

12. hrs.

QUESTION OF PRIVILEGE AGAINST SHRIMATI INDIRA GANDHI AND OTHERS—Contd.

PROF. P. G. MAVALANKAR (Gandhinagar): Sir, I have a point of order. Yesterday when I tried to invite the attention of the House to the rule saying that not more than one motion can be moved on any day about question of privilege, you had given the ruling yesterday referring to the rules and interpreting that more than one motion can come provided other motions are moved by other Members. If that is so, then my point of order today is two-fold. One is that in today's order paper I find that only Shri Madhu Limaye's motion is printed whereas Shri Kanwarlal Gupta's motion is not printed. Today's Order Paper should have both the motions moved yesterday, and both the motions must come in the House today so that the House would know what those motions were. The whole point of Mr. Stephen's argument yesterday was that the House must know what motions of privilege were moved yesterday so that only then we can know how to proceed in the matter. While Shri Madhu Limaye's motion was admitted and preliminary discussion had already started, you also said earlier that there was an identical motion moved by Shri Kanwarlal Gupta. But I find in the order paper that only Shri Madhu Limaye's motion is printed, and not Shri Kanwarlal Gupta's motion also with the result that Shri Stephen's point of view which you upheld yesterday according to which the debate was postponed from yesterday to today still holds because the information supplied by the office is inadequate and incomplete, because we are not in possession of the motion moved by Shri Kanwarlal Gupta. Secondly please see the bulletin and the record of the proceedings of yesterday which

say that Shri Kanwarlal Gupta MP participated and supported the motion of Shri Madhu Limaye. Yesterday's proceedings do not say that Shri Kanwarlal Gupta, MP, moved another identical motion on the subject during the day. It is not there. I think this irregularity has to be explained somehow by your ruling. That is why I am seeking your guidance.

श्री गौरी शंकर राय (गाजीपुर) :  
अध्यक्ष महोदय, श्री कवर लाल गुप्त का  
आइडेंटिकल मोशन है तो उन का नाम भी  
उस में जुड़ जाना चाहिए ।

MR. SPEAKER: It is not an identical motion.

PROF. P. G. MAVALANKAR: I am not challenging.

MR. SPEAKER: You are right. They are not identical motions. The office had to print the motion of Shri Kanwarlal Gupta also and if the bulletin or the record mentions merely that he supported it, it is not correct. The motion was also not worded identically.

PROF. P. G. MAVALANKAR: I am grateful to you for this. But I want to be doubtly assured on this point.

MR. SPEAKER: I can only give one assurance, not double assurances.

PROF. P. G. MAVALANKAR: I want to be doubly assured about what happened yesterday and what is happening today, now.

MR. SPEAKER: I have allowed the two motions to be moved, one by Shri Madhu Limaye and another by Shri Kanwarlal Gupta and it is on that basis I said that there were two motions and the two motions were allowed.

They overlap one another to many an extent but they are different

[Mr. Speaker]

motions altogether. They have given two different motions. I do not know why the Bulletin was published that way. Anyway I shall look into the matter. They are not identical.

PROF. P. G. MAVALANKAR: I am grateful to you for the explanation. I want to be doubly assured about another aspect of the matter. It is important.

MR. SPEAKER: If the House is agreeable, in spite of the fact that a separate motion is not printed—I do not think any inconvenience has been caused—we shall discuss both the motions. That is, if the House so agrees.

PROF. P. G. MAVALANKAR: I abide by your decision, that even though Shri Gupta's motion has not been printed in today's order paper, we take it as printed and we continue the discussion. I only want strengthening of your assurance yesterday and today, your interpretation on the basis of your ruling, that whenever a privilege motion has to be moved by any Member of the House, we need not go according to the practice so far of one motion one day.

MR. SPEAKER: I did not say that.

PROF. P. G. MAVALANKAR: If there are more motions they can be taken up.

MR. SPEAKER: My understanding of the rule is this. That rule follows the earlier rule and therefore it only restricts one Member to move one motion. Anyway that decision has been given.

PROF. P. G. MAVALANKAR: Let me complete my point. For further guidance, we should know.

MR. SPEAKER: I have given my ruling and it is on record.

PROF. P. G. MAVALANKAR: Am I right in saying that we can now move several motions on the question of privilege the same day as long as they are moved by different Members and they have secured your consent?

MR. SPEAKER: Yes.

SHRI SHYAMNANDAN MISHRA (Begusarai): I move my amendment No. 1:

That in the motion,—

Omit "and others" (1)

SHRI NIRMAL CHANDRA JAIN (Seoni): I move my amendment No. 2:

That in the motion,—

After "Shrimati Indira Gandhi", insert

"Shri R. K. Dhawan and Shri D. Sen."

