitutional office of the Lok Sabha Speaker, we do know that Shri Somnath Chatterjee is the custodian of our democracy. The said news item was based on the talk in the opposition circles. Since then, we stand corrected.

We would like to reiterate that we did not have any desire to question the fairness and impartiality of the Lok Sabha Speaker....”

IV Findings and Conclusions

14. The issue before the Committee is whether in the news items carried by ‘The Business Standard’ and ‘The Free Press Journal’ reflections had been cast on and motives imputed to the Speaker, Lok Sabha .

⁵ Pl. see Appendix IV

⁶ Pl. see Annexure I to Appendix IV

15. The Committee at this juncture would like to invite attention to the well established position as laid down in “Practice and Procedure of Parliament” by Kaul & Shakdhar (5th edn.) that reflections on the character and impartiality of the Speaker in the discharge of his duty, constitute a breach of privilege and contempt of the House.

The Committee further note that in the Erskine May’s treatise on “The Law, Privileges, Proceeding and usage of Parliament”, it has been laid down that the “reflections on the character of the Speaker and the accusation of partiality in the discharge of his duty have been held to constitute breaches of privileges and contempt.”

16. The Committee note that the News item published in ‘The Free Press Journal’ alleged that the Speaker, Lok Sabha has not proceeded “promptly against pro-Government defectors” while the news item published in The Business Standard stated that majority of members expelled were “those who voted against the Government...those who voted with the Government defying the Whip of BJP and other opposition groups are still to be expelled.” Furthermore in both the news-items allegations have been made against Speaker Lok Sabha for not initiating impeachment proceedings against a Judge of Calcutta High Court.

17. The Committee are constrained to observe that both the news items created an impression that the Speaker was delaying disqualifying those members who defied party whip to vote in favour of the Government. The Committee find it pertinent to bring it on record that as a matter of fact the Speaker had passed orders disqualifying three members (Shri Kuldeep Bishnoi, Shri Jaiprakash and Prof. S.P. Bhagel) who had failed to respond to any communications issued by the Lok Sabha Secretariat, seeking their comments on petitions filed against them and also did not appear for hearing. Under the circumstances their cases were heard *ex-parte*. In all other cases the respondents had sought extensions on various grounds, which were granted by the Speaker.

18. The Committee also note that the allegations contained in both the news reports regarding not initiating proceedings by the Speaker against Calcutta High Court Judge were a result of ignorance on the part of the newspapers of the legal provisions as to the impeachment of a judge of the High Court. Section (3) of the Judges (Inquiry) Act, 1968 provides that the Speaker, Lok Sabha can admit a motion for presenting an address to the President praying the removal of a judge if **notice of such a motion is given by not less than one hundred members of the House**. Under these circumstances, unless a proper

notice is given as stipulated under the Judges (Inquiry) Act, 1968, the Speaker cannot *suo motu* initiate any proceedings for impeachment.

19. The Committee would wish to emphasise here that the office of Speaker, Lok Sabha is a Constitutional office and enjoys an exalted status in our democratic set up. This office has to be held in utmost reverence as it, in itself, is an institution. Be it press or anybody else, each and every statement/remark/observation made about the office of the Speaker, Lok Sabha should be made with utmost care and circumspection.

The Committee lament to note that in the news-items published by 'The Business Standard' and 'The Free Press Journal', what to talk about expected reverential niceties, even basic norms of discretion and circumspection seem to have been thrown to the winds. Decisions made by the Speaker, Lok Sabha under the Tenth Schedule to the Constitution and removal of a judge of High Court, require adherence to well laid down procedure as envisaged in the Constitution and relevant Rules. Before commenting on any such matters, due verification of facts and legal positions becomes a *sine qua non* for any newspaper. For newspapers like 'The Business Standard' and 'The Free Press Journal', it should not have been difficult at all to just check up the facts and then report. For the 'The Business Standard' whose forte is basically economic matters, it was all the more essential to thoroughly check the facts while

reporting about a constitutional authority like Speaker, Lok Sabha. Had they been careful, this kind of malicious reporting would never have taken place.

20. Coming to the article by Shri Virendra Kapoor of 'The Free Press Journal', the Committee are simply aghast at what he wrote. He is a journalist with long experience. How could he have authored such a factually incorrect, baseless and malicious column is beyond comprehension? Regarding decisions given by Speaker, Lok Sabha under the Tenth Schedule to the Constitution, had he made some enquiries, he would have got his facts right. As regards the matter regarding impeachment proceedings against a judge of the Calcutta High Court, he only needed to refer to relevant legal provisions. But he didn't appear to do either of these or rather didn't care to do so.

