

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

4

FOURTH REPORT

(Presented to the Speaker, Lok Sabha on 05.09.2013)

(Laid on the Table on 06.09.2013)



**LOK SABHA SECRETARIAT
NEW DELHI**

September, 2013/Bhadrapada, 1935 (Saka)

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*Shall be appended at the time of printing.

COMPOSITION OF THE COMMITTEE OF PRIVILEGES*
(15TH Lok Sabha)
(2011-12)

Shri P.C. Chacko

-

Chairman

MEMBERS

2. Shri Pratap Singh Bajwa, MP
3. Dr. Baliram, MP
4. Shri Kaylan Banerjee, MP
5. Shri. T.K.S. Elangovan, MP
6. Shri Syed Shahnawaz Hussain, MP
7. Shri Naveen Jindal, MP
8. Dr. Ajay Kumar, MP
9. Shri Ananth Kumar, MP
10. Shri Shailendra Kumar, MP
11. Shri Baidyanath Prasad Mahto, MP
12. Shri Gopinathrao Pandurang Munde, MP
13. Smt. Annu Tandon, MP
14. Shri A. Venkatrami Reddy, MP
15. Shri Arun Yadav, MP

*Reconstituted on 24 November, 2011 *vide* Bulletin Part-II para No. 3374

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9. Shri Anantha Venkatrami Reddy, MP
10. Shri Gopal Singh Shekhawat, MP
11. Smt. Annu Tandon, MP
12. Shri. T.K.S. Elangovan, MP
13. Shri Arun Yadav, MP
14. Shri Dharmendra Yadav, MP
- **15. Shri Baidyanath Prasad Mahto, MP

SECRETARIAT

1. Shri V.K. Sharma ----- *OSD*
2. Shri V.R. Ramesh ----- *Joint Secretary*
3. Shri Ashok Sajwan ----- *Additional Director*
4. Dr. Rajiv Mani ----- *Deputy Secretary*
5. Shri Bala Guru G ----- *Legislative Officer*

*Reconstituted on 01 January, 2013 *vide* Bulletin Part-II para No. 4852.

** Nominated on 01 March, 2013 *vide* Bulletin Part-II para No. 5093.

**FOURTH REPORT OF COMMITTEE OF PRIVILEGES
(FIFTEENTH LOK SABHA)**

I. Introduction

I, the Chairman of the Committee of Privileges, having been authorized by the Committee to submit the Report on their behalf, present this Fourth Report to the Speaker on the question of privilege given notice of by Dr. (Smt.) Prabha Kishor Taviad, MP for alleged assault on her on 01 May, 2012 by Police authorities of District Dahod, Gujarat.

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

3. At their first sitting held on 11 July 2012, the Committee considered the matter. The Committee decided to hear Dr. (Smt.) Prabha Kishor Taviad, MP in the matter first. The Committee also decided to summon the concerned officials of Government of Gujarat to tender their evidence before the Committee.

4. At their second sitting held on 25 July 2012, the Committee examined on oath Dr. (Smt.) Prabha Kishor Taviad, MP. The Committee also examined on oath Shri J.M. Luni, IAS, District Collector, Dahod, Gujarat. Thereafter, the Committee examined on oath Smt. Nipuna Torawane, IPS, SP, Dahod and Shri P.J. Sarang, Dy. SP, Dahod.

5. At their third sitting held on 12 October 2012, the Committee deliberated on the issue and also perused the video footage of the incident which was furnished to the

Committee by Smt. Nipuna Torawane, SP, Dahod. The Committee decided to continue their discussions in the matter at their next sitting.

6. At their fourth sitting held on 6 February, 2013, the Committee viewed the video footage of the incident provided by the National Commission for Woman and Gujarat Police and further deliberated upon the matter.

7. At their fifth sitting held on 5 April, 2013, the Committee viewed the video CD along with the transcript of the conversations which had taken place between Dr. Prabha Kishor Taviad and District police authorities prior to her being detained. Thereafter the Committee further deliberated on the matter and directed the Secretariat to prepare a draft report in the matter for their consideration.

8. At their sixth sitting held on 24 May, 2013, the Committee considered the draft report and after some deliberations adopted it. The Committee then authorized the Chairman to finalize the report accordingly and present the same to the Speaker, Lok Sabha and thereafter, to lay the same in the House.

II. FACTS OF THE CASE

9. Dr. (Smt.) Prabha Kishor Taviad, MP in her notice of question of privilege dated 2 May, 2012 alleged assault on her by the District Police, Dahod, Gujarat on 01 May, 2012.

The member stated that on 01 May, 2012 at around 12 noon, she along with her party MLAs, was proceeding from her office to attend a public function (Gujarat *Gaurav Din* function) at Dahod, Gujarat being held on the occasion of anniversary of creation of State of Gujarat. Her car was stopped on the way and even on showing the invitation card and VIP passes issued by the authorities, the district police, without paying any heed informed her that she was being detained. When she asked for the detention order, the same was not shown and it was informed to her that the police were acting as per instructions from top.

The member alleged that the police forcibly dragged and pulled her by hair to the vehicle. In the process, her spectacles reportedly got broken and one of her footwears was lost. She suffered bruises and injuries on her hand and body as a result of and use of excessive force and assault by the police. She was being taken to the Kawant, the last police station (in Vadodara). When she informed the police personnel about her impending journey to Delhi by Rajdhani Express, she was taken to Vadodara where she was able to take medical treatment. She also enclosed copies of medical report regarding her injuries and treatment prescribed by the doctors of SSG Hospital, Vadodara.

10. The matter of alleged assault on the member by the Gujarat police was also raised in the House on 2 May, 2012 by the member herself and also by

Dr. (Kum.) Girija Vyas MP. A notice of question of privilege¹ dated 2 May, 2012 in this regard was given by the member. The then Minister of Parliamentary Affairs (Shri Pawan Kumar Bansal) proposed that the matter be referred to the Committee of Privileges. The Chairman (Shri P.C.Chacko) observed as follows:-

"this is a serious matter. The House has taken note of that. Hon'ble Speaker has received a privilege notice from the member... The matter will be decided by Hon'ble Speaker."

11. A communication dated 1 May, 2012 from the Superintendent of Police, Dahod, Gujarat regarding detention of the Member by the District Police, Dahod, Gujarat was also received by the Speaker. The same was published in Bulletin Part – II² dated 2 May, 2012.

12. In view of the allegations made by the Member, the Speaker, Lok Sabha, on 3 May, 2012, in exercise of her 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.

¹ Please see Appendix-I

² Please see Appendix - II

III. EVIDENCE

Evidence of Dr. (Smt.) Prabha Kishor Taviad, MP

13. Dr. (Smt.) Prabha Kishor Taviad, MP, during her evidence* before the Committee on 25 July, 2012, *inter alia* stated as follows:-

“Hon. Chairman Sir, I wish the incident that happened with me should not be repeated with anyone else, whether he or she may be a MP or not. I shiver to recollect the humiliation, meted out to me on 2 May, 2012 and I am compelled to think that if I, a well educated Member of Parliament belonging to the tribal category was humiliated then what could have been the condition of women in general in Gujarat? If I were given an ordinary invitation card, I could have understood, but I was given the VIP pass, car pass, map of programme, the scheduled timing and venue and VIP entry gate pass. Everything was given to me.

