

**COMMITTEE ON VIOLATION OF PROTOCOL NORMS AND
CONTEMPTUOUS BEHAVIOUR OF GOVERNMENT OFFICERS
WITH MEMBERS OF LOK SABHA
(FIFTEENTH LOK SABHA)**

1

FIRST REPORT

**“Issue of complaint dated 9 May, 2012 given by Shri Bishnu Pada Ray, MP
against an official of the Ministry of Home Affairs for alleged
misbehaviour with him.”**

(Presented to Speaker, Lok Sabha on 17 December, 2013)

(Laid on the Table on 06 February, 2014)



LOK SABHA SECRETARIAT

NEW DELHI

February, 2014/Megha, 1935 (Saka)

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**Committee on Violation of Protocol Norms and Contemptuous
Behaviour of Government Officers with Members of Lok Sabha¹.
(15th Lok Sabha)
(2013-14)**

Shri M. Krishnasswamy*

Chairman

MEMBERS

- 2.*** Shri T.R. Baalu
3. Shri Kalyan Banerjee
- 4.** Shri A.H.Khan Choudhary
5. Shri Dara Singh Chauhan
6. Shri K. Jayaprakash Hegde
7. Shri Syed Shahnawaz Hussain
8. Shri P. Karunakaran
9. Shri Ananth Kumar
10. Shri A. Sai Prathap
11. Shri Prem Das Rai
- 12.^ Shri A. Raja
13. Shri Yashwant Sinha
14. Shri Dharmendra Yadav
15. Shri Sharad Yadav

SECRETARIAT

- | | | |
|------------------------|-------|-----------------------|
| 1. Shri V.K. Sharma | ----- | OSD |
| 2. Shri V.R. Ramesh | ----- | Joint Secretary |
| 3. Shri Ashok Sajwan | ----- | Director |
| 4. Dr. Rajiv Mani | ----- | Deputy Secretary |
| 5. Shri K.G. Sidhartha | ----- | Legislative Officer |
| 6. Shri K.V.V.Rama Rao | ----- | Legislative Assistant |

¹ constituted on 2 August, 2012 *vide* Bulletin Part-II para No. 4274.

*Appointed as Chairman on 6 August, 2013 *vice* Dr. (Kum.) Girija Vyas resigned.

**Shri A.H.Khan Choudhary became Minister and subsequently resigned.

*** Shri T. R. Baalu resigned.

^ Appointed on 7 November, 2013.

**FIRST REPORT OF THE COMMITTEE ON VIOLATION OF
PROTOCOL NORMS AND CONTEMPTUOUS BEHAVIOUR
OF GOVERNMENT OFFICERS WITH MEMBERS OF
LOK SABHA**

(FIFTEENTH LOK SABHA)

I. Introduction

I, the Chairman of the Committee on Violation of Protocol Norms and Contemptuous Behaviour of Government Officers with Members of Lok Sabha having been authorised by the Committee to submit the Report on their behalf, present this Report to the Speaker, Lok Sabha on the complaint dated 9 May, 2012 given by Shri Bishnu Pada Ray, MP against an official of the Ministry of Home Affairs for alleged misbehaviour with him.

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 28 January, 2013, the Committee considered the Memorandum No.1 regarding Complaint dated 9 May, 2012 given by Shri Bishnu Pada Ray, MP against an official (Shri K.K.Pathak, Joint Secretary) of the Ministry of Home Affairs for alleged misbehaviour with him. The Committee also decided to hear Shri Bishnu Pada Ray, MP and Shri K.K. Pathak, Joint Secretary (U.T) for oral evidence at its next sitting.

4. The Committee at their second sitting held on 11 February, 2013 examined Shri Bishnu Pada Ray, MP and Shri K.K. Pathak, Joint Secretary, Ministry of Home Affairs on oath. The Committee also decided to hear the Home Secretary and Secretary, Department of Personnel & Training (DoPT) at their next sitting.

5. The Committee at their third sitting held on 1 April, 2013 examined Shri R.K. Singh, Home Secretary and Shri P.K. Misra, Secretary, DoPT on oath.
6. The Committee at their fourth sitting held on 18 September, 2013 deliberated upon the matter and desired that the Chairman should call Shri Bishnu Pada Ray, MP and Shri K.K. Pathak, Joint Secretary, Ministry of Home Affairs to his chamber for discussion.
7. The Committee at their fifth sitting held on 9 December 2013 were apprised of the outcome of the meeting between the Member and the official in the chamber of the Chairman on 03 October, 2013. The Committee after deliberating upon the matter directed the Secretariat to prepare a draft Report for their consideration at their next sitting.
8. The Committee at their sixth sitting held on 16 December 2013 considered the draft Report and after some deliberations adopted it.

II. Facts of the Case

9. Shri Bishnu Pada Ray, MP in his notice of question of privilege stated that he visited the Ministry of Home Affairs on 9 May, 2012 at 2.30 pm to meet Shri K.K.Pathak Joint Secretary (U.T.), to discuss some public matters pertaining to his constituency. On reaching his office, he introduced himself and desired for an appointment with Shri Pathak from his personal staff. The Member alleged that he was not allowed to meet the Joint Secretary by his staff. The Member, nonetheless, entered Shri Pathak's room. He sought information on various issues affecting the people of Andaman and Nicobar Islands. When no satisfactory response was given by Shri Pathak to his oral queries, the Member offered to submit his points in writing. At this stage, Shri Pathak told him to move out of his room. When the Member protested against such behaviour of Shri Pathak and rose to leave, the official uttered 'bye-bye'. The Member further submitted that when he expressed annoyance over his misbehaviour, Shri Pathak rose from his seat, opened the door and pushed him out due to which he fell down in the gallery and when he regained his balance, he was again pushed violently by Shri Pathak in front of others.

10. The Member requested that appropriate action be taken against the said official for the misconduct and his manhandling by him.

