

[Prof. Madhu Dandavate]

big gang behind the racket. The scrutiny of rebate authorisation forms and the tickets issued thereon has revealed that quite a large number of fictitious forms were used to issue staff free-concessional air tickets. The Minister should make a detailed statement in this regard.

15.24 hrs.

STATUTORY RESOLUTION RE:
NOTIFICATION INCREASING THE
EXPORT DUTY ON GROUNDNUT
KERNEL

MR. DEPUTY-SPEAKER: Now, Mr. Barot, on behalf of Shri Sawai Singh Sisodia.....

SHRI N. K. SHEJWALKAR (Gwalior): I rise on a point of order. The Resolution stands in the name of Shri Sawai Singh Sisodia.

MR. DEPUTY-SPEAKER: He has requested in writing.

SHRI N. K. SHEJWALKAR: He cannot give in writing. That is my point of order, Sir, I just noticed that he has given it a few minutes back. The authority is to be given by the Mover. He cannot just get up and say 'I have been authorised by Mr. Sisodia.' That is my first point. Secondly, I have my own doubts. After all, there are rules. Rule 176 is the relevant rule here.

SHRI SOMNATH CHATTERJEE (Jadavpur) : Shall I help him?

THE DEPUTY MINISTER IN THE MINISTRY OF FINANCE (SHRI MAGANBHAI BAROT): We will comply with it.

SHRI SOMNATH CHATTERJEE: It cannot have retrospective effect. But you are authorised to give that notice.

SHRI N. K. SHEJWALKAR: How can he? There is no provision in the rules. Otherwise any body can come up here and say like that.

SHRI MAGANBHAI BAROT: I learn from my senior friend. I will do accordingly:

MR. DEPUTY-SPEAKER: The rule you are relying upon is Rule 176.

SHRI N. K. SHEJWALKAR: Yes. I can very well understand what you are going to say. I have studied this rule carefully. It applies to a Member. For Minister, there is no provision. The Minister cannot be covered under this rule.

MR. DEPUTY-SPEAKER: Will you please read the last para?

SHRI N. K. SHEJWALKAR: Yes, I am reading it. It says:—

"If a member other than a Minister when called on is absent, any other member authorised by him in writing in his behalf may, with the permission of the Speaker, move the resolution standing in his name."

Sir, there are at least two requirements: One is, his name must be there on the list. Now, if the Mover is absent, he must seek your permission. If you permit him, then and then only he can move. For the Minister there is no laxity in the rule. He must himself come. He can take some other time, he can have this discussion at a later hour today or he can take it up tomorrow. That is a different matter. But, he must be present here

SHRI MAGANBHAI BAROT: I will bring the submission made to the Minister's notice.

SHRI N. K. SHEJWALKAR: We are bound by the rules. If I stand up and

start saying something, you will ask me: 'Under what rule?'. I am just asking the same thing. They must know it. I ask 'Under what rule?'

SHRI BAPUSAHEB PARULEKAR (Ratnagiri): But the main question is, why is he absent ?

MR. DEPUTY-SPEAKER: He is in the other House.

SHRI N. K. SHEJWALKAR. Sir, I do not say that the Resolution should be thrown out. I never say that. What I wish to submit is that the Mover himself must be present. He can say some other time may be fixed, may be tomorrow or day after tomorrow. I do not mind that.

MR. DEPUTY-SPEAKER: The definition of a Minister is given like this.

"A Minister means a Member of the Council of Ministers, a Minister of State, a Deputy-Minister or a Parliamentary Secretary."

SHRI N. K. SHEJWALKAR: Sir, here under rule it is specifically mentioned. They say "a Member other than the Minister" The word has some implication. It is not without any meaning. The word 'Minister' is excluded.

THE MINISTER OF FINANCE (SHRI R. VENKATARAMAN): May I say something on this. Sir, the rule relates to the case of a Member. That is, if one Member has to move on behalf of another member then the notice must be given in his writing. But when a Minister moves on behalf of another Minister, this rule does not apply and the rules enable one Minister to represent another Minister in the House. That is the rule which will be applicable and not this rule.

SHRI N. K. SHEJWALKAR: What is that rule?

SHRI R. VENKATARAMAN: According to the Constitution, there is a joint responsibility of the Cabinet and therefore one Minister can represent

another Minister. You are very clever Mr. Shejwalkar. But, unfortunately, not in this.