Was it sheer recklessness on the part Shri Virendra Kapoor or did he act with malice while writing the impugned article in 'The Free Press Journal'? The Committee wonder. In either case, Shri Kapoor displayed a thoroughly unprofessional approach which in the Committee's view tantamounts to journalistic misdemeanour. The matter doesn't end here. The Editor and Publisher too have a vicarious liability for going ahead with publication of the news item/column.

21. The Committee are constrained to observe that both the news items have unnecessarily alleged bias casting reflections on impartiality of the Speaker and thereby lowered the dignity of the office of the Speaker, Lok Sabha.

22. **The Committee, are therefore, of the view that Shri Virendra Kapoor, Consultant Editor of ‘The Free Press Journal’ and concerned Correspondent/Columnist of the feature ‘Chinese whisper’ the column under which, the impugned news write up was published in ‘The Business Standard’ dated 29 September, 2008 are guilty of breach of privilege and contempt of the House. The liability for publication of such baseless and derogatory news items is also upon Managing Editor & Publisher of ‘The Free Press Journal’ and the Editor of ‘The Business Standard’.**

23. The Committee note here that the Committee of Privileges (14th Lok Sabha) in their Fourth Report presented to the House on 19 May, 2006 had observed as follows:

“there is no gainsaying the fact that press is an indispensable asset to any democracy. The Committee therefore, feel that the Press being the prime and principal medium for purveying information, must ensure that whatever goes in print must have the hallmark of veracity...”

24. The Committee take note that the Free Press Journal in its issue of 7 October, 2008 published the following clarification:-

“In our column, inside story, on Monday, September 29, we had taken

note of the criticism in the opposition circles regarding the expulsion of a few MPs under the anti-defection law and the still pending action against a number of other members who had defied the respective party whips during the recent trust vote in the Lok Sabha. There was no intention whatsoever to cast an aspersion on the conduct of the Lok Sabha Speaker, Somnath Chatterjee. Nor was there any desire on our part to question his impartiality and independence in the matter of the proposed impeachment of a judge of the Calcutta High Court. The impugned item had merely taken note of the ill-informed criticism heard in certain opposition quarters. We had no intention to question the impartiality and independence of the Hon'ble Speaker. If any such impression was created, we offer our sincere apologies. – Editor”

25. The Committee also take note that ‘The Business Standard’ in its issue dated 6 October, 2008 also published a clarification which is as follows:-

“In the piece, “Not so impartial”, in Chinese whispers on September 29, we had no intention to comment on the independence and impartiality of the Lok Sabha Speaker Somnath Chatterjee. We regret any such impression the piece may have created and offer our sincere apologies.”

26. The Committee are of the view that by publishing such factually incorrect, baseless and malicious political matters by the newspapers, without verifying the facts, which cast reflections on the impartiality of the Speaker, and thereafter issuing clarification, cannot apply balm to the damage it has already caused to the institution of the Speaker.

27. The Committee are of firm view that the Editors or correspondents of newspapers in future should not only be extra careful but also verify the facts

while reporting about the institution of the Speaker, which has a very vital place in a parliamentary system.

28. The Committee observe that Editors of both the newspapers as well as the Consultant Editor of the Free Press Journal have apologized for publishing the impugned news items in their newspapers and have also published corrections in their respective news papers subsequently.

29. The Committee of Privileges of Seventh Lok Sabha, in their First Report presented to the House on 8 May, 1981, observed *inter alia* as follows:

“The Committee feel that it adds to the dignity of one and all if power in a democratic system is exercised with restraint; the more powerful a body or institution is, the greater restraint is called for particularly in exercising its penal jurisdiction.”

30. The Committee also note that it is the tradition of the House that unqualified and unconditional regrets sincerely expressed by the persons guilty of breach of privilege and contempt of the House are accepted by the House and the House normally decides in such cases to best consult its own dignity by taking no further notice of the matters.

31. The Committee, keeping in view the well established tradition and the apologies tendered by Shri T. N. Ninan, Editor, ‘The Business Standard’, Shri Virendra Kapoor, Consultant Editor, ‘The Free Press Journal’ and Shri G.L.

Lakhotia, Managing Editor & Publisher, 'The Free Press Journal', are of the view that no further action needs to be taken in the matter.

V. Recommendation

32. The Committee while deprecating such casual and reckless attitude of Shri Virendra Kapoor, Consultant Editor of 'The Free Press Journal' and concerned Correspondent of 'The Business Standard' as also the Editors and Publishers of the 'The Free Press Journal' and 'The Business Standard' and cautioning them to be more circumspect and discreet in future while reporting about matters pertaining to the institution of the Speaker, Lok Sabha, recommend that the matter be treated as closed.

NEW DELHI
Date 15.12.2008

(V. KISHORE CHANDRA S. DEO)
CHAIRMAN
COMMITTEE OF PRIVILEGES