11. Shri Bishnu Pada Ray, MP also raised the matter during the Question Hour on 10 May, 2012. Other Members also joined him. Thereupon, the Speaker *inter alia* observed:-

“I have received your notice of question of privilege dated 9 May, 2012 against an official of the Ministry of Home Affairs for alleged misbehavior and assault on you. I have called for a factual report from

the Ministry of Home Affairs. I will take a decision after receipt of the same”.

The matter was raised again by Shri Ray and also by other Members after the Question Hour. In response, the then Minister of Parliamentary Affairs (Shri Pawan Kumar Bansal) assured the House of an inquiry in the matter by the Government at the earliest. The Minister responded as under:

“Madam, whenever any misbehavior is committed against a Member of Lok Sabha, Government takes it seriously. Whenever any complaint is brought to our notice, complete action is taken in such matters. Today, you had observed in the morning that you have received a complaint from him. I have got a copy of that now. You had earlier observed that you will take action after an inquiry in the matter. I also want to inform the House that I will now send a copy of the complaint to Hon’ble Home Minister.”

12. A factual note in the matter was called for from the Ministry of Home Affairs. The Ministry *vide* their U.O. Note dated 18 May, 2012 forwarded the comments of Shri K.K. Pathak. Shri Pathak denied any misbehaviour with or manhandling of the Member. Shri Pathak in his reply stated as under:-

“At around 3.00 pm on 09.05.2012, my office informed me that the Hon’ble MP from Andaman and Nicobar Islands, Shri Bishnu Pada Ray wanted to meet me. The Hon’ble Member was informed that since I was about to leave at 3.30 pm for an urgent meeting of Parliamentary House Committee scheduled at 4.00 pm, the Hon’ble MP might be requested to come either after 5.30 pm or some other time/day convenient to him. I was preparing the brief for the aforesaid

meeting and was hurriedly preparing for the briefing of the Home Secretary. In the meanwhile, the Hon'ble MP came inside, introduced himself. As I got up and shook hands with him, he told me that he will not take much time, as I was about to leave for a meeting. I offered the Hon'ble MP chair and we sat to discuss certain issues relating to Andaman and Nicobar Islands.

The Hon'ble MP, amongst other issues, wanted to know the status regarding the compensation to victims of submerged land in Andaman and Nicobar Islands after the tsunami. I mentioned to the Hon'ble MP that the concerned proposal has to be submitted to the Expenditure Finance Committee (EFC) and an EFC Note has been sent to the Ministry of Finance and the meeting of EFC is due to be held shortly. The Hon'ble MP wanted to note down the details and asked for a paper, which I gave to him. While he was noting down the details, he also said that 'he wants all the documents relating to the matter including the EFC Note and he wanted them now'. I told him that EFC Note is very thick and voluminous set of papers and a decision is in the advance stage of finalization and we will inform the Hon'ble MP in writing as soon as a decision is taken by the EFC. He insisted that these documents be given to him.

In continuation to this issue, the Hon'ble MP further wanted to know whether the submerged land victims of the Andaman and Nicobar Islands would have to surrender the land. I politely informed him that the victims will have to surrender the land as per the decision already taken by the Islands Development Authority headed by the Prime Minister. This decision has been further reiterated by the Hon'ble Home Minister very recently and the same has been informed to the UT Administration. On this, the Hon'ble MP started

shouting that how can 'you' let this happen and nobody in Andaman and Nicobar Islands is going to surrender the land. I tried to calm him down and informed him that I am not the competent authority to reconsider the decision taken at the Prime Minister/Home Minister level and he should raise this matter either at the Home Minister's level or with the UT Administration. The Hon'ble MP again shouted that 'he will certainly raise it at that level since you do not have time for an MP'. I politely tried to pacify him and said that I have all the time for him but since he came at the time when I was leaving for an urgent meeting of the Parliament House Committee, for which not only I have to prepare myself, but also brief the Home Secretary and all this has to be done within 30 minutes. I again requested him to come some other time/day convenient to him so that all the issues can be discussed in detail. I gave my telephone number to the Hon'ble MP and he wrote it down on the piece of paper I gave to him. Not happy with my reply, the Hon'ble Member got up shouting that 'You do not have time for an MP'. I tried to reason out that this was not the case and I have given you my telephone number and kindly come with prior information so that all the issues could be discussed at length. I informed him that had I not been rushing for the urgent meeting, I would have even otherwise discussed all the issues with him. However, the Hon'ble MP was not in a mood to listen and went out shouting.

I feel that Hon'ble MP was not happy, as I could not give him enough time. It may be noted that although the Hon'ble MP came without any prior information, I still met him and discussed issues with him. However, what angered the Hon'ble MP more was not that I could not give him more time but that our Ministry had taken a

decision that the submerged land victims of Andaman and Nicobar Islands have to surrender the land in lieu of compensation. It may be noted that the Hon'ble MP has been agitating for quite some time that the victims should get the compensation without being asked to surrender the land.

All through, my behavior was courteous towards the Hon'ble MP. I vehemently deny any misbehaviour, manhandling or physical assault on the Hon'ble MP and I am at a loss to understand why the Hon'ble MP has leveled such allegations against me. I met him without prior information and tried to answer all his queries even though I was rushing for an important meeting.”

13. A copy of the above factual note was also received from the Ministry of Parliamentary Affairs in pursuance of the assurance given by the then Minister of Parliamentary Affairs in the House on 10 May, 2012. A copy of the factual note was given to the Member for his information.

14. The Member *vide* his letter dated 31 August, 2012 rebutted the explanation of the Joint Secretary (UT). He stated that the said official has tried to mislead and present a wrong picture of the happenings which took place in his chamber. He reiterated that the official was discourteous and misbehaved with him instead of giving any proper reply to the issues of public interest raised by him.

15. In view of the contradiction between the allegations levelled by the Member and the denial of the same by the said official, the Speaker, on 05 October, 2012 referred the matter to the Committee on Violation of Protocol Norms and Contemptuous Behaviour of Government Officers with Members of Lok Sabha, for examination and report.