SHRI GAURI SHANKAR RAI: I move my amendment No. 3:

That for the motion, substitute the following:—

"That this House resolves that Shrimati Indira Gandhi has committed a grave breach of privilege and contempt of the House by causing obstruction and harassment to the concerned Officers for collecting information in reply to question in Lok Sabha in the discharge of their official duties to the House.

This House further resolves that Shrimati Indira Gandhi be sentenced to imprisonment for the duration of the remainder of the present Session of the House for her offence." (3)

**SHRI C. M. STEPHEN** (Idukki): Sir, this amendment patently out of order. I invite your attention to rule 226.

**SHRI JYOTIRMOY BOSU** (Diamond Harbour): On a point of order.

**MR. SPEAKER:** How can there be a point of order on a point of order?

**SHRI JYOTIRMOY BOSU:** Let no coal be carried to New Castle. You have admitted the amendment and circulated it. Is he questioning that.

**MR. SPEAKER:** I have not admitted the amendment at all; my order is: print and circulate. Please see my order.

**SHRI JYOTIRMOY BOSU:** It is admitted; you have allowed him to move it.

**MR. SPEAKER** No. I have made a specific order there: print and circulate. The question of admission will come up later.

**SHRI JYOTIRMOY BOSU:** It is admitted and allowed to be moved. That is all. I do not want to say anything more.

**SHRI C. M. STEPHEN:** I am drawing your attention to rule 226 and 134. According to rule 226, when leave is asked for under 225, House may consider the question and give a decision, that is a course which is open to the House. Or, it may refer to the Committee of Privileges on a motion made by a Member has raised it or any other Member. The motion now before the House is that the matter be referred to the Privileges Committee. Until that motion is rejected, this motion does not come at all. If that motion is accepted, this motion does not come at all. If that motion is rejected, then alone this motion

can come up. He is not actually amending it. It is a substitute motion in place of the motion before the House—a motion substituting in entirety a motion before the House cannot be an amendment. Therefore, this cannot be accepted as an amendment at all. Whether the new motion can be accepted or not, this can be decided only after the motion before the House is disposed of. Rule 344 says: "The amendment shall be relevant to end within the scope of the motion to which it is proposed." The motion is "referring to the Privileges Committee". This motion cannot be within the scope of the original motion. "The amendment shall not be moved which is merely giving the effect of a negative vote". If this motion is accepted, then the motion before the House is negated. It has got that implication. Therefore, on these three grounds, namely, it is not an amendment but a substitute motion, it is not within the scope of the motion and it has got the effect of negating the motion already before the House, it is out of order. It is based on one of the two alternatives contemplated under Rule 226 and one of the alternatives we are already discussing and unless the House disposes of that, this motion cannot be taken into consideration.

**श्री गौरी शंकर राय :** अध्यक्ष महोदय, हमारे रूलज आफ प्रीसीजर के नियम 226 के अनुसार हमारे सामने दो विकल्प हैं। जिस स्थिति में यह प्रस्ताव सदन के समक्ष पहुंचा है—उस में हम इस को प्रिविलेज कमेटी के सामने भेज सकते हैं—यह पहला विकल्प है। दूसरा विकल्प यह है कि सदन इस को स्वयं पास कर सकता है, यहाँ फंसला ले सकता है। सदन के सामने इन दोनों विकल्पों के सम्बन्ध में प्रस्ताव प्रस्तुत हो सकते हैं—सिलैक्ट कमेटी में भेजने का प्रस्ताव पेश हो सकता है, उसी तरह से नियम 226 के अन्तर्गत

[श्री गौरी शंकर राय]

यह फसला भी हो सकता है कि इस का यही फसला कर दिया जाय। इस लिये यह इल्लिगल नहीं है . . . . .

श्री बसंत साठे (अकोला) : ये परस्पर विरोधी हैं।

श्री गौरी शंकर राय : विरोधी नहीं हैं।

Rule 226 says: "If leave is granted under rule 225, the House may consider...."

I have proved this motion under this aspect.

मान्यवर, इन में कोई विरोधाभास नहीं है।

There is no contradiction nor there is any deviation. The first part of it explains and gives the powers to the House to refer it to the Privileges Committee and the other part gives the power to the House to take a decision now.

इसलिये मुझे यह निवेदन करना था कि विशेषाधिकार का यह प्रश्न है, जिस के सम्बन्ध में इस सदन और सारे देश को तथ्यों की जानकारी है। इस के सम्बन्ध में बहुत जांच करने की आवश्यकता नहीं है। श्रीमती इन्दिरा गांधी के खिलाफ जो आरोप हैं—उनके सम्बन्ध में सारा सदन, सारा देश और सारी दुनिया आश्चर्य है कि वे अपराध सत्य हैं। शाह कमीशन के सामने जो ब्यान हुए हैं, उन में पिछले मंत्री मंडल के सदस्यों ने स्वीकार किया है कि उन्होंने ये काम किए थे। मैं सदन का ज्यादा समय नहीं लेना चाहता हूँ—मेरे मित्र मधु लिमये और कबंर लाल गुप्ता ने जो अपना पक्ष प्रस्तुत किया है, उस से स्पष्ट है और अब इस सदन का यह निश्चित मत है कि श्रीमती गांधी ने जो अपराध किया है—सदन के कार्य में लगे हुए, प्रश्नों के उत्तर

को प्राप्त करने वाले उन अधिकारियों के कार्य में बाधा पहुंचाई है।

It is an obstruction in the working and doing the official duties of the officers in the service of the House.