Sir, the Parliament Session was going on at that time, so I was present in Delhi till 7 PM on 30 April, 2012. My husband called me from residence and asked me to come. I told him that the whip has been issued for 3 May, 2012 and my presence (in Delhi) is mandatory, so how can I join you? He said that you have been issued a VIP pass, car pass, etc., so, you have to come. I, therefore, went there (Dahod) by Jammu Tawi Express, and reached there at half past nine on 1 May, 2012. I was at my residence and my office is also located nearby in the same campus and whatever happened with me was very bad. Whatever happened with me, after that incident, got wide publicity in print media because I got the support from all of you in the House. The National Commission for Women took *suo motu* action on it and visited the place too. It made its conclusions and facts have been made public through its press-release on its

* Original in Hindi

website. I have taken a print-out of the same from the net, which I would like to hand over to you all. What I want to say is that when I left my house, the MLA accompanying me in my car also had car pass, VIP pass, etc. The moment I took seat in the car, the police entered in the campus of my house and surrounded me. They misbehaved with me and assaulted me physically. I already had pain in my shoulder. I kept on telling them that I have pain in my shoulder, so do not pull me. I was telling them about my VIP pass and they detained me. I do not remember anything afterwards because the way they had dragged me, it was left impossible for me to move my hand and later I had to undergo a surgery. I cried owing to the manner they twisted both my hands and dragged me. What major crime had I committed? I had no such intention, otherwise I would have instructed some video photographer to shoot the incident. But I do not have any such thing. I have seen whatever has been published in the media...I have handed over to you whatever had been published in the print media.

I am going to circulate the conclusions given by the National Commission for Women in the matter after visiting the site. I request you with folded hands that you may kindly contact the National Commission for Women and ask for a copy of their report in the matter as I have also written to them but they have not provided me their conclusions, may be due to secrecy point of view. If the National Commission for Women is called here, they may submit their neutral report. Therefore, I humbly request the Committee and its hon. Members to summon the representatives of National Commission for Women and ask them to present the relevant documents pertaining to the case to the Committee.

* * * * *

I would like to mention that the video shows that the incident happened at around 12 noon. The programme was scheduled at half past twelve. I was

forcibly put into the police van after 1200 hours. The police van (Mahindra & Mahindra make) has sitting space for three persons only on the rear side. But, two lady constables were seated beside me on one side and one lady constable was seated on the other side. Four persons were forced to sit in the space meant for three persons. Three to four lady constables were also seated at the back of the van. The male police driver and one PI were seated in the front.

Sir, it pains me to narrate that I was not allowed to come out (of the police vehicle). They (police) used to stop for two hours on the road. They took me around for almost six hours. They did not allow me to even step out of the vehicle during these six hours. There were only police personnel with me in the vehicle. We passed by a chemist shop and the Circuit House. A police station came at one place and I asked where they were proceeding to? I asked them to take me to the police stations, rest houses and circuit house on the way in every village from Dahod, Limkheda, Godhara, Halol to Kalol. They did not take me anywhere. I kept on sitting in the vehicle among the police personnel for six hours. Even I was not allowed to go for toilet. I was released at about 6 pm. I had to go to Vadodara, so the police personnel shifted me to my vehicle. After boarding my vehicle, I moved on and used a washroom in a restaurant. That was the mental agony. Sir, I suffered not only this mental agony but a lot more. I have nothing to say further. The culprits should be punished and this sort of incident should not be repeated with anyone else. I would like to conclude now.

14. When the Committee enquired about the place where she was detained, Dr. Taviad, MP stated as follows:

“Sir my house is located very near to my office. There is a big Mission campus there and we were standing there. The programme was supposed to start at 1230 hrs. We left at about 1200 hrs along with the MLA. We just sat in the

car and we had not even left the house. Yes, it happened at my residence. On the way there is a river which is called Godakhar. There is a temple close to Godakhar river. They may have taken some instructions from higher authorities, because they stopped the vehicle over there for two hours. It is 15-20 km away from Dahod, so we reached there in half-an-hour. They stood there under the Sun. After that they kept on driving vehicle slowly. We may have reached Halol at around 4 pm. Earlier, I had the impression that they are taking me to Vadodara. I had to go there as I had tickets of Rajdhani and Paschim Express for the next day for Delhi. Thus, I had to travel up to Ratlam from the Paschim and from Ratlam onwards by Rajdhani so that I could attend the House next morning. My spectacles were broken, even my slippers were missing somewhere. Earlier, I could not make a phone call anywhere, but when my son followed me, he brought another spectacles for me. After that I got my tickets rescheduled because I overheard them (the police) talking that we were moving towards Vadodara Cantt. I got my ticket rescheduled. I made a phone call to the officer that I had a ticket from Vadodara to Delhi. My boarding station was Ratlam, but I would board the train in Vadodara. They heard this. Despite it they moved from Halol to Kadipani. It is situated on the bank of Narmada. If we see it from Dahod, the distance may be around 300 km. I never visited there. They turned the vehicle for taking me there. I told them that there is an Express Highway between Vadodara and Halol and a Circuit House nearby. Another officer, who was sitting on the front seat in my vehicle instructed them to turn the vehicle towards the Circuit House. Perhaps he was the PI from some other place. In spite of saying this Sarangji, who was the main operating officer, did not permit for visit to the Circuit House. I wanted to tell the SP Madam that I am not a disturbing element. I did not have even a black ribbon and she should please rely on my words. However, she did not answer the call. Then, I asked the police personnel to make a phone call to Nipunaji (SP, Dahod) from their mobile. As the call got connected, I could talk to her. I informed her that I had

to attend the Parliament Session at Delhi as a whip had been issued. She enquired about the Train in which I was supposed to travel. I told her that I was going by Rajdhani. She enquired from me whether I would board from Vadodara or Dahod. I informed her that the train does not stop at Dahod and I may be permitted to board the train at Vadodara. She said that she would seek orders and do something about it. We kept waiting on the road at Halol for about two hours even though the Circuit House was very near. But, they did not take me there. Thereafter, I was allowed to proceed to Vadodara in my car accompanied by the police personnel. At Vadodara, 3 - 4 police personnel joined us. We had not eaten anything since morning. We went to a restaurant and I could use the washroom. Thereafter, I was taken to a guest house at Vadodara and we stayed there for about an hour. I felt shooting pain in my arms and I told them that I have to take medicine. But, nothing was arranged. I had a tissue paper with which I covered my wounds as blood was oozing from them. I applied ointment and asked them to take me to a hospital. I was taken to Shahji General Hospital which was nearby and thereafter, I left for Delhi.

15. When the Committee further enquired about the detention process, Dr. Taviad stated as follows: -

“They told that I was being detained. I informed them that I have the invitation card and VIP pass for the function and on the contrary you have to escort me to the dais. I was told that they have received orders from the top and I am being detained. I was informed about the provision of law under which I had been detained around 4 pm when we reached Halol.”