III. Evidence

Evidence of Shri Bishnu Pada Ray, MP

16. Shri Bishnu Pada Ray, MP during his evidence before the Committee on 11 February, 2013, *inter-alia* has stated:

“I represent the Andaman and Nicobar Islands and there is no Legislative Assembly in the Island group. Total administrative work including that of co-ordination is the responsibility of the Union Home Ministry. The Joint Secretary in the Ministry looking after the Union Territory has a major role in this regard. Two incidents had taken place in my constituency which was matter of concern for the Islanders. Even I am concerned about it. Firstly, after the tsunami the agricultural land of the farmers had submerged and the compensation for the loss in this regard was decided by the Home Ministry which was to be given to the farmers without taking the submerged land. Secondly, there was a demand from the Ex-servicemen about their emoluments. I visited the Ministry on 9 May, 2012 to meet Shri K.K. Pathak in connection with the above issues. When I reached there, the door was closed and a person perhaps belonging to the Group ‘D’ was standing outside. I told him that I wanted to meet the Joint Secretary. He went inside and came out to inform me that I cannot meet him as ‘*saab*’ is busy. Then I knocked at the door and entered inside. I introduced myself and I told him that the Home Minister had visited Andaman and Nicobar Islands and he had promised that the submerged land of the farmers due to tsunami is a matter of national disaster. This statement which was made by him at a Press Conference in the Raj Bhawan and at other places was widely reported by the Press on 21 and 22 January. He assured them of compensation without taking the land. However, the Home Ministry has all of a sudden changed the

proposal stating that they are not acquiring the land but getting it surrendered from farmers. This decision has pained all concerned including myself. I am the Member representing the Islands but even I was not consulted in this regard. It were these concerns which I wanted to raise before the said official but he stated that there is no time. I requested him for a piece of paper so that I can write down the issues and he can respond to them afterwards. He expressed his anger over it. One more person was sitting beside me. He asked me to move out of the room. I felt hurt. I expressed my resentment and anger over it and started to leave. I stated that the Parliament is in session and I needed some documents. On this, the Joint Secretary got off from his seat and pushed me. He again pushed me in the lobby. I somehow regained my balance and moved out. I informed the House about this incident and gave it in writing also. I have no personal enmity with the said official neither there was an occasion for any enmity. I have informed you of what actually had transpired. While I was leaving, the official uttered “bye-bye”. He spoke to me in such language. I have already informed about it in writing.

Elaborating further, the Member stated:-

“The farmers are pre-1942 settlers who were brought from different parts of United India and settled in Andaman and Nicobar Islands. They are the first group of farmers.

The second group of people are Ex-Servicemen who are settled in Campbell Bay. They are partly settlers and others. The Hon’ble Home Minister stated in a Press Conference on 21 or 22 January, 2012 that these lands got submerged due to the occurrence of the natural disaster tsunami and so these farmers will be given compensation without surrendering of land.

This is the commitment. Before that, there was a meeting in PMO under Island Development Authority, wherein it was decided that land will not be acquired subject to payment of compensation. Another matter is concerning pay structure of the Transport Department. So, I went to the office to get information. Parliament is going on. All of a sudden, Home Ministry Administration changed the proposal of Home Minister and they forced the farmers to surrender the land. Then, they get compensation, a meagre compensation. For one hectare land, they would be giving a compensation of Rs.9.39 lakh. Before tsunami, the farmer's land, per hectare, it was about Rs 8 or 9 crore, now they would be giving only Rs. 9.39 lakh per hectare subject to surrender of land. This is what I went for to the office of Joint Secretary... I told him that I have come for these twin purposes. He said, if that is so, I don't have time. Then I asked for a paper and said, if you don't have time, I would give you in writing, later on you can supply information to my North Avenue residence. He said, go out. Then, I little bit hesitated and registered my anger, as it is natural. He was moving, and said, bye-bye. Then, I stopped and protested.”

17. On being asked categorically as to what provoked Shri Pathak to push him, Shri Bishnu Pada Ray replied:

“I don't know actually. Regarding Mr. Pathak, there are a number of complaints from MPs. I met several MPs after this incident regarding his behaviour. But I have come to know that he is an honest and sincere man. It is true. I don't know what has happened to his temperament suddenly.”

18. On being enquired whether he had sought any appointment in advance from the said official, through telephone or SMS or in writing, Shri Bishnu Pada Ray stated:

“I have not taken any advance appointment or given information to him or sought permission (to meet him).”

19. On being asked whether after this incident, the said official tried to contact the Member, Shri Bishnu Pada Ray, MP stated:

“No. He never requested me to visit. He never said, ‘sorry’. He never called me. I got a letter from the Parliament. I gave my version in writing to the Secretariat, addressed to the Hon’ble Speaker, Lok Sabha and that letter is before you.”

20. On being further enquired as to whether any other high official from Ministry of Home Affairs had spoken to him about the misbehaviour committed by Shri K.K. Pathak, Shri Bishnu Pada Ray replied:

“The higher officials of Ministry of Home Affairs never asked anything about this incident. No, nobody contacted, nobody asked anything after that...”

Evidence of Shri K.K. Pathak, Joint Secretary, Ministry of Home Affairs

21. Shri K.K. Pathak, Joint Secretary during his evidence before the Committee on 11 February, 2013, *inter-alia* stated:

“It so happened that on 9 May, 2012, I was preparing for the Parliamentary Committee meeting to be held at 4 o’clock in the Parliament House Annexe, and around 3 o’clock or 5 or 10 minutes plus, minus, I got a message from my office that the Hon’ble Member wanted to see me. I told my office that since I am preparing for the meeting... I have to brief the Home Secretary also, and all this has to be done in 30 minutes because if the meeting is at 4 o’clock, we have to start by 3.30 p.m. to reach the Annexe. So I was really hard-pressed for time. But, before this message, I mean, whether it was conveyed or not, but the Hon’ble Member came into my room and he said: ‘I know you are going off to a meeting and I would not take much time’. So I stood up and I greeted him and offered him a chair saying: ‘If you have any issues, we can do it.’ Then we discussed things.