यह क्लिअर आन्सट्रक्शन है, इस में कोई भी बहसतलब सवाल नहीं है।

इस लिये मैं आप के माध्यम से यह प्रार्थना करना चाहता हूँ कि इस सम्बन्ध में सदन का यही फैसला करना चाहिये। मैं एक और निवेदन आप के समक्ष करना चाहता हूँ—दुनिया में अब तक जितने कानून बने हैं, वे कल्पना के अधीन बने हैं। जब कानून बनता है तो अपराध के सम्बन्ध में कल्पना होती है

There are imaginations about crimes.

लेकिन दुनिया के देशों में ऐसा अबसर आया है जब कल्पनातीत अपराध हुए हैं।

Unimaginable crimes have been committed in the history of the World.

MR. SPEAKER: I will come to that after deciding the admissibility of your amendment.

श्री गौरी शंकर राय : मैं तो अपना मोशन पेश कर रहा हूँ।

MR. SPEAKER: You are going into the merits of the case. I will first go into the question whether your amendment is permissible under the rules. I will go into that first.

SHRI KANWAR LAL GUPTA (Delhi Sadar): I invite your kind attention to rule 226 which says:

"If leave under rule 225 is granted"—which you have granted—"the House may consider the question and come to a decision".

So, this House is competent to take a final decision on any motion. The second alternative is "or refer it to a Committee of Privileges". So there are two aspects of the matter. There is no question of negation. This is not a new motion. If you read rule 226 further it says:

"Or refer it to a Committee of Privileges on a motion made either by the member who has raised the question of privilege or by any other member".

Rule 228 says:

"The Speaker may issue such directions as may be necessary for regulating the procedure...."

So, my submission is that rule 226 is very clear. There are certain motions or resolutions which are passed by the House then and there. There are certain others which are referred to elicit public opinion and there are certain others which are referred to a select committee. This is not a negation of that motion. This is just an amendment, which is very reasonable. The case is such that the lady should be punished here and now. She is the biggest criminal in the country. But we are judicious-minded people believing in democracy. So, we want to give her a chance to explain her case before the committee. That is why we have done this.

SHRI JYOTIRMOY BOSU: Under rule 226 the question of privilege has been termed as a motion. So, immediately we are required to refer to rules 345 and 346. You have admitted the motion and you have called on Mr. Rai to move his amendment. Is it not?

MR. SPEAKER: I have not admitted it. I have only allowed him to mention it.

SHRI JYOTIRMOY BOSU: Mentioning is moving. Amendments or substitute motions can be brought on the

floor of the House under one channel only, namely, the Speaker allows it to be moved. There is no other channel. Rules 345 and 346 have to be read with rule 226. What Mr. Rai has done is right and he has to be allowed to move his amendment and speak on it.

SHRI GAURI SHANKAR RAI: This is not an amendment but a substitute motion. Rule 226 says:

"If leave under rule 225 is granted the House may consider question and come to a decision or refer it to the Committees of Privileges".

The motion moved by Mr. Limaye concerns the other part of it. After your consent is given, any member has got a right to give the motion according to the other alternative given in rule 226. So, this is a substitute motion and there is nothing illegal, no contradiction and no negation.

SHRI VASANT SATHE (Akola): One alternative given under Rule 226 is:

"If leave under Rule 225 is granted, the House may consider the question and come to a decision".

That means, one alternative is that the House itself can consider the matter and come to a decision. That is the proposition of Mr. Gauri Shankar Rai. He says that the House should itself decide to punish. That is his position. But both the alternatives cannot go simultaneously when the Rule specifically says:

"....Or refer it to a Committee of Privileges".

Now, in the main motion of Mr. Madhu Limaye, he has chosen this alternative and this remedy and both things cannot be done simultaneously on a motion moved by this Member and the motion moved by the other Member. How can you have these two because one negatives the other?

[Shri Vasant Sathe]

If the first motion is taken up the motion moved by Mr. Madhu Limaye, the other motion cannot be taken up simultaneously unless that motion is rejected. I am not saying that the other motion cannot be considered; all I am saying is that first Mr. Madhu Limaye's motion be considered. Let the House reject it and after that is rejected, we can take up the motion of Mr. Gauri Shankar Rai who wants that this House should decide to punish Mrs. Indira Gandhi. That is his motion of privilege. Go ahead and do what you like, but Sir, do it legally.