16. When the Committee wanted to know regarding the agitation to be launched (at Dahod) on the day as decided by the office bearers of her party, Dr. Taviad stated as follows: -

“I was here in the House when I received a phone call from them (office bearers of her party) that they have sought time to meet the Chief Minister. They did not use the word agitation. We are proud of 1 May, because we got separated as Gujarat from Maharashtra. There was no question of any agitation. Only time had been sought for meeting the CM as I had been told on telephone. Next day, I was informed that no appointment has been given. We thought that as the CM is going to stay for the whole day (Dahod), so we will meet him for ten minutes. I was intimated that we did not get appointment.”

17. On being asked about previous agitations launched by the Congress Party at such public functions, Dr. Prabha Kishor Taviad stated as follows: -

“Once a tribal Minister had visited Dahod to participate in the Garib Kalyan Mela. There, we requested to speak only two words to welcome him. No agitation was launched. We sat down as we were not allowed to speak.”

18. When the Committee enquired from her why she was not being allowed to visit any hospital between Dahod and Surat in spite of her injury, Dr. Taviad stated as follows: -

“My son is a doctor. He had an ointment which I had applied. However, pain-killer is also required. My son knowing that blood was oozing from the wound, had brought TT injection to protect me from tetanus. At Circuit House, he administered the injection to me. Thereafter, I felt pain for which pain-killer was required. My son did not have any pain-killer with him. We asked the police personnel to take us to a chemist shop, which is at Shahji General Hospital situated nearby. They asked us to visit a private hospital. I said that the Government Hospital is nearby, we will go there. I overheard on phone that

the police personnel who took us to hospital were being scolded by their superiors. They were being reprimanded for taking me to a government hospital and they were explaining that as I was travelling in my own car, they had no choice. These were his words.”

Evidence of Shri J.M.Luni, District Collector, Dahod, Gujarat

19. Shri J.M.Luni, District Collector, Dahod during his evidence before the Committee on 25 July, 2012, *inter alia* stated as follows:-

"Sir, a State level programme to commemorate the foundation day of Gujarat was organised at Dahod on 01 May, 2012. Before that an all party meeting was held to chalk out the programme. All the parties including the Congress and BJP were invited to attend the meeting. Two MLAs of the Congress party were also present there. In this way, this programme was held in consultation with all concerned. The hon. MP had also been sent an invitation alongwith a VIP pass. So, it is clear that I had no intention of stopping her. On that day *i.e.* the 1 May, I was at the helipad at 1130 hrs and the SP was also with me. After that I received a letter from the State IB that a meeting and a press conference regarding the above said programme was going to be held at the house of Dr. (Smt.) Prabha Kishor Taviad, MP and there is a plan to disrupt the State level programme. Such a report was received from the State IB. A press conference had been held earlier also in which a local MLA, Shri Bachubhai had asserted that they would oppose this programme and the celebrations. And they had done so. The local police detained the hon. MP in view of such apprehensions. She was taken away in the police van thereafter. She was given her car when she requested for it. Her demand of boarding the Rajdhani Express for Delhi was also acceded to. She was taken to Circuit House at Vadodara and when she desired to visit the hospital, she was taken there. Thereafter she was allowed to board the Rajdhani Express. The district administration had no intention of insulting the hon. Member. She was invited for all the programmes so there was no *malafide* intention."

20. When the Committee wanted to know from Shri Luni as to how he was aware that the Congress Party was likely to protest and whether the detention was as per protocol, Shri Luni stated as follows:

“Sir, the CM was going to attend the programme that day. The SP and I were at the helipad before 12 noon. The SP told me about the report of the State IB at around 1145 hrs. The Deputy SP and police personnel directed only the female constables to carry out the detention of the Member. Good care was taken of her throughout. There is a village called Ghodakhar at a distance of ten to twelve kms where they had halted. When Madam was asked if she needed anything she had refused. When Madam had asked for her own car it was called for and she then travelled to Halol in her own car. At Halol, Madam had taken only two bananas. Thereafter, they proceeded to Vadodara where she was provided breakfast at a restaurant. From there she was taken to the Circuit House where she stayed for two hours. Then Madam desired to be taken to a hospital and she was taken there.”

21. When the Committee asked as to why, in order to detain her, she was made to board a police vehicle, accompanied by six to seven women police constables, instead of her own car, Shri Luni stated as follows:

“Sir, the CM's convoy was going to pass through that area. That spot (of detention) was at a distance of just 15 to 20 meters from that area. If anything had occurred, it might have disturbed the entire convoy. It was on the route of the convoy. Sir, generally detainees are taken in police vehicles but when she requested for her (personal) car it was arranged after ten to twelve kilometres.”

22. On being asked as to whether any agitation was held on earlier occasions to disrupt the government functions during his tenure as DM, Dahod, Shri Luni stated as follows:

“Sir, two such incidents had occurred earlier. Once, Madam had tried to disrupt on stage the CMs programme in the neighbouring district of Godhra. There is a Deogarh-Baria Tehsil in the State. The CM had come to attend a Women's Conference in that Tehsil. At that time Madam was not an MP. She had tried to disturb that programme as well and a case was also registered against her.”

23. When asked whether to detain a member, the permission of DM was required, and whether any other persons were also detained, Shri Luni replied: -

“The permission of DM is not required. The local police officer who is present on the spot can decide and detain (the member). Further, other persons who are office bearers of Congress Party were also detained.”

24. When enquired as to whether any letter had been written by the office bearers of Congress Party seeking an appointment of CM at Dahod and if so, what action was taken thereon, Shri Luni informed as follows: -

“A request letter seeking appointment with the CM was received three days prior of the CM's visit. I informed them that 12 programmes were scheduled for the day and considering the tight schedule, the appointment cannot be granted. In case, they wanted to meet the CM, they can seek an appointment at Gandhinagar.”

25. On being asked as to whether the District Congress leaders had sought any written permission for organising a protest or it was only in the media, Shri Luni stated as follows: -

“Sir, it was only in the Press. No written request had been received from them hence there is no question of granting any permission.”

Evidence of Smt. Nipuna Torawane, SP, Dahod, Gujarat

26. Smt. Nipuna Torawane, SP, Dahod, Gujarat , during her evidence before the Committee on 25 July, 2012, *inter alia* submitted as follows:-

“Sir, the Hon’ble Member of Parliament Dr. (Smt.) Prabha Kishor Taviad belongs to Dahod constituency. We respect her a lot. I want to make a humble submission. In January 2012, we were having the inauguration programme of three police stations Ranjitpur, Sanjeli and the Mahila Police station. For that also, we had cordially invited her and printed her name in the invitation card. She attended two functions. We offered our respect to her. She had also delivered a speech. Hon’ble Minister also attended the function. The function was inaugurated by the Minister himself. When any programmes are held, we always invite them. They deliver a speech also. In the inauguration function of the police station also, I personally called her and requested her to attend. She attended two functions. I am having the photographs and the invitation card also with me. The celebration of 1 May was a State level programme. It was on 1 May 1960, Gujarat and Maharashtra State were separated. As 15 August and 26 January are celebrated across the country, in the similar way 1 May is celebrated in Gujarat. We came to know around March 20 that it is a State-level function, which is to be organized in Dahod. On March 23, Chief Secretary, Home Secretary, SCS Home, DGP, etc., had held meetings in Dahod in this regard. A march-past was to be held at the venue and was to pass through a

route of three km through the city in which 12 Platoons, 12 Band platoons, tableaux, NCC and NSS etc. were to participate. It was such a large event and a State level programme. Earlier, there were 12 programmes on that day. Due to tight schedule of Hon'ble Chief Minister one programme was cancelled at last hour. He (Chief Minister) had to attend programmes from 1225 pm to 1045 pm and his departure was scheduled for the next day in the morning. On the eve of this State level programme there were functions on 29 and 30 April, 2012. Some exhibitions such as Weapon exhibition and Tribal exhibitions were also held as a part of it. These exhibitions had started three-four days ago and due to this people of Dahod were excited because such big event was going to be held there for the first time. The police band was playing patriotic songs in Dahod Town Circle in the evening.