The main issue that the Hon’ble Member wanted to know was, about the 2004 tsunami that had struck in the islands of Andamans and what the Government is doing for the victims of the submerged land. A lot of land, entire islands had gone down the sea. So, people had lost their land for all times to come. So, the Government was contemplating for compensation. That issue was burning for quite some time and the Ministry was seized with the matter. I told the Member that we have moved the compensation package. This entire package was about Rs. 106 crore. So, this would require an EFC approval. And EFC note has already been circulated to the Ministry of Finance and the Planning

Commission and we are in an advanced stage of taking a decision. So, it will take some more time but we are certainly moving ahead. So, the

Hon'ble Member wanted to have the copy of the EFC note. I said: 'Sir, this is a very voluminous paper and, as I said, I am in a hurry to leave. I can give you the papers later and I can convey the decision also to you as it is in a very advanced stage.' But the Member insisted that give me all the information. He said, he also wanted a piece of paper to note down whatever I am telling. So, I gave him a piece of paper. He also wanted my mobile number which I gave him.

Then, he asked a particular question, whether the victims will have to surrender the land or not in case they get the compensation. I said Sir, this would require a surrender because the Island Development Authority headed by none other than the Prime Minister, have decided that submerged land victims will get compensation only when the land is technically surrendered. Although the land is naturally lost to the forces of nature, but still in terms of legalities as per the Andamans Revenue Law, this land has to be surrendered. To this, he got a little angry saying: 'How can you ask the persons to surrender their land? I have been asking that the compensation should be paid without surrender of the land.' Though, Madam, it has to be clearly felt that the land is already lost to the forces of nature. So it is a mere technicality. But, however, since the Hon'ble Member has been agitating for this issue in Andamans also that he would not like the farmers to surrender the land... he was a little agitated here when I told him that this is the decision and this is the thing on which the EFC note has been circulated. So, that is how the unpleasantness occurred and he started shouting at me. I tried to explain that even the Home Minister too has upheld the decision that land has to be surrendered. So, that way, Madam, he started shouting. Then I said

‘I have to go.’ He said: ‘You don’t have time for an MP.’ I said ‘I have all the time for Hon’ble Members. In spite of my busy schedule, I have met you.’ I invited him for a cup of tea later. I said ‘Please come again. We will sit and discuss all these things in detail.’

But he started shouting at the peak of his voice. So, Madam, then I said ‘I must leave now. I have to brief the Home Secretary and you also kindly understand and come some other time’. That is the whole thing that happened.”

22. On being enquired as to whether he offered to meet the Member some time later due to his pre-occupations, Shri K.K. Pathak, stated:

“Sir, I told him. I gave my number also. I said that I would like to meet you again. Next time when you will come, we will sit over a cup of tea”.

23. When asked to comment about his misbehaviour with the Member, Shri K.K. Pathak stated:-

“I also got up to leave because I had to brief the Home Secretary. He was shouting not only while he was sitting but when he got up he kept shouting till he reached at the end of the door. So, there was no question of my pushing. He himself was going out of the room. He was shouting at the peak of the voice.

I do agree, that it was an important issue that he discussed. I had personally steered this issue to its logical conclusion. A proposal of Rs 106 crores was approved by the Ministry of Finance. This amount actually reached the Andaman Administration of which Rs 25 crores has already been disbursed as of now. Another Rs 25 crores would be disbursed to the farmers by end of March, 2013.”

24. When enquired about the latest status of the issues Member had discussed with him, Shri K.K. Pathak stated:

“I would not be able to say the delays before the years, (I joined) since this tsunami struck in 2004... I have been looking after this work only for the last one year... Hon’ble Member had three issues related to tsunami.

The tsunami relief proposal for submerged land victims was cleared. The money was also arranged. It was given and the farmers started getting money. The Andaman Administration has a little lengthy process of distributing the money. They have code system. They have opened records for each of the beneficiary. That takes time...

This is what I wanted to say that ever since I joined, I speeded up all the major pending issues which were pending since 2004. We steered this tsunami submerged land victim case. We also waived the fishermen loans, which was also pending for many years.”

25. On being asked as to whether he is aware of the DoPT’s circular dated 1 December, 2011 regarding the Official dealings between the Administration and Members of Parliament and State Legislatures – Observance of Proper Procedure’, Shri K.K. Pathak stated:

“Madam, I am aware of it but I have not read it.”

26. On being specifically asked as to whether after the incident, he approached the Member or held any meeting with him regarding the concerned issues, Shri K.K. Pathak stated:

“Sir, I had spoken to him. I had told him: ‘I am sorry for this unpleasantness. But you can meet me anytime and discuss again if you

have any issues.’ He himself said ‘next time when he is in Delhi, he will come.’ At that point of time, he was in Andaman.”

27. On being specifically asked as to whether he tendered an apology to the Member and if so when, Shri Pathak, stated:

“I am sorry, I do not remember the date, but I have been in touch with him. That things are normal between us is evident from the fact that we have been talking with each other.”

28. On being questioned as to whether he was not bound to fix up an appointment with Member immediately after the incident to address the grievances of the Member, Shri Pathak replied:

“Sir, because of the unpleasantness that happened I thought it would be better to let the matter die down; let his anger also cool down. If I had approached him immediately, perhaps his reaction would have been more volatile. So, I thought that let the matter cool down. In the meantime, I had also received a notice from the Lok Sabha Secretariat asking for a factual report.”

29. On being asked as to whether he had given a copy of the EFC note and related documents to the Member as desired by him, Shri Pathak replied:

“It was finalised on 27 June, 2012. I did not personally call the MP and he was informed by the UT Administration that this had been approved.”