डा० बलदेव प्रकाश (अमृतसर) : अध्यक्ष महोदय, नियम 226 बिल्कुल स्पष्ट है। नियम 225 के अन्तर्गत एक दफा मोशन एडमिट हो जाने के बाद हाऊस उस पर विचार करेगा। इसमें यह कहा गया है कि प्रिविलेज मोशन पर विचार करेगा, इसमें यह नहीं है कि किस ग्राह्तरनेटिव पर विचार करेगा। विचार करने के बाद वह दोनों विकल्पों में से एक पर फैसला कर सकता है। एक पर फैसला हाऊस को करना है। इसके लिए समबडी विल हेव टू मूव इट। अनलेस समबडी मूव इट, हाऊस फैसला नहीं कर सकता है। इसलिए एक पर विचार करने के लिए एक अनरेबल मेम्बर की तरफ से यह मोशन आया है। अब इस पर हाऊस ही विचार करे और नियम के अनुसार हाऊस उस पर विचार करे। मैं समझता हूँ कि इसमें कोई विरोधी बात नहीं है। इस पर हाऊस में विचार करने के बाद हाऊस फैसला करे दोनों में से कौन-सा विकल्प हाऊस चाहता है कि इस पर हाऊस में ही विचार किया जाए या प्रिविलेज कमेटी को इसे भेजा जाए।

SHRI NARENDRA P. NATHWANI  
(Junagadh): Rule 226 is quite clear.

Once leave is granted, the House can do either of the two things: either it can decide the question itself or refer the matter to a Committee of Privileges. But before the House can do it there must be a motion before it. The motion may be for deciding the question by the House itself or the motion may be for referring the matter to a Committee of Privileges. Today we have got both the motions before us. Then it is within the competence of the House to decide which course to adopt. There is no ambiguity in this. This is my view. What is required is, there should be an appropriate motion before the House. If there is no motion moved then the House cannot take action. Suppose there is only one motion moved to refer the matter to a Committee of Privileges. Then the House cannot itself decide the matter because Rule 226 requires it. There must be a Motion moved, if the House wants to decide it itself. That has been done in this case. It is left for the House to decide.

MR. SPEAKER: I want your assistance. Under rule 226, it is open to the House either to remit it to the Committee of Privileges or to discuss it. There is no third course. If Mr. Gauri Shankar Rai's Motion is an amendment of Mr. Madhu Limaye's Motion saying that it should be discussed by the House itself, it is permissible because he is trying to amend the Motion as earlier given. But the real difficulty comes this way: please see the main Motion of Mr. Limaye. It says:

"That the question of breach of privilege and contempt of the House against Shrimati Indira Gandhi and others be referred to the Committee of Privileges with instructions to report within a period of six months."

That is the main Motion. Mr. Gauri Shankar Rai says:

"That this House resolves that Shrimati Indira Gandhi has commit-

ted a grave breach of privilege and contempt of the House by causing obstruction and harassment to the concerned Officers.....'

If he had merely said that it should be discussed only by this House, I can understand that amendment. What he wants is to substitute the original Motion with the other Motion. He wants a total substitution. Is it permissible under rule 226?

SHRI NARENDRA P. NATHWANI: I submit that the amendment to the other motion....

MR. SPEAKER: Is it permissible?

SHRI NARENDRA P. NATHWANI: The amendment to the other Motion viz. that the House itself should decide.

MR. SPEAKER: It may be permissible.

SHRI NARENDRA P. NATHWANI: It may not be an amendment. You should not view it as an amendment.

MR. SPEAKER: Even if you view it as an amendment, it does not matter. It is permissible under rule 226.

SHRI NARENDRA P. NATHWANI: It is open to the House to take either of the two courses mentioned in the opening part of this rule; but for taking either action, it is absolutely necessary that a Motion should be moved in this House; whether Mr Rai's Motion amounts to an amendment or not, is immaterial for the purpose.

MR. SPEAKER: He has specifically mentioned that it is a substitute Motion.

SHRI NARENDRA P. NATHWANI: In that sense it is an amendment when you say "substitute it"; but he says that you may treat it as a separate, independent Motion. There is that Motion to-day. There is some misunderstanding on the part of the office if they have added the word 'sub-

stitute, by way of an amendment. But suppose those words were not there; difficulties seem to be created by printing those words that it may be moved as an amendment.