As it was a big event, the atmosphere was quite festive and in such an event maintaining law and order becomes the primary responsibility of the police. A large number of people gather at such functions. There was also a traffic jam on the 29 and 30 because people had come out to enjoy and watch as the whole city was illuminated. Patriotic songs were being played at five main crossroads of Dahod and people were coming out of their houses for the last two-three days before the event. On the 27 April, 2012 President of Congress Committee Shri Kirit Bhai Patel wrote a letter to the Collector and sought appointment with CM to discuss local issues of Dahod with the CM who was coming. We have the copy of that letter. I have submitted the copy of the letter

of Shri Kirit Bhai Patel Saheb. On the 28 we had some information. Since it becomes essential for the police to maintain law and order during such events lest any incident happens which breaches the law and order situation. We had information that the rehabilitants of Mathannalala Dam were to organize some programme surprisingly, perhaps some '*rasta roko*' or any other programme which might disturb the peace.

On the other hand, we had also information that differently abled people, especially the visually challenged people were to gather at Dahod from across Gujarat and lead a protest march there. The third information we received was the letter written by the President of Congress Committee to the Collector seeking appointment with Hon'ble CM. This, if rejected, may make them also stage a protest or organize some programme suddenly. On 29 April, I wrote to all the SDPOs and PIs to work on and gather more intelligence on all three leads received and remain vigilant to maintain law and order at any cost at Dahod. On 30 April, Collector Saheb wrote a letter to Kirit Bhai informing him that Hon'ble CM will remain very busy so he may seek appointment with the Chief Minister from the office of Chief Minister at Gandhinagar directly. He may seek any convenient time at Gandhinagar. Apart from all these things, we also held daily meetings with our SDPOs and PIOs etc., and we worked out till late night. Rehearsals and briefings were going on. We held daily meetings in this regard and on 30 April also we held meeting from 0900 to 1000 hrs. In that meeting, it was informed that Collector Saheb has refused him the appointment with the

Chief Minister and told him to seek time at Gandhinagar. The CTPI who is also Dahod Town PI has got intelligence report that some of the Congress workers may stage a protest as a result of refusal of appointment. As it is a State level function, they may disturb it and may organize some surprise programme or may do anything. An entry to this effect was made (in his session) in General Diary on 30 April, 2012. Again on the 1st May, 2012, a fax message from State IB was received in my control room at 1042 hrs. that a meeting of office bearers of Congress Zila Panchayat, Taluka Panchayat was reported by to be held at 1130 hrs. at the residence of Congress MP, Dr. (Smt.) Prabha Kishor Taviad and a protest is planned to be staged. They have also staged protest earlier, therefore, pre-emptive steps must be taken to prevent any untoward incident. The State IB informed us to take necessary measures to check any untoward incident. My control room received this information at 1042 hrs. I had been in my office since morning as several programmes were scheduled on 1 May. I received this message within five minutes. I informed all my SDPOs, Dy. SP and PIs personally and conveyed this message to all of them through the control room also that this information had been received and directed them to be vigilant and to verify the veracity of this intelligence information. Chief Minister had to attend Gujarat Gaurav Din programme and he was scheduled to reach the venue at 1200 hours. The Chief Minister was scheduled to go from helipad to the Circuit House at 1230 hours and from there he was scheduled to go to Government Engineering College, Kadana. The main problem faced by

Dahod is shortage of water. It is a hilly area and does not have enough groundwater and there is acute shortage of water. Therefore, it was planned to bring water from Kadana and the Chief Minister was supposed to lay stone for water supply project and inaugurate a hostel. Besides, there were several other programmes, a total of 12 programmes were scheduled. Somewhere a statue was to be unveiled and at other place a college was to be inaugurated and he was scheduled to meet with teachers at some other place. Thus, his convoy was supposed to travel 30 to 40 kilometers *i.e.* almost all the roads of Dahod town were to be covered. Dahod is a very small town and almost all the roads in the town were supposed to be covered by the convoy of Chief Minister. After receiving the intelligence information from State IB, my officers went to her residence. Her residence and office are situated nearby and her office is situated in a missionary school. I went to helipad as I had received the information that Chief Minister had departed for Dahod. I was camping there alongwith the Collector and D.I.G. The D.I.G. had been camping in Dahod for two days before the scheduled programme. I had asked all the officers to be vigilant and to maintain law and order in any condition. I received a phone call from my SDPOs at 1145 hrs. that on the basis of intelligence inputs they had reached the office of Dr. (Smt.) Prabhaven Taviad. These officers were standing in front of the office campus of the member and as per inputs by the State IB, the office bearers (of Congress Party) were going to the office and the media-persons were also there.”

27. As regards certain past incidents of disruption of public functions involving Dr. (Smt.) Prabha Kishor Taviad, MP, Smt. Nipuna Torawane further clarified as follows:-

“... It was our apprehension. In the past too, in the year 2007 (when Madam was not an honourable MP), a Women’s Conference was organised at Deogarh Baria taluka in Dahod district. She (Dr. Taviad) had shown black flags in that Conference and three women had shouted slogans in that programme when CM Saheb was giving his speech. It created excitement and tension at that time. A case under Section 186 IPC was registered against her and that case is still pending before the court. This happened on 24.06.2007. Again in the year 2010, during a welfare programme for the poor women and on 07.08.2010, when Tribal Development Minister, Shri Mangu Bhai had come, Honourable Member of Parliament Dr. (Smt.) Prabha Kishor Taviad had also been invited. She was present there. When programme was going on, she stood and started representing something before the Minister. It is not clear in the video clipping what she was representing for. Several people had rushed on to the stage. She was speaking to the Minister aggressively. People in front of the stage had also started shouting against the Hon’ble MP. Police also arrived there. Everyone was requested to calm down and then the programme could be resumed. I have got that CD with me. I can also show it here. That was a very small programme and there was a very thin crowd. But this type of activity can provoke public to react adversely when there is a huge crowd. Sir, on 20.05.2011, CM Saheb was scheduled to attend a Krishi Mahotsav programme at Godhra. There too, the

Hon'ble MP had been invited. She came on the stage. When CM Saheb was about to start his speech, she tried to represent something to him just a few seconds before he started his speech. She wanted to disturb the scheduled programme. Then also people and officers on the stage persuaded her. They tried to calm her down. She tried to snatch the microphone also.