30. On being specifically asked about the charge of misbehaviour and assault alleged upon him by the Member, Shri Pathak stated:

“Sir. I vehemently deny. In fact, I was also getting up to leave to meet the Home Secretary. It was not ‘bye, bye’. I just said, ‘I will see you later, bye’. This is how I said. When he was raising the issue in the Lok Sabha,

I was seeing it live. He gave it a different colour. I just said, ‘I will see you, Sir. I am leaving, Sir, *bye.*’

31. On being asked as to whether he wanted to say anything further, Shri Pathak stated:

“Madam, I sincerely regret the entire incident and it is not the slightest of my intention to hurt the feelings of the Hon’ble Member or any Member of the Hon’ble House for that matter. I have served for 22 years. Never has this kind of thing happened. I sincerely regret the whole thing and I personally feel that this could have been avoided. This was certainly avoidable, Madam. It was certainly avoidable. Because of that incident, I felt that I need to expedite the Hon’ble Member’s main issue of relief to the tsunami victims and as I said, Madam, not only that issue but also two other long pending issues were clearly approved at the Cabinet level, and all this was done in less than seven months of my looking after this work.

Tsunami matter was continuing since 2004. So, Madam, I would request this Committee to kindly understand that I really felt the concerns of the MP and I really found that he was only trying to press his own issues. I was really aware and sensitised to the problems of the Island. I helped myself to clear all the three pending issues. So, Madam, this would certainly be seen in that light.”

Shri Pathak further added:

“Madam Chairperson, the entire incident was regrettable. I place my apology to the Committee as well as to the Member. I have already spoken that the entire incident was avoidable and regrettable. I am personally very peeved and aggrieved at the way the things developed. As

I said, I tender my apologies to this Committee and to the Member and I wish that this may be kindly accepted.”

Evidence of Shri R.K. Singh, the then Home Secretary, Ministry of Home Affairs

32. Shri R.K. Singh, during his evidence before the Committee on 1 April, 2013, *inter-alia* stated:

“In the Ministry of Home Affairs, this is the only incident which has come to my notice about this type of complaint from any Hon’ble MP. Even in my case, whenever an Hon’ble MP comes, I get up and shake hands with him. When he leaves, I shake hands with him again. I have not come across any such complaint from any other Hon’ble MP. That is one thing. The second thing is, frankly I find it very difficult to imagine that somebody, some Joint Secretary or any officer will push an MP. I find it very difficult to accept. It is beyond my understanding and comprehension. It is true that at that stage the officer was under pressure. Ultimately, I remember, I had to come away without the officer being giving me the brief pertaining to his side of the subject which was supposed to come up before the Parliamentary Committee. I am relying on my memory here. I will refresh my memory and revert. What I recall is that this Committee (House Committee of Lok Sabha) was pertaining to three, four subjects, pertaining to the security of the Parliament, pertaining also to the residences of the Hon’ble Members, pertaining also to the security of the residences of Hon’ble Members and things like that. It had three, four Joint Secretaries who were involved. As far as Shri Pathak is concerned, I had to go without the benefit of briefings from his side. But from other officer, I had received the briefing earlier but for some additional points on which I wanted to be enlightened. I came and could answer before the Parliamentary Committee. The officer was under pressure at that time. I did not come to know about the incident that day. I came to know about the incident subsequently. I asked the officer. He

denied it. He said that when the MP came, he was under pressure. He had to give the brief. He said that the Hon'ble MP had come without the prior notice. He sent the word that he would be free on some other date. He says, when he came in, he received him and told him that he had to go. But the Hon'ble MP said that he needs some information. The Hon'ble MP wanted a copy of the EFC note. Now the EFC note is an internal document which has still to be placed before the Cabinet etc. He said that he could not give a copy of that. He gave an excuse that it is too voluminous. The Hon'ble MP was saying that farmers of Andaman were asked to surrender their land. That was something which the Hon'ble MP was objecting very strongly. He asked the Joint Secretary about that. The Joint Secretary told him that this was the decision. He became angry and lost his temper. Basically, what happened inside that room is again something which I would not know. I can only go by whatever was reported to me. But if something like that had happened, even though I was in a hurry or I would have left for the Parliament, when I came back from Parliament, somebody would have reported to me, some staff, or administration would have reported to me. It was not reported to me. I cannot draw any conclusions from that. After that also, I believe, there have been many discussions etc., with the Hon'ble MP by the Joint Secretary. I believe that the Joint Secretary has apologised also in case the Hon'ble MP has felt hurt."

33. On being contradicted about the fact of apology tendered by the Joint Secretary to the Member, Shri R.K. Singh stated:

"I will tell him to do that...He told me that before this Committee he had expressed regrets in the case of Hon'ble MP felt hurt. I will ask him to

express his regrets to the Hon'ble MP as well. I will ask him to speak to the Hon'ble Member.”

34. On being specifically asked whether he or the Joint Secretary met the Member after the incident, Shri R.K. Singh replied:

“After that I do not think the Hon'ble MP met either the Joint Secretary or me.”

35. On being questioned as to why the Member was constrained to complain about such a serious issue and when he did he become aware of this incident, Shri R.K. Singh stated:

“Actually the situation in the Home Ministry normally is that most of us, especially the Home Secretary, work under a lot of pressure. The time available is very limited. Some issue or the other appears one after the other...On the next day I think when I asked him about it and he told me.”

36. On being further confronted whether the Joint Secretary briefed and accompanied him to the sitting of the House Committee on 9 May, 2012, Shri R.K. Singh stated:

“I remember that I went to the Committee without any paper from his side and I was not accompanied by him... That meeting required the presence of not only me but a number of Additional Secretaries, Commissioner of Police and a number of Joint Secretaries. He was one of them. He was not the only one. He was one of them... He joined later.”

37. On being further asked as to why Shri Pathak neither briefed him for the meeting nor gave any explanation for the lapse, Shri R.K. Singh replied:

“I did not even have time (to think about it) because I had to rush. I had read the file...Sir, If you look at my time management, basically in my room there is not one minute of free time. It is either one meeting, or one issue to be handled or one telephone call or something happening all the time. So, basically once something has passed, I do not have the time to dwell back upon it. That is the way it is.”

38. When asked whether any action has been taken or any inquiry set up over this incident against the said official by him, Shri R.K. Singh replied:

“I asked the concerned officer as to what had happened. He told me that such a thing had happened. He, I think, gave a written statement at that time or after the privilege notice had come. He gave a written statement as to what transpired.”