SHRI SOMNATH CHATTERJEE: Sir, the Finance Minister is so busy with thinking of new taxes. He has not given a simpler answer. The position is that it is a question of giving authority in writing by one Member to another, by one Minister to another. The Speaker has to permit that. That is not applicable in the case of Minister. Specifically executive does not mean the Minister. A Minister is never authorised to move it for another Minister. That is also implied in this. This is a special provision for a Member who is not a Minister. Therefore, he need not refer to the Constitution. But other rules are provided for that. Clause 389 provides for that. I am helping the Minister so that he may give more money for West Bengal.

SHRI R. VENKATARAMAN: Under Rule 2 it is mentioned like this.

"Finance Minister includes any Minister".

SHRI N. K. SHEJWALKAR: Mr. Deputy-Speaker did not say 'Mr. Finance Minister to move the Resolution'. He called Mr. Sawai Singh Sisodia to move the Resolution. You may interpret the rule in any way. I do not want to obstruct the proceedings of the House. I want you to stick to the rule. You do not interpret it in haste. The rules which are there have to be followed and according to the rules we have to conduct the business of the House. All these things are to be done under the inherent powers and if everything is to be done under presumption, then I am afraid it cannot be done even for the moving of the Resolution by a Minister also. The authority is drawn not from the Constitution but from the Customs Tariff Act. Now, if the Minister moves the Resolution, it has to be moved by that Minister in whose name it is to be done. But I have no objection if this matter is taken up later on. I do not think that he has complied with the provisions of the Rules.

SHRI R. VENKATARAMAN: I must make this clear. The hon. Member has raised it under 176(3). I pointed out that that relates to only a Member and as far as the Minister is concerned, one Minister can represent the other Minister and this is also in our rules because a Minister means a Minister of State or a Deputy Minister or a Parliamentary Secretary. Therefore, the rule which the Hon. Member, Shri Shejwalkar, quoted, has no application to the present resolution before us. The present resolution is not by a member, but it is by a minister. As I said, this rule does not, therefore, apply.

SHRI N. K. SHEJWALKAR: The hon. Finance Minister ought to have seen the statutory resolution itself. It does not describe anything. It only says that Shri Sawai Singh Sisodia has to move the following resolution.

MR. DEPUTY-SPEAKER: The practice is what Shri Shejwalkar says, and therefore, in this case, we will permit as a special case, and hereafter it should be what you have suggested.

SHRI SOMNATH CHATTERJEE: In any case the request should have been there from Shri Sisodia; he cannot request on his behalf.

MR. DEPUTY-SPEAKER: In practice we have been doing it, but since you have raised the issue, I upheld what you have stated and that should be followed.

SHRI R. K. MHALGI (Thane): But this should not be cited as a precedent.

SHRI R. VENKATARAMAN: I do not want a wrong precedent to be established. Rule 176(3) applies to a member, and where a minister is concerned, this rule does not apply. That is the point. Secondly, many a time the questions are addressed to the Finance Minister, but the Minister of State answers them, the Deputy Minister answers them. It is the joint responsibility of the Cabinet. According

to rule 2 of our Rules, "Minister" means a member of the Council of Ministers, a Minister of State, a Deputy Minister or a Parliamentary Secretary.

श्री बीरत राम सारण चु६ : यह रेखास्थूहन
बाई नेम दिया गया है ।

SHRI R. VENKATARAMAN: I do not want any wrong precedent to be established. My simple point is that Rule 176(3) does not apply to the procedure, because it is not a member here.

PROF. MADHU DANDAVATE (Rajyapur): There is a precedent. It has very often happened that a Bill stands in the name of a Minister. Sometimes, he has some work in the Upper House and he is not in a position to move the Bill. In that case, some other Minister, not necessarily from the same Ministry moves the Bill. But in that case what happens is that he informs the Speaker before-hand that he will be moving the Bill. That procedure should be followed.

SHRI SOMNATH CHATTERJEE: The hon. Finance Minister has said that because it is a case of joint responsibility, therefore, any Minister can represent any Minister. We are not doubting the question of concept of joint responsibility. What we are saying is that the list of business contains the name of the mover. Apart from anything else, there is a precedent and a very good precedent and a system, that a member who is going to be absent, may be a Minister, has to take the formal sanction of the speaker. Therefore, in this case, Shri Sisodia should have informed you that on his behalf, Shri Barot would be moving the resolution. That should have been done.

MR. DEPUTY-SPEAKER: There has been such a practice, and that practice cannot form a part of the rule. Therefore, that would be followed.

SHRI R. VENKATARAMAN: It would only mean that you are not ruling on this matter. I have very serious