28. When the Committee enquired the basis of the detention of the Member and asked whether it was the State IB Report or something more or whether a decision to detain her was taken on the spot by the SP, DM or Dy.SP, Smt. Nipuna Torawane stated as follows: -

“... Sir, I have quoted here some previous incidents, where she interrupted the scheduled programmes and thereby created tension. All these programmes, even some of those events were attended by CM saheb, were held at Dahod. There was a programme of Jan Shakti where she was invited; she was present. Nothing awkward happened there and police too did not detain her. She has been invited to several other functions also functions of our police department. In one of our previous incidents, we have the history, she said something. We had a background and I wrote letters to all the concerned on 28 itself because we were getting such information. That was from my side too and on the first day of the month (1 May 2012) we received a fax message at 1042 hrs. from the State IB. Before that the police were nowhere near her residence or office. Then we verified about the proposed meeting (of Congress Party office bearers), and Press Conference for the planned protest in furtherance thereto. I had to send my officers. I spoke to them and the decision to detain her was taken by the Dy. SP.”

29. When the Committee asked Smt. Torawane that apart from past incidents enumerated by her, whether she had anything further to depose before the Committee, Smt. Nipuna Torawane stated as follows: -

“I want to say that a press conference was held at her residence and a meeting of office bearers (of her party) was also held there. Then we received the report of State IB that Shri Bachchubhai Kishori, Congress, MLA, stated in a press conference that they would be vehemently opposing this function and the grand celebration. I am having that CD also. We had got that CD later on from the media people. Sir, this press cutting shows the photograph of red beacon-fitted vehicle of Dr. (Smt.) Prabha Kishor Taviad. These two persons are my DSPs. At that time she was just coming out and sitting in the vehicle. Then both of them had requested her with folded hands not to go there. They also informed her that as they had apprehension, they were detaining her. Sir, these are those pictures. And the video clippings show the actual sequence of events, when the vehicle came, we requested the Hon’ble MP Madam with folded hands to cooperate.”

30. When the Committee enquired about the provisions of the law under which Dr. (Smt.) Taviad was detained, Smt. Nipuna Torawane responded as follows:-

“Sir, we had not arrested her. The Bombay Police Act under sections 68 and 69 confers the power of detention. This was not an arrest, this was detention. We have the video clippings which show her detention and she being taken to the police vehicle

and the vehicle moving out. The relevant sections of Bombay Police Act read as under: -

‘68. Persons bound to conform to reasonable orders of Police- All persons shall be bound to conform to the reasonable directions of a Police officer given in fulfillment of any of his duties under this Act.’

‘69. Power of Police officers to restrain or remove, etc- A Police officer may restrain or remove any person resisting or refusing or omitting to conform to any direction referred to in Sec. 68 and may either take such person before a Magistrate or, in trivial cases, may release him when the occasion is past’.”

Smt. Torawane further submitted that it was not compulsory to produce the detainee before a Magistrate in trivial cases and that it (in this case) was not an arrest but was only a detention. She further stated that there was a wide difference between arrest and detention.

31. When the Committee asked her to explain the treatment meted out to the member during the detention, Smt. Torawane stated as follows:-

“They (Police Officials) were requesting her. In video clipping, it may be seen that she was being repeatedly requested; Madam, please cooperate. In her vehicle, the MLA was sitting on the front seat and Madam was on the rear seat. The MLA got out from one side and Madam from the other side of the vehicle. The Dy.SP and Lady Constable requested her to come along. She says ‘Don’t touch me’ when meeting was being held, you did not do anything and you are (detaining me) here. ‘I am an MP. I am having the invitation card.’ These persons were telling there that you are invited and now are asking us to come along with them. Her son had held her from behind. He is a physiotherapist, a

doctor. Her driver also came in between. The member was requested to accompany the (police) officials. She did not cooperate and squatted down even when being lifted. She was requested to cooperate, but she resisted.”

Smt. Torawane also apologized for the hurt caused to the member. Smt. Torawane concluded her deposition before the Committee in the following terms:-

“Sir, I am extremely sorry for whatever happened to our Hon’ble member. Our intention was only to maintain law and order. Our intention was not to hurt her or hurt her sentiments. I apologize before the Committee for that if she has got hurt in that process.”

Smt. Torawane also submitted CDs and press clippings in support of her submissions before the Committee.

Evidence of Shri S.P. Sarang, Dy SP, Dahod, Gujarat

32. Shri S.P. Sarang, Dy. SP, during his evidence before the Committee on 25 July, 2012, *inter alia* described in detail the situation that led to the detention of Dr. (Smt.) Prabha Kishor Taviad, MP as follows:-

“... Sir, the office bearers of Congress Party started coming and thereafter the media persons also came there. After the meeting was over, we started talking with the media-persons as we maintain good relations with them for extracting some information from them. We asked the media-persons as to what had happened inside and we got the information that anything similar to a protest could happen and Hon’ble MP’s office was situated at a distance of only 50

meters from the route of CM's convoy. We were told by our personal sources that 40 to 50 activists present there could make hullabaloo at the route of the CM's convoy. Then the people started coming out from the office. Shri Bachchubhai Kishori MLA, Bhikabhai Rabari, Shri Ajit Bhai Ghatara were among those people and they started shouting that they had to meet CM and give an application to him. We requested them not to go there as Chief Minister is a 'Z' category protectee. Further, 390 police personnel from Dahod and other districts had been called there for security arrangements of CM. There was a great threat perception and anything could happen under the pretext of threat from terrorists. So, if anything had happened at the route, then the law and order situation could have gone out of control. Keeping this in view we decided immediately to detain those people anyhow under sections 68/69 of Bombay Police Act.

First we detained Shri Bachchubhai Kishori, MLA. Later on Madam came we requested her with folded hands not to go there. We have photographs taken by media-persons. We requested Madam not to go there as there was a possibility of an uproar being created near the route of CM's convoy leading to law and order problems. We had requested Madam with folded hands. But, Madam did not budge. We had lady constables with us. So we were compelled to tell Madam that we would have to arrest her under Sections 68 and 69 of Bombay Police Act. When the lady constable went to arrest Madam, some manhandling took place there. Madam sat down there. The lady constable had

tried to lift Madam. The son of Hon'ble MP had also tried to protect Madam. The driver of Hon'ble MP could also be seen in C.D as he jumped in the middle. We detained her driver also. We had requested Madam's son also to help in lifting Madam. The lady constable lifted Madam up and took her to police vehicle. The Sub-Inspector on duty there also sat with me in the same car. The lady constables accompanying madam took her to Ghorakhar which is at a distance of 17 to 18 kilometers from Dahod. All the persons including 2 MLAs, 17 office bearers and other activists were detained there. There Madam told us to call her car there as the Parliament session was going on at Delhi. We contacted Madam's son whose name is Chintan. We called for Madam's personal car in Ghorakhar. Total 12 events were scheduled in Dahod (on 1 May) till 10.45pm. Cultural programmes were also scheduled to be held at night. Had we detained her in Dahod, the law and order situation would have worsened. So after reaching Ghorakhar, I called on the SP, Dahod and told her that I was in Ghorakhar and asked her where I should take Madam. Our DIG was also there. He asked me to take Madam to Vadodara Rural. On the way at Halol, Madam told me that she had to take a train at night. She asked me to take her to Vadodara anyhow. I arranged for breakfast for all the detainees from a hotel at highway at Halol. I asked my officer on phone whether I should take Hon'ble MP to Vadodara as she had to board a train at night. My officer gave his consent. Madam's car and driver were available. Madam's son was also there. Our Sub-Inspector went with them and Madam was taken to Vadodara.