39. On being asked about the unsubstantiated claim of Shri K.K. Pathak of telephonically being in touch with Shri Bishnu Pada Ray, MP and the failure of the Ministry to furnish the Call Detail Records (CDR) containing the calls made between the official and the Member for the period from 9 May 2012 to 11 February, 2013, Shri R.K. Singh replied:

“As far as call details are concerned, there are two provisions in law under which this data can be produced. As far as monitoring of telephone, etc. is concerned, that is under the Telegraph Act. There is a provision for obtaining CDR, that is, call details, etc. under the Cr.P.C. Under this Act, the call details can be accessed, if there is a case. It requires permission from certain level, but there has to be a case. Section 92 of Cr.P.C concerns this. Only under this condition, can we access the CDR. As far as monitoring is concerned, it can be done only in the case of sovereignty of the country, etc. Again, there are certain conditions. So, we sent the file to

the Ministry of Law, saying that this has to be sent to the Parliamentary Committee. But the Ministry of Law did not give anything, but said that it concerns the Department of Telecom. So, we have asked the Department of Telecom. We have not heard from them yet...So, I will try and work out some legal thing and I will see what could be done legally. ”

40. On being asked to comment as to what could have led to the unfortunate incident involving the official and Shri Bishnu Pada Ray, MP, Shri R.K. Singh replied:

“Sir, I have been asked to speak frankly and I have taken oath also to speak frankly. My impression which I have got from my short interaction with the Hon’ble MP is that the Hon’ble MP has a tendency to lose his temper very quickly. That is my observation.”

41. On being asked as to whether any other complaint is pending against the said Joint Secretary, Shri R.K. Singh replied:

“No, not from anybody else.”

Evidence of Shri P.K. Misra, the then Secretary (DoPT), Ministry of Personnel, Public Grievances and Pensions

42. Shri P.K. Misra, Secretary, DoPT during his evidence before the Committee on 11 February, 2013, *inter-alia* stated:

“We have just got the notice recently from the Lok Sabha Secretariat for the first time. We have just become aware of this case. We were not aware of this earlier. I got the notice on 25 of March. We then asked for the views of the Ministry of Home Affairs and the factual report in the matter. Before that I was not aware of this case.

As to Shri Pathak, he is a senior officer. He should be aware of the instructions we have circulated to all the Ministries and the State Governments, they would have in turn circulated to all the officers, especially senior officers. So, he should be aware of the instructions...”

Elaborating further about these types of complaints, Shri P.K. Misra, stated:

“Madam, as of today, there are 17 cases that have been sent to us by the Lok Sabha (Secretariat) which are pending. In the past also several cases came to our notice and we had taken requisite actions on them and reported the matter back to the Lok Sabha Secretariat. As of today 17 cases are pending and most of these are of district level officers, like Collectors. I will broadly classify them into two or three categories. Some Hon’ble Members have complained that they have not been invited to public functions in proper manner or that the invitation came very late and, therefore, they found it difficult to attend the function. Or, that they

were not seated honourably on the dais along with other dignitaries. That is one set of complaints.

The second set of complaints that we have received are basically about necessary protocol or proper behaviour being shown in the sense that sometimes if an Hon'ble Member goes to an officer in the field and the officer is busy, he makes him wait. There are some instances like that.

The third set of complaints is to the effect that what they have requested has not been done. For instance, it could be public purpose like say people are affected by the natural calamity and they want the Collector to take action and the Collector has not acted properly.

In most of these cases we have to first take the views of the State Governments because they are under the administrative control of the State. The State Government takes a view upon the culpability or their lack of performance in relation to the particular incident mentioned by the Hon'ble Member of Parliament. We then send it to the Privileges Committee of Parliament for it to take the final view. The reason why we cannot take a view on these things ourselves is because the power with regard to the privileges of the Members vests only in the Committee. Only the Committee can actually act as per the Constitution. If the Committee recommends anything we will certainly take the action required.

But, we are sitting in Delhi. We do not know what is happening in the districts. What exactly was the circumstance under which the Collectors did not do what was expected of them. So, sitting in Delhi it is impossible for us to know the facts. Therefore, we have to get the facts from the States. Sometimes, there are delays in getting replies from the

State Governments but we constantly monitor and follow it up as does the Committee. I receive a lot of reminders from the Committee. They are also very prompt. So, we do everything that we can possibly do to see that these things are rectified.

Of course, if there is a major issue then the Hon'ble Committee has to take a view on it. If the Committee takes a view we will take the requisite action. In one case, for instance of the Ministry of Finance, the Committee has taken a view. They referred it to us and we gave our advice to the Ministry of Finance. The Minister has to take the final decision. Ultimately in a Ministry the Minister is the final authority. He has to decide what action is to be taken, of course, based on the advice given.

So, Madam, what I was trying to say is that we are doing our best to see that these instructions are uniformly forwarded. Pendency is not very high as of today. There are 17 cases... In some of them, the States are not replying. We are chasing them. I write DO letters to the Chief Secretaries at times if it is very delayed.”

43. On being asked whether the issue of complaints of misbehaviour by Government officials towards MPs was discussed on the Civil Services Day and in the Chief Secretaries Conference as per the recommendations of the Second Report of the Committee of Privileges (15th Lok Sabha), Shri P.K. Misra replied:

“I have attended last two conferences. I do not think this subject has been discussed...The next conference has to come. We will take note of it and see that it is put on the Agenda... One of the ways (to implement the instructions regarding courteous behaviour of Government officials with

MPs) by which we can tackle it is by imparting better training... to the officers when they are inducted into services. Of course, all services do not have induction training but a large number have it. We can sensitize them. So far as the State civil servants are concerned, the State Governments have to sensitize them. We can advise them to sensitize them. Then, of course, in some cases exemplary action should be taken so that they do not misbehave again.”

Shri P.K. Misra further stated as follows:

“Not only that, we have also said (to the State Governments) that you please issue instructions down the line to the district level and report the compliance to the Central Government. We have got responses from about 16 States and UTs such as UP, Meghalaya, Puducherry, Chhattisgarh, Manipur, MP, Rajasthan, Andaman and Nicobar, Bihar, Mizoram Lakshadweep, Gujarat , Odisha, etc. They have stated that they have sent these instructions down to the district level officers.