SHRI SHYAMNANDAN MISHRA (Begusarai): As I said, the position is like this: two things have been held in order: that the question has been allowed to be raised; and the matter proposed to be raised has been found in order. At this stage, the House comes into the picture. In what form should the proposal for further action be formulated? (Interruptions) I am analyzing the whole thing. The House comes into the picture. It has to decide in what form the proposed action should be taken. The first duty of the House is to decide whether it will decide here and now itself. Then we.. (Interruptions) Please Let me analyze objectively. (Interruptions) I really do not understand this. I will analyze the whole thing with the utmost objectivity. The first thing that the House is expected to do is this viz. to decide whether this matter can be disposed of by the House itself. And then alone, if the House says that this matter cannot be disposed of here and now, this matter can be referred to the Committee of Privileges. One may take a view, the House may take a view, that this is a matter which does not require any consideration or examination by the Committee of Privileges. The offence is so manifest.

So, the House may take a view that the offence is so manifest that any plea for extenuation of the offence cannot be allowed later and so the matter must be decided here. Here are a few factors which point in that direction; there is no doubt about it; and the factors are that the Minister who was charged with the responsibility of answering the question.... (Interruptions). I am assisting the House in taking a right decision.

SHRI VASANT SATHE: We have not reached that stage yet.

**SHRI SHYAMNANDAN MISHRA:** From the technical point of view, my first submission is that the House has to decide whether the matter would be decided by the House itself or not. Secondly, whether the hon. Member, Shri Rai's amendment is considered to be a substitute motion or an amendment, in both cases you would find that Shri Rai's motion has to be disposed of first, because that substitute motion relates to the first stage of the consideration by the House, whether the House will decide the matter itself. So that it will have to be disposed of first. Even if it is considered to be an amendment, as amendments are always voted first this amendment will have to be voted first. Therefore, in both cases, from a technical point of view, it is Shri Rai's motion which takes precedence in the matter of voting, so far as the House is concerned. That is one submission. I hope I have made myself quite clear to the Chair on this point that even from the point of view of substance, the first alternative before the House is to decide whether it will decide the matter itself. In that sense also, Shri Rai's motion takes precedence. Secondly, even if it is construed to be an amendment—it is, in fact an amendment—then, it has to be voted first and then the motion of Shri Madhu Limaye can be voted. This is the technical position.

But what I am suggesting is that the House has got certain things before it, which make the offence manifest in the eyes of the House. The other aspect is whether the House should not take into account the natural justice aspect of it, that the accused also has to be given an opportunity in the matter. To that matter I will come later. I am just assisting the House to take a decision in the matter and I am submitting that Shri Rai's motion has to take precedence over the other motion.

**SHRI J. RAMESHWARA RAO** (Mahboobnagar): There is only one motion before the House, and that is by Shri Madhu Limaye. There is no amendment before the House, and the House cannot take into consideration two motions simultaneously. The main motion before the House, moved by Shri Madhu Limaye, is that this matter should be referred to the Privileges Committee. Only this motion is before the House. No other digression is possible. No other motion is before the House.

**MR. SPEAKER:** Rule 226 provides for two alternatives to the House—one is reference to the Privileges Committee and the other is the House itself taking a decision. Shri Madhu Limaye has moved that it be referred to the Privileges Committee. Now another Member says in his amendment "No, the House itself has to decide it". If it is an amendment, then that amendment must be voted first. If, on the other hand, it is not an amendment but a totally new motion, probably it will not be admissible. The matter we have to consider is whether Shri Gaudi Shankar Rai's motion is an amendment or an entirely different motion.

**SHRI J. RAMESHWAR RAO:** There cannot be an amendment to the motion.

**MR. SPEAKER:** Why can there not be an amendment?

**SHRI J. RAMESHWARA RAO:** If the original motion had said that the House should itself consider it or refer it to the Privileges Committee, it would have been different, but the motion specifically says that it should be referred to the Privileges Committee. So, no second motion can be moved.

**SHRI SOMNATH CHATTERJEE** (Jadavpur): It has to be borne in mind that specific provisions have been made in our rules with regard to privilege in Chapter XX. Under rule 225, a Member has to obtain the leave of the House to raise a question of privilege.



MR. SPEAKER: We have passed that stage.

SHRI SOMNATH CHATTERJEE: It is important. Before grant of leave, the Member is permitted to make a short statement relating to the subject matter of the privilege. With regard to that a statement was made yesterday on the floor of the House by Mr. Madhu Limaye. We know what the relevant facts are with regard to which the privilege question has been raised.

Then, after leave has been granted, there is a specific rule with regard to privilege, namely rule 226, which is not there in respect of other matters. It has been specifically provided that two alternative courses of action are open. One has to be necessarily the substitute of the other. Both cannot at the same time remain. Therefore, an alternative procedure having been laid down in rule 226, it has to be decided by the House itself how it is to be done.

At the initial stage, when the Mover was given leave to raise it, he asked for a particular course of action, namely referring it to the Privileges Committee. Now, there is a provision for an amendment. It comes under rule 226 and also rule 344. Rule 344 says:

"An amendment shall be relevant to, and within the scope of the motion to which it is proposed".