Our Sub-Inspector's name is Mahendra Patel. I was in contact with him and *vice-versa*. Havmour Hotel is situated on the way to Vadodara. We also arranged breakfast for Madam when she asked for it. Our DIG had told us for the Circuit House. We took Madam to the Circuit House. She rested there for two hours. After taking rest, Madam told that she had pain in her hands and she needed to go to a hospital. I told Mahendra Patel to take her to a government hospital. He took her to S.S.G. Hospital and got her treated. Madam's train was scheduled at 2124 hrs. and Mahendra Patel accompanied her to the station platform for that purpose. From there he informed us that she has been escorted to her seat in the train. Sir, this was the sequence of events that took place."

**Further written submission/clarification by Shri J.M. Luni,
District Collector, Dahod Gujarat**

33. In response to certain clarifications sought by the Committee, Shri J.M. Luni furnished his following written submission:-

- (i) "On 1st May, 2012 hon. Chief Minister of Gujarat State visited the Dahod district and as scheduled, hon. CM attended various programmes in Dahod (between 1215 to 2245 hrs.) at different venues. (Copy of hon. CM's programme is attached)."
- (ii) "The Additional Director General of Police (Intelligence) *vide* fax message No. Control/alert/88/2012 dated: 01/05/2012 had given an input to local police that a meeting would be held on 01/05/2012 at 1130 hrs. at

the residence of Congress MP, Dr. (Smt.) Prabhaben Taviad at Dahod, which would be attended by Congress MLAs/ Zilla Panchayat members/ Taluka Panchayat members and other party leaders. The Congress party had protested against Government programmes in Dahod in the past and there was a possibility of protest by the party leaders/workers during the Gujarat Foundation Day celebration (copy of fax message is attached).”

- (iii) “The above intelligence input was verified by the local police from reliable sources. Accordingly a meeting around 1130 hrs was held at the office of hon. MP Dr. (Smt.) Prabhaben Taviad and a press conference was also held. Shri Bachubhai Kishori (MLA) stated before press that they would protest against such grand celebration (‘jalsa’).

After the meeting at around 12 noon, the Congress party leaders/workers and hon. MP Dr. (Smt.) Prabhaben Taviad came out of her office premises. Police had strong apprehension that they were going to disrupt the programme, so police officers on duty requested her not to go there and informed her about her detention and requested her to cooperate but she did not accede to the police request. (The CD of videography of detention is attached herewith).”

- (iv) “Hon. MP was detained under sec. 68 and sec. 69 of Bombay Police Act 1951.

According to provision of sec. 68 - All persons shall be bounded to conform to the reasonable directions a Police officer given in fulfilment of any of his duties under this Act.

According to provision of sec. 69-A police officer may restrain or remove any person resisting or refusing or omitting to conform to any direction referred to in section 68 and may either take such person before

a Magistrate or, in trivial cases, may release him when the occasion is past. (Copy of relevant sec. of the B.P. Act 1951 is attached herewith).”

(v) The reasons as to why hon. MP was detained for more than 6 hrs :-

“As mentioned earlier, hon. CM was to attend various functions between 1215 hrs to 2245 hrs in Dahod. I would like to put it to your kind notice that in past, hon. MP Dr. (Smt.) Prabhaben Taviad had tried to disrupt the public functions. The brief thereof is as under:-

(a) ‘Mahila Sammelan’ was arranged under the Chairmanship of hon. CM of Gujarat on date 24/06/2007 at Devgadhi Baria (Dist. Dahod). While hon. CM was delivering his speech, hon. MP Dr. (Smt.) Prabhaben Taviad alongwith other ladies stood up and started waving black banners and tried to disrupt government programme. As a result a complaint was lodged against her as per II Criminal Register no. 34/07 under sections 186 and 114 IPC (Copy is attached herewith)

(b) On 20/05/2011 hon. MP participated in the programme of ‘Krishi Mahotsav’ at Godhra. The Chairperson of programme was hon. CM of Gujarat. During the programme hon. MP, Dr. (Smt.) Prabhaben Taviad obstructed the proceeding of the scheduled programme in a manner which led to panic in the crowd of 60-70 thousand people present in the programme. For the purpose of maintaining public order, Hon. MP was detained by Godhra police under sec. 68 and sec. 69 of B.P. Act 1951. (Copy is attached herewith).”

(vi) “Hon. MP was detained approximately at 1220 hrs. and was taken to Ghodakhar 18 km away from Dahod. The police waited for another detainee up to 1340 hrs at Ghodakhar. Meanwhile private car of hon. MP was called at her request. At Ghodakhar she was offered drinking

water but she refused and took the water supplied by her son Chintan. Halt at Ghodakhar was approximately 1 hr.

Hon. MP, including other detainee, was taken to Halol, Dist. Panchmahal. At Halol all the detainees were offered snacks and light refreshment purchased from Sarvottam Hotel (bill is attached herewith) hon. MP refused to take snacks instead she had bananas. Halt at this place was approximately 45 minutes.

At Halol, she showed the train ticket to police escort and requested that she would have to board the Rajdhani Express from Vadodara to go to New Delhi. Hon. MP, Dr. (Smt.) Prabhaben Taviad also requested police to allow her to sit in her personal vehicle. Police accepted her request readily. From Halol hon. MP, Dr. (Smt.) Prabhaben Taviad sat in her personal vehicle alongwith her son Chintan and was taken to Vadodara as per her request. The police Sub-inspector Mr. Patel sat in hon. MP, Dr. (Smt.) Prabhaben Taviad's vehicle beside the driver in front seat.

On reaching Vadodara at around 1630 hrs. on hon. MP Dr. (Smt.) Prabhaben Taviad's request, she was taken to Havmour restaurant in Sayajigunj area in Vadodara. Hon. MP alongwith her son Chintan had snacks at the restaurant. (Copy of the bill is attached herewith)

Vadodara is approximately 150 km away from Dahod. Looking to journey time, halt at various places, it was but natural to take 0410 hrs. to reach Vadodara.

At 1815 hrs, on her request she was taken to Circuit House, Vadodara and from 1815 to 2015 hrs. hon. MP stayed at Circuit House in room no. 16 (Copy of the bill is attached alongwith).

After taking two hours rest, hon. MP Dr. (Smt.) Prabhaben Taviad requested to visit S.S.G. Hospital. Hon. MP, Dr. (Smt.) Prabhaben Taviad was readily taken there, there she got treatment at 2030 hrs, on 1 May, 2012. After the treatment hon. MP Dr. (Smt.) Prabhaben Taviad was taken to Vadodara Railway Station, where she boarded the Rajdhani Express at 2120 hrs for New Delhi.