So far as imparting training is concerned, as I said, in Mussoorie they do have this included as part of curriculum when they talk about public services and governance they do have a module on behaviour with public representatives. For the other Ministries, they have to take action. We have already informed all the Central Government Ministries again and again. In 2007, 2011 and 2012, we wrote to them continuously. They have to take action accordingly.

As a result of today’s meeting, I will again write to all the Ministries that they should consider including this as a part of the induction training at all levels – proper behaviour with Members of Parliament and the Members of Legislative Assemblies.”

44. When asked what further steps are being taken by the DoPT to ensure strict compliance of its consolidated revised guidelines regarding Official dealings between the Administration and Members of Parliament and State Legislatures – Observance of proper procedure’, Shri P.K. Misra responded:

“I have written to the Chief Secretaries on October, 2012 that these instructions must not only be for the Centre but should be issued by all the departments in the State Governments and to all the three level functionaries. We are actually following up on that to see that they issue instructions down the line to the district level. Some of them have responded. About half the States have given a positive response that they have written to the subordinate organisations and other departments. Others are still following up. We are reminding them and we will see that by the time the Committee meets again, we get compliance from all the States. As I said, to introduce this as part of the curriculum in all the academies of various services, IAS already has it. Instructions have been issued as far back as 1992 to the Lal Bahadur Shastri National Academy of Administration on the protocol as regards the MPs and MLAs. They are teaching it. I do not know whether it is being taught in other academies like Income Tax and other services. Sir, the instructions of 1992 applies only to IAS and PCS officers. But about others, we do not know fully. We will have to get a feedback from other Ministries.”

IV. Findings and Conclusions

45. The main issue before the Committee is to determine:-

(i) Whether Shri Bishnu Pada Ray, MP was treated in a contemptuous manner by Shri K.K. Pathak, Joint Secretary and whether he misbehaved with the Member and manhandled him?

and

(ii) Whether any violation of the guidelines relating to official dealings between the administration and Members of Parliament and State Legislatures as circulated by the DoPT *vide* its OM dated 01.12.2011, has taken place on the part of Shri K.K.Pathak.

Issue No:1 Whether, Shri Bishnu Pada Ray, MP was treated in a contemptuous manner by Shri K.K. Pathak, Joint Secretary and whether he misbehaved with the Member and manhandled him?

46. The Committee note that Shri Bishnu Pada Ray, MP went to meet Shri K.K. Pathak, Joint Secretary (UT) to discuss some important matters of public interest pertaining to his constituency on 9 May, 2012 without seeking any prior appointment from him. Initially, the personal staff of Shri Pathak conveyed the refusal of Shri Pathak to meet him. Nonetheless, the Member proceeded to meet Shri Pathak in his chamber and the events that followed are now before the Committee for examination.

47. The Committee note that though Shri Bishnu Pada Ray, MP managed to meet Shri Pathak, without prior appointment yet the meeting could not yield the desired results as the Member was not at all satisfied with the replies and

information given to him by Shri Pathak. On the basis of the documents placed before the Committee and the oral evidence given by Shri Pathak, the Committee find that he was not forthcoming to the issues raised by the Member pertaining to his constituency. Such conduct on his part also irked the Member who then sought to pen down his queries for written reply in due course. The Member who felt dissatisfied with the attitude and manner of response of Shri Pathak, protested against it, which was further not taken kindly to. The Committee find that Shri Pathak did not conduct himself in a manner as is expected from a senior level officer like him and paucity of time alone as pleaded by him is not a sufficient excuse in the given situation.

48. The Committee find that in case of normal interaction between a Government official and a Member, the official will, in all likelihood, politely excuse himself in case of some other pressing engagement *inter alia* by making some alternate arrangement or fixing a future appointment. Shri Pathak did not do so in this case which amply testifies that he was indifferent and not as polite as is expected from a Government servant in his dealings with a Member. The Committee in the absence of any video footage and concrete evidence are unable to come to a conclusive finding of manhandling of the Member. Nonetheless, in view of the evidence tendered by the Member and also by Shri Pathak, the Committee can safely conclude that the Shri Pathak was discourteous towards the Member albeit inadvertently may be due to the time constraints and him being under pressure to brief the Home Secretary for the meeting of the House Committee (Lok Sabha).

49. The Committee also note that Shri Pathak, neither met the Home Secretary nor briefed him about the agenda of the meeting of the House Committee (Lok Sabha), the so-called grounds on which he had refused to give sufficient time to the Member, to hear his grievances. Further, Shri Pathak did

not inform the Home Secretary about his interaction with the Member until the Home Secretary himself called upon him to verify the happenings of the said incident on the basis of press reports.

50. The Committee further note the casual manner in which Shri Pathak conducted himself before the Committee as his responses to the queries and clarifications by the Committee were unclear and conflicting. He could not produce any proof of his speaking to the Member after the incident to either tender an apology to him or clarifying his stand or even, in his own words, to invite the Member over a cup of tea.

51. The Committee also heard the then Home Secretary in the matter and feel that he also sought to underplay the alleged behaviour of Shri Pathak and further even on his becoming aware of the incident, involving the Member, neither contacted Shri Bishnu Pada Ray nor directed Shri Pathak to do so. Contentions made by Shri Pathak which were seconded by the Home Secretary about Shri Pathak being in regular touch with Shri Bishnu Pada Ray have not been supported by any corroborative evidence. The Committee have their doubts about Shri Pathak's contention that all was well between him and the Member. Thus, the Committee are bound to conclude that there have been no direct exchange of communication between Shri Pathak and Shri Ray after the incident.

52. The Committee are of the view that Shri Bishnu Pada Ray had sought to raise genuine public issues concerning his constituency. Shri Ray is the only public representative of the Union Territory (which does not have – Legislative Assembly) in the Lok Sabha and thus, deserved appropriate treatment at the official level in the Ministry of Home Affairs which is the nodal Ministry looking after the affairs of the Union Territories.