The scope of the motion is a decision on the question of breach of privilege, whether the House itself decides it or the Committee decides it. The scope of Mr. Madhu Limaye's motion is decision of the question of breach of privilege for interfering with the due discharge of the functioning by the officers of this House. Therefore, Mr. Gauri Shankar Rai's motion specifically refers to that question and nothing else, and one cannot take

that it is outside the scope of the other motion. Therefore, it is an amendment and comes under rule 226. Even if it is a substitute motion, it is in order because both have been contemplated. I, therefore, submit that you kindly permit Mr. Gauri Shankar Rai's motion as an amendment or as a substitute motion.

SHRI SHAMBHU NATH CHATURVEDI (Agra): There are two options before the House and during the discussion we have to decide one way or the other, and both the motions must be before the House before a decision can be taken. We cannot contemplate two debates on the same subject. So, this substitute motion must be there in the two options are to remain open, and that is why whether it is taken as an amendment or a substitute motion, the motion of Mr. Gauri Shankar Rai is perfectly in order, and House can discuss both the options and come to a decision.

SHRI RAM JETHMALANI (Bombay North-West): There seems to be a little confusion or misunderstanding about the terminology. Would you kindly refer to rule 186?

SHRI B. SHANKARANAND (Chikodi): I do not know whether Members who are in the Privileges Committee can take part in this debate.

MR. SPEAKER: Mr. Jethmalani, the advice to you is not to take part.

SHRI RAM JETHMALANI: I am on the question of construction of rules.

MR. SPEAKER: It is better to avoid that.

SHRI RAM JETHMALANI: Then, I will ask my colleague to raise it.

SHRI NIRMAL CHANDRA JAIN: (Seoni): There is a distinction between question and motion. Kindly see Rule 226. There are two stages provided. "If leave under 225 is granted, the

[Shri Nirmal Chandra Jain]

House may consider the question..." Now the question may come in the form of one motion or in the form of two motions. There is one difficulty also. Kindly see 186.

MR. SPEAKER: I have mentioned that under rule 226, it is open to another Member to amend the motion. I cannot say, no, the House will discuss and take a decision.

SHRI NIRMAL CHANDRA JAIN: Whether it shall be treated as motion in the strictest sense of the term as envisaged under 186. Kindly see the rule:

"In order that a motion may be admissible it shall satisfy the following conditions, namely:—

(v) it shall not raise a question of privilege."

It has a loose terminology for the purpose. For that purpose, it cannot be treated as a motion under 186. Therefore, if the question has been raised that some breach of privilege has been committed by Smt. Indira Gandhi, then the question in wide open. One, two, three motions can come on this. Kindly see what was your observation yesterday. You said specifically that the question is now before the House. On that question, one motion was moved by Mr. Madhu Limaye. Then Mr. Stephen again said:

"Either you give us a copy of the letter of Mr. Madhu Limaye seeking your leave to raise this matter in the House or kindly adjourn it to tomorrow and in the meantime circulate the copy of the motion so that we can look into the matter and make our contribution to the debate."

So, the debate is going on and this debate is on the point of question as envisaged under 226. Therefore the House is now considering the question.

One motion may come, another motion may come and, therefore it is permissible for Mr. Rai to raise this motion along with the first motion.

SHRI D. B. CHANDRE GOWDA (Chikamagalur): I would like to draw your kind attention to the fact that the motion moved by the hon. Member, Mr. Madhu Limaye, has been admitted *in toto*. It has not been split. It is very specific that the matter of privilege be referred to the Privileges Committee. This motion cannot be split up. There is no precedent in the House that such a matter of great importance connected with a great...

MR. SPEAKER: I appreciate your point of view, but how can I do it? What can I do? Under 226, it is open for the House to decide either to remit it to the Committee or decide for itself.

SHRI D. B. CHANDRE GOWDA: The motion of Mr. Madhu Limaye has not given any chance to the House to consider this matter of privilege.

MR. SPEAKER: Under rule 226, once the House is seized of it, Mr. Madhu Limaye may say, "It must go to the Committee of Privileges" but the House may say, "No. We will consider it" What am I to do?

SHRI VAYALAR RAVI: I rise on a point of order. Rule 226 is very clear. It says:

"If leave under rule 225 is granted, the House may consider the question and come to a decision or refer it to a Committee of Privileges on a motion made either by the member who has raised the question of privilege or by any other member."

Mr. Madhu Limaye raised the question of privilege and moved a motion. The motion is very clear and specific that it should be referred to the Committee of Privileges with in-

structions to report within six months. Now, there is rule 344 regarding the scope of amendments. But here is the Order Paper which says, another resolution or a substitute motion. Another motion cannot be moved to the effect that this House do take a decision on the question of privilege. There is already a specific motion before the House. It is not an amendment, it is another motion. The specific motion before the House is very clear and it cannot be substituted by another motion.