Hon. MP, Dr. (Smt.) Prabhaben Taviad was detained around at 1220 hrs and released at 2120 hrs. (on 1 May, 2012) On account of journey time, halt at various places, rest period and treatment period, hon. MP was under detention at venues from 1230 to 2245 hrs. If, hon. MP was released before that time, she might have disrupted these programme.”

- (vii) “The press cuttings of outstanding newspapers, in regard of 1st May, 2012 celebration programmes are attached herewith.”
- (viii) “In hearing of 25 July, 2012 before the Privilege Committee, it was by mistake stated by me that distance between Dahod and Vadodara is 100 km and hon. MP was permitted to sit in her private car from Ghodakhar. Infact the distance between Dahod and Vadodara is 150 km and hon. MP was permitted to sit in her private car from Halol to Vadodara. I am extremely sorry for my earlier statement made before the hon. Committee.”

VI. Findings and Conclusions

34. The Committee note that the thrust of Dr. (Smt.) Prabha Kishor Taviad, MP’s allegations in her notice of question of privilege is that:-

- (i) On 1 May, 2012, when she was proceeding to attend Gujarat Gaurav Din function, she was detained outside her residence, at Dahod despite the fact that she had with her an invitation card and VIP pass for the function.
- (ii) The Police manhandled and assaulted her physically during the detention process. She was already suffering from shoulder pain and the manhandling resulted in injury to her arm.
- (iii) She was made to sit uncomfortably in the rear seat of Police jeep along with three other lady Police Constables. She was not even allowed to step out of the Police jeep for six hours. Even she was not allowed to go to the washroom. She suffered physical injury and great mental agony as a result of this treatment from the police authorities.

35. The Committee note that the main pleas taken by the District Police authorities of Dahod before the Committee are as follows:-

- (i) They detained Dr. (Smt.) Prabha Kishor Taviad under sections 68 and 69 of Bombay Police Act on the basis of reliable intelligence input received from the State Intelligence Bureau who had alerted them to take preventive measures against the Member and Congress Party workers who had planned to make a protest/disruption during the CM's functions on Gujarat Gaurav Din programme.

- (ii) Police had strong apprehension that Congress workers were going to disrupt the celebrations of Gujarat Gaurav Din. A meeting was also held on 1 May, 2012 at the office of Dr. (Smt.) Prabha Kishor Taviad, MP where a Congress MLA stated in a press conference that they would protest against grand celebrations for Gujarat Gaurav Din. In the past too, Dr. (Smt.) Prabha Kishor Taviad had tried to disrupt the public functions of the Government.
- (iii) Dr. Taviad was requested with folded hands not to proceed to the venue of Gujarat Gaurav Din function but she did not listen. She sat on the road, did not cooperate with the police and when the lady constables tried to lift her for moving her to the police vehicle, some force was used to lift her, by arms, which could not be termed as manhandling.
- (iv) Dr. Taviad was detained for six hours because Hon'ble CM of Gujarat was to attend various functions between 1215 hrs to 2245 hrs on 1 May, 2012 at Dahod and there was a strong apprehension by the authorities that Dr. Taviad might try to disrupt the functions organised on the occasion.
- (v) Adequate care was taken and due hospitality was extended to the Member by arranging for her breakfast, snacks and allowing her to travel by her personal car, with her driver and accompanied by her son.
- (vi) The intention of the authorities was only to maintain law and order and not to cause any physical hurt to or to misbehave with her.

36. Having taken note of the allegations made by the Member in her notice of question of privilege and the plea taken by the officers alleged to have breached her privilege, the Committee are of the view that the matter primarily involves the following three issues:-

(i) Whether the police authorities were justified in arresting and manhandling the Member in the manner in which she had to be bodily lifted and pushed into the police vehicle. What risk did she pose to the law and order situation at the time and place of her detention?

(ii) After the detention whether the Member was required to be surrounded by excessive police personnel in the police van and to be taken outside Dahod and made to travel for about six hours by road before she was allowed to board the train for New Delhi at Vadodara?

AND

(iii) Whether the parliamentary privileges of the Member had been breached and, if so, in what manner?

Committee's findings and observations on these issues are given in succeeding paragraphs.

ISSUE NO. 1

Whether the police authorities were justified in arresting the Member in the manner in which she had to be bodily lifted and pushed into the police vehicle. What risk did she pose to the law and order situation at the time and place of her arrest?

37. The Committee note that, the main complaint of Dr. Taviad is that she had been detained just outside her residence, despite the fact that she had with her invitation card and VIP passes for attending the Gujarat Gaurav Din function, while on the other hand, the Dahod Police authorities stated that they had reliable intelligence input and strong apprehension that Dr. Taviad had plans to disrupt the public functions proposed for the day where the Chief Minister, Gujarat was the Chief Guest. The Committee on the perusal of the evidence and documents on record are not inclined to accept the reasons given by the Police authorities to detain Dr. Taviad. The Committee feel that it was not proper on the part of the police authorities to detain Dr. Taviad on the basis of mere apprehension that she might create disruptions during the function(s) which may lead to law and order problem. The Committee find that Dr. Taviad, during her evidence before the Committee, persistently stated that, "I had no such intention otherwise I would have instructed some video photographer to shoot the incident". The Committee have every reason to believe the above statement of Dr. Taviad. The Committee on a perusal of the video CD furnished by the District Police Dahod note that the Member had been detained just at the gate of her campus when her car was moving out to proceed to the venue of the Gujarat Gaurav Din function. The video footage of her detention clearly shows that the Member was pleading with the

authorities to permit her to proceed to attend the programme at the given venue for which she had been issued VIP passes, etc. The Committee feel that if in case the detention of the Member was inevitable, she could have been detained either inside her residential campus before she could move out of the gate, in the first instance or after her detention she may have been lodged along with her other party functionaries, who had been detained earlier than her by the police authorities. The Committee on the basis of evidence on record further note that the Member did not offer any provocation to the police authorities which prompted them to act in the manner whereby they applied excessive force on her while detaining. The Committee on perusal of the video footage further feel that if the Member had been given some time, perhaps she could have voluntarily boarded the police vehicle for being taken to her place of lodgement. But the police authority seemed to be in a tearing hurry to make the Member board the police vehicle for being taken away. There were hardly a few persons along with the Member while she was being detained and apparently there appeared no risk of threat to law and order situation in case her detention took some more time. A more tactful handling of the situation by the police authorities could have certainly avoided the Member being bodily lifted by several police personnel and forcefully thrust inside the police vehicle. The Committee are also of the view that Dr. Taviad should have been allowed to attend the function and if considered necessary, a strict vigil could have been kept on her by the police officials to avert any breach of law and order and disruptions. They could then have arrested or detained her to thwart any act of her for disrupting the function. The Committee would definitely

like to observe that neither the tradition of honouring an invitee (in this case, a woman MP) for a public function has been maintained nor any such protocol has been observed. In a country where even an ordinary guest is treated like god in tune with the age old principles of '*Athithi Devo Bhava*', the way Dr. (Smt.) Prabha Kishor Taviad, MP was treated is a travesty of such a tradition, by the District authorities.