53. The Committee note that efforts have been made by the Government from time to time to emphasise upon its officials about the strict compliance of instructions issued by it with regard to official dealings between Administration and Members of Parliament and State Legislatures. However, in the instant case, Shri K.K. Pathak, Joint Secretary during his deposition before the Committee admitted of being aware of the revised consolidated circular issued by the DoPT on 1 December, 2011 in this regard, albeit he was not clear about its actual contents.

54. The Committee to their dismay note that in spite of revised consolidated circular issued by the DoPT on 1 December, 2011 on official dealings between the Administration and Members of Parliament and State Legislatures – Observance of proper procedure, the situation has not changed at all. The Committee are shocked that the sanctity of the guidelines has, in the instant case, been violated by a senior officer of the level of Joint Secretary who admitted his ignorance about the actual contents of such important instructions. The then Secretary, DoPT in his evidence before the Committee also expressed the limitation of the Government in this regard in spite of their earnest efforts. He suggested that some action was required against errant officials who disobey or do not adhere to these guidelines.

55. The Committee express their unhappiness about the conduct of Shri K.K. Pathak, Joint Secretary in his dealing with the Member on 9 May, 2012. Further, Shri Pathak could not give any convincing reply to the Committee about his being in touch with the Member in connection with resolving the situation created by his conduct. The Committee also express their displeasure over the lack of efforts and initiative taken by the then Home Secretary in dealing with the issue even when he became aware of this incident. The Committee, however, note the expression of unconditional regrets over this

unfortunate incident by Shri K.K. Pathak in his evidence before the Committee on 11 February, 2013.

Issue No: 2 Whether any violation of the guidelines relating to official dealings between the administration and Members of Parliament and State Legislatures as circulated by the DoPT *vide* its OM dated 01.12.2011, have taken place?

56. In view of the findings and conclusions to issue No.1 above, the Committee hold Shri K.K. Pathak, Joint Secretary guilty of breach of the guidelines relating to Official dealings between the Administration and Members of Parliament and State Legislatures as circulated by the DoPT *vide* its OM dated 01.12.2011 in letter and spirit. Further, the Committee are of the firm view that Shri Pathak did not take any initiative to rectify his lapses and make amends.

57. The Committee in their sitting held on 18 September, 2013 decided to give another opportunity to Shri Pathak to clarify his position to the Member. The Committee accordingly requested the Chairman to call Shri Pathak and the Member in his chamber for the purpose. On 03 October 2013, Shri Bishnu Pada Ray, MP and Shri K.K. Pathak, Joint Secretary, MHA met each other in the presence of the Chairman. Shri Pathak again expressed his deepest regrets and tendered sincere apologies to the Member for his conduct which unintentionally caused hurt to the Member and the Committee. On the other hand, Shri Bishnu Pada Ray, MP was gracious enough to accept the regrets expressed by Shri K.K. Pathak about the incident which happened on 9 May, 2012. Subsequently, Shri Ray *vide* his letter dated 3 October, 2013 addressed to the Hon'ble Chairman, Committee on Violation of Protocol Norms etc., stated as under:

“...The Committee on Violation of Protocol Norms and Contemptuous Behaviour of Government Officers with Members of Lok Sabha is presently examining my complaint dated 9 May, 2012 against Shri K.K. Pathak, Joint Secretary, Ministry of Home Affairs for his alleged misbehaviour with me. In this context, I wish to state that Shri K.K. Pathak, Joint Secretary has tendered unconditional apology and expressed his deepest regrets over this incident.

In view thereof, I do not intend to press my complaint any further and the Committee may be informed of the position...”

58. The Committee were apprised of outcome of meeting between the Member and the official at its sitting held on 09 December, 2013. The Committee note the sincere regrets expressed by the official as reflected in the reaction of the Member, *vide* his letter reproduced in the above para.

59. The Committee are of the view that Shri K.K. Pathak, Joint Secretary did not adhere to the DoPT revised guidelines regarding Official dealings between the Administration and Members of Parliament and State Legislatures – Observance of proper procedure dated 1 December, 2011, in his interaction with Shri Bishnu Pada Ray, MP on 9 May, 2012.

60. The Committee are distressed to find that in spite of repeated emphasis, there has been only slight let-up in the cases of misbehaviour by government officials with Members in their official dealings. The Committee urge that the Ministry of Home Affairs as well as the DoPT to issue strict instructions to all the authorities concerned to ensure that the Members are not exposed to any ill-treatment or misbehaviour by government officials in their official dealings.

V. RECOMMENDATIONS

61. The Committee after taking into consideration the totality of the circumstances of the case and in view of the unconditional and unqualified apologies tendered by Shri K.K. Pathak, Joint Secretary, MHA, are of the view that the dignity of the House would be best served by not proceeding further in the matter. The Committee, therefore, recommend that the matter may be treated as closed.

62. The Committee keeping in view the unconditional and unqualified apology tendered by Shri K.K. Pathak, Joint Secretary, Ministry of Home Affairs in the matter for the hurt caused by him to Shri Bishnu Pada Ray, MP on 9 May, 2012, do not wish to make any recommendation against him. However, the Committee expect that Shri K.K. Pathak will not commit such mistakes in future and would exercise sufficient caution and extend due courtesies while dealing with members of Parliament and other public representatives.

63. The Committee further recommend that the Ministry of Home Affairs and the DoPT (Ministry of Personnel, Public Grievances and Pensions) may sensitise all civil servants and officials in various Ministries and Departments particularly under them for strict compliance of the instructions relating to official dealings issued in this regard between the

Administration and the Members of Parliament. The Committee also recommend DoPT to ensure that the matter relating to misbehaviour of government officials with Members is one of the items on agenda for discussion on the Civil Services Day and in the Chief Secretaries Conference.

**New Delhi
16 December, 2013**

**(M. KRISHNASSWAMY)
Chairman,
Committee on Violation of Protocol Norms
and Contemptuous Behaviour of Government
Officers with Members of Lok Sabha**