SHRI P. K. DEO (Kalahandi): Sir, I would like to submit that the whole House has been surcharged with emotion and we are hearing the same arguments again and again. Nothing new has been said from both the sides.

MR. SPEAKER: I am also thinking on the same lines. So that the House may cool down, I will take time. I will not give the order today.

SHRI P. K. DEO Mr. Gauri Shankar Rai may withdraw his motion. The whole question of privilege could be discussed in the Privileges Committee in a very cool and dispassionate manner the accused could be given a chance to have full say, the evidence could be recorded and all that. If Mr. Gauri Shankar Rai is prepared to withdraw his motion, he may be permitted to withdraw the motion.

SHRI MADHU LIMAYE: The point is very simple. There cannot be two independent motions. The two motions cannot be discussed at the same time. All that you have to decide is whether Mr. Gauri Shankar Rai's amendment is a substitute motion. If it is an independent motion, it is clear that, it is out of order. You please take a quick decision on that.

श्रीवरी बलबीर सिंह (होशियारपुर) :  
अध्यक्ष महोदय, इसमें कोई झगड़े का सवाल ही नहीं है। रूल 226 क्लीयर है। यह कोई अलाहिदा मोशन नहीं है। रूल

बिलकुल क्लीयर है कि हाउस फैसला करे और हाउस नहीं करता तो दूसरे कर लें। यह जो सबस्टीच्यूट मोशन की बात है यह इन्होंने इसी रूल के बारे में कही है। इसको सेपरेट मोशन या अमैजमेंट दोनों शकल नहीं दे सकते आप। यह न अमैजमेंट है और न सबस्टीच्यूट मोशन है या तो रूल 226 में जो प्रोवाइडेड है उसके लिए हाउस को कहा है कि हाउस फैसला करे। यह रूल इतना क्लियर है कि इसमें बहस का सवाल ही नहीं है। यह हाउस फैसला करे या फिर इसको प्रिविलेज कमेटी में भेज दे। इसलिए यह न अमैजमेंट है और न सबस्टीच्यूट मोशन है। रूल 226 को कैंटी आउट करने के लिए कहा गया है कि यह हाउस फैसला करे।

MR. SPEAKER: I have heard enough of it. I will reserve orders.

SHRI AMRIT NAHATA (Pali): The whole confusion has arisen because of the misinterpretation of rule 225. Rule 225 relates to a question of privilege, not a motion. You admitted a question of privilege. The House has allowed Mr. Madhu Limaye to move that question of privilege and he moved that question of privilege. Once a question of privilege is placed before the House, there are four alternatives before the House.

The House may come to conclusion that there is no *prima facie* case of any breach of privilege and the question may be rejected. Then the house may come to a conclusion that yes, there is a *prima facie* case of privilege and it must be referred to the Committee of Privileges. Or the House may come to a conclusion that though there is a very manifest, very patent, very obvious transparent violation of the privileges of this House and though we are competent to take a decision here, we would like the

## [SHRI AMRIT NAHATA]

matter to be referred to the Committee because even the devil must be given an opportunity to explain his or her position. And the fourth position may be that the House may take a decision, now we will take a decision here and now which is very rare. Ordinarily the demand of justice stipulates that even when the House is convinced that it is transparently clear that the contempt has been committed, still we will refer it to the Privileges Committee. If the House decides to take a decision here and now which will be a very exceptional case how does the House do it without a motion. Now that motion may be an independent motion, a substitute motion or an amendment or whatever may be, I may not agree with that motion; I may agree with Mr. Madhu Limaye's motion. I may not like the House to take a decision here and now. But a motion has to come before the House if it has to take a decision here and now.

Therefore, I submit that though the motion of Mr. Rai is in order, whether it is a substitute motion or a new motion or an amendment, it is in order and the House is competent to take a decision on that motion.

**श्री राम नरेश कुशवाहा (सलेमपुर) :** अध्यक्ष महोदय, मधु लिमये जी का प्रस्ताव है कि श्रीमती इन्दिरा गांधी ने इस सदन के विशेषाधिकार की अवहेलना की है, इस मामले को विशेषाधिकार समिति में भेज दिया जाये। श्री गौरी शंकर राय का कोई स्वतन्त्र प्रस्ताव नहीं है बल्कि संशोधन है कि उस पर सदन यहीं विचार करे। मेरा आपसे कहना है कि अगर यह मूल प्रस्ताव का संशोधन है तो मधु लिमये जी का अधिकार है कि संशोधन को स्वीकार करें या नहीं। अगर वे इसको स्वीकार नहीं करते हैं तब इस सदन को विचार करना होगा कि यह संशोधन