38. As regards Dr. (Smt.) Prabha Kishor Taviad, MP being manhandled by the police during her detention in which she sustained injury on her arm, the Committee observe that a Member is not only a legislator, but also a public representative. As a public representative, a Member has to perform many roles and discharge myriad functions. However, in the capacity as a public representative, a Member continues to be governed by the law of the land. Similarly, when a public representative participates in any dharna, protest or demonstration against the Government, he renders himself amenable to the provisions of law and to the jurisdiction of the law enforcement agencies. However, as per the facts of the present case, the Committee are not convinced with the plea of the Gujarat police that as the member sat on the road hence forcibly lifting her was inevitable. The Committee feel that in the present situation the Police have used excessive force in dragging, forcibly lifting and pushing Dr. Taviad in the police van which is not only unjustified but inhuman too and does not match the conduct displayed by the member during detention in front of her house. **The video CD furnished by the District Police, Dahod provides a clear testimony to the ill-treatment which Smt. Taviad was subjected to by the Police authorities.**

The CD further shows presence of a large contingent of police men and women who had surrounded the Member and prevented her from approaching the venue of the Gujarat Gaurav Din function by detaining her under the provision of the Bombay Police Act. The Committee express their strong displeasure over the fact that despite the presence of senior officials led by Shri S.P. Sarang, Dy. S.P., Dahod at the place of detention, the police used undue force to detain her who apparently posed no threat. In the instant case, had the district and police authorities handled the matter tactfully, such a situation leading to physical injury and humiliation to Dr. (Smt.) Prabha Kishor Taviad, could have been avoided. The Committee find Shri S.P. Sarang, Dy. S.P., Dahod, wanting in the exercise of due discretion on his part even though he was present throughout this incident and could have avoided the situation taking an ugly turn in which a lady Member had to be physically lifted by several police women and violently shoved into the waiting police van. A little presence of mind on his part could have avoided the unsavoury situation. The Committee strongly disapprove and deprecate the inaction on the part of Shri S.P. Sarang, Dy. S.P., Dahod. The Committee hope that the State authorities concerned will take a note of the above observations and put in place suitable measures to check the recurrence of such incidents particularly involving a lady Member of Parliament.

ISSUE NO. 2

After the detention whether the Member was required to be surrounded by excessive police personnel in the police van and to be taken outside Dahod and made to travel for about six hours by road before she was allowed to board the train for New Delhi at Vadodara?

39. As regards Dr. Taviad being made to suffer physically by making her sit along with three other lady constables in the rear seat of the police van for a long duration, the Committee observe that this could have been easily avoided as the member was not a criminal but a public representative and was in no way going to flee from the police van. She had suffered mental shock and trauma during the process of her detention. The Committee deprecate such insensitiveness on the part of the police authorities in treating Dr. Taviad in such a contemptuous manner.

40. The Committee feel constrained to observe that there was apathetic lack of coordination at all levels of executive machinery. After her detention being secured, the District officials failed to lodge her in custody and simply Dr. Taviad was made to travel aimlessly to while away the time. This sort of kneejerk reaction by the District administration, Dahod is manifest from the fact that the member was made to travel in police presence for six hours aimlessly, in spite of her complaint of physical injuries suffered as a result of the scuffle that took place while detaining her.

ISSUE NO. 3

Whether the parliamentary privileges of the Member had been breached and, if so, in what manner?

41. The Committee take note of the well established position that **“the privilege against assault or molestation is available to a member only when he is obstructed or in any way molested while discharging his duties as Member of Parliament. In cases when members were assaulted while they were not performing any parliamentary duty it was held that no breach of privilege or contempt of the House had been committed.”**(‘Practice and Procedure of Parliament’ by Kaul & Shakhder 6th edn. p. 300).

42. The Committee find that privileges are available to Members only when they are obstructed or, in any way, molested while discharging their duties as a Member of Parliament. Thus, it would be a breach of privilege and contempt of the House to obstruct or molest a Member while in the execution of his duties as a Member *i.e.* while attending the House or any sittings of its Committees or when coming to, or going from the House, or any of its Committees. The privilege, however, is not available in a case when a Member is not performing any parliamentary duty.

43. On the evidence adduced before the Committee, it is clear that the detention of Dr. (Smt.) Prabha Kishor Taviad, MP took place when she was going to participate in Gujarat Gaurav Din Function at Dahod. It cannot, therefore, be said that Dr. Taviad was performing any parliamentary duty at the time of the incident and as such her

detention and assault on her do not involve any breach of privilege or contempt of the House or of the Member, but, nonetheless, the treatment meted out to her by the police authorities, Dahod has offended her dignity as a member and a public representative.

44. The Committee are, however, distressed that, of late, there have been innumerable cases of assault on members of Parliament and use of insulting language and abusive remarks against them by police authorities. The Committee are unable to discern the reasons for such increasing incidents by the police authorities. The Committee express their utter unhappiness over such frequent incidents of assault on and abuse with the elected representatives of the people by police personnel.

45. The Committee emphasise that Members of Parliament are entitled to utmost respect and consideration at the hands of public servants. The police or any other authority should not act in a manner which hampers the Members in their functioning as public representatives. The concerned authorities in this case should have acted with great circumspection and shown all courtesies which are legitimately due to the Member(s).

46. The Committee feel that it is high time police personnel are sensitized at frequent intervals as to how to deal with the peoples' representatives in a manner befitting their status.

47. The Committee feel that the law-enforcing authorities may exercise restraint and not display undue haste in sensitive situations while in performance of their official duties. The Committee find that the police authorities were so keen to arrest

Dr. Taviad that they failed to observe basic tenets of decency in dealing with a Member and that too a lady.

48. The Committee, therefore, feel that taking into consideration the totality of the circumstances of the case, the District Administration used excessive force in arresting Dr. Prabha Kishor Taviad, MP and showed utter callousness in unnecessarily keeping her in a moving vehicle for six long hours. Had the police authorities been alive to the consideration to be shown to Members of Parliament, while discharging their duties, as public representatives, this ugly episode would not have taken place.

RECOMMENDATIONS

49. The Committee, keeping in view the unconditional and unqualified apology tendered by Smt. Nipuna Torawane, SP Dahod in the matter for the inadvertent hurt caused to Dr. (Smt.) Prabha Kishor Taviad, MP during her detention, do not wish to make any recommendation against her.

50. The Committee however, express their severe displeasure over the conduct of Police personnel led by Shri S.P. Sarang, Dy. S.P., Dahod, whose over-zealous approach resulted in humiliation of Dr. (Smt.) Prabha Kishor Taviad, MP. The Committee recommend that appropriate action in this regard may be taken by the State Government against Shri S.P. Sarang, Dy. S.P., Dahod. The Committee further deprecate the act of the police authorities in using excessive and avoidable force against Dr. (Smt.) Prabha Kishor Taviad, MP. The Committee also condemn entire handling of the situation and the reckless manner in which she was treated without keeping in mind her exalted status as a Member of Parliament.

51. In view of the recommendations above the Committee feel that the matter be treated as closed.

(P.C. CHACKO)
Chairman,
Committee of Privileges

NEW DELHI;
September, 2013