माना जाये या नहीं। इसलिए सबसे पहले मधु लिमये जी, जोकि प्रस्ताव के प्रस्तावक हैं उनसे पूछा जाना चाहिए, उनका यह अधिकार है कि उसको मानते हैं या नहीं। उसके बाद इस पर सदन निर्णय कर सकता है।

**THE MINISTER OF STEEL AND MINES (SHRI BIJU PATNAIK):** This matter is getting more and more intense every time as we go on discussing. The fact of the matter is that Shri Madhu Limaye moved a privilege motion yesterday giving some persons an opportunity to explain before the Privileges Committee. Shri Stephen from the Opposition chose to refute and brought by delaying it by one more day all these things on the House and on themselves. Here is a clear case of somebody wishing in her own home, 'Oh God! Please save me from my friends'. This must be her attitude now, listening to our great friends on the other side...

**MR. SPEAKER:** What is your point of order?

**SHRI BIJU PATNAIK:** I am trying to assist you, Sir. Mr. Gauri Shankar Rai has given...

**SHRI O. V. ALAGESAN (Arkonan):** He is going into the merits. (*Interruptions*)

**SHRI BIJU PATNAIK:** If the Opposition Members wish to force our hands, we have nothing to say. I am only trying so that we are not forced. The Janata Party is not going to be provoked by this kind of things.

My suggestion is this. We would request Mr. Gauri Shankar Rai to withdraw his motion. Mr. Limaye's substantive motion may be placed before the House.

**स्वास्थ्य और परिवार कल्याण (श्री राज नारायण) :** : अध्यक्ष महोदय, थोड़ा मझे भी सुन लीजिये। मेरा प्वाइण्ट ऑफ़ आर्डर है।

MR. SPEAKER: I am not allowing. I do not want any more trouble. No. I have not called you.

श्री राज नारायण : आप कृपा कर मेरा प्वाइण्ट ऑफ आर्डर सुन लीजिए, इस से समस्या का समाधान निकल आयेगा, अगर नहीं सुनेंगे तो समस्या का समाधान नहीं निकल सकेगा। —इस तरह से मैं नहीं बैठूंगा आप मुझे निकाल दीजिए।

MR. SPEAKER: What is your point of order?

श्री राजनारायण : मेरा प्वाइण्ट ऑफ आर्डर यह है कि मैं अपनी राय सदस्यों को बतल दूँ। आप इस को प्रिविलेज कमेटी को भेज दीजिए, वह अलग चीज है। मगर प्रश्न यह है कि यह प्रिविलेज का प्रश्न है —

The earliest opportunity should be availed of.

श्री मधु लिमये कल जब यहाँ पर बोले थे तो उन्होंने कहा था कि उन्होंने 10 अक्टूबर को यह दिया था। इस में इतना डिले आलरेडी हो गया है।

Justice delayed is justice denied.

अध्यक्ष महोदय, आप सुप्रीम कोर्ट के जज रह चुके हैं—क्या आप जस्टिस को डिले करना चाहते हैं, तब तो मुझे कुछ नहीं कहना है, लेकिन मैं यह चाहता हूँ कि देश इस बात को समझ ले कि इस सदन को पूरा अधिकार है कि इस को पास कर सकता है और श्रीमती इन्दिरा गांधी के खिलाफ एक्शन ले सकता है। फिर भी जनता पार्टी उन को इतना ज्यादा अवसर दे रही है कि इस को प्रिविलेज कमेटी में भेज कर इस पर वहाँ विचार हो और उस के बाद फैसला हो।

MR. SPEAKER: Mr. Gauri Shankar Rai are you withdrawing your amendment or are you pressing your amendment?

श्री गौरी शंकर राय : मुझे पहले सुन लीजिए, उस के बाद मुझ से पूछियेगा।

SHRI G. M. BANATWALLA: (Ponnani): Sir, I have already sent one motion to you...

MR. SPEAKER: You cannot send not now. I have not allowed. You have to give notice.

SHRI G. M. BANATWALLA: I have given a motion that the entire discussion be adjourned without fixing a date....

MR. SPEAKER: That cannot be done now. I am not admitting it because you have not given notice.

SHRI G. M. BANATWALLA: Let me move it first, and then you may allow or disallow. Without my moving it, you are giving your ruling on it.

MR. SPEAKER: I am not allowing it.

13 hrs.

SHRI G. M. BANATWALLA: You must let me move it.

MR. SPEAKER: You should have given notice earlier: not now.

SHRI G. M. BANATWALLA: I am asking for an adjournment of the entire discussion *sine die*: how can you rule it out?

MR. SPEAKER: You have to give notice in time: you are creating further trouble.

SHRI G. M. BANATWALLA: I am within my rights to move a motion.

SHRI VASANT SATHE: The Rule is very clear: it can be moved any time.

MR. SPEAKER: All right; you may move your motion.