

12.10 hrs.

RE: QUESTION OF PRIVILEGE

MR. SPEAKER: The House will recall that on the 31st July, 1978, during the discussion on a point or order regarding reported eviction of families of two Members of Parliament, Shri Lalji Bhai, a member of this House, made certain allegations against Shri Sher Singh, another member of this House and the House Committee.

I had then said that the member had made serious allegations and that I would look into the matter. I had also observed that the member must give his complaint and prove his allegations, otherwise, the matter would be referred to the Committee of Privileges.

Subsequently, I expunged the allegations made by Shri Lalji Bhai from the proceedings of the House.

Shri Lalji Bhai was also asked under my direction to detail and substantiate the allegations made by him. As no reply was received from Shri Lalji Bhai despite repeated reminders, I referred this matter to the Committee of Privileges under Rule 227 of the Rules of Procedure and Conduct of Business in the Lok Sabha.

The Committee of Privileges in their Report submitted to me, have reported that "during his evidence before the Committee, Shri Lalji Bhai expressed his regret and tendered apology for his impugned remarks in Lok Sabha on 31st July, 1978".

The Committee have also expressed the view that "the freedom of speech in Parliament under Article 105 of the Constitution should not be misused by a member for making unsubstantiated allegations of defamatory or incriminatory nature against any person", and that "the Committee consi-

der it very unfortunate and regrettable that Shri Lalji Bhai chose to make unsubstantiated allegations of a serious nature against another member and a Committee of the House in a rather very casual manner". The Committee have added that they "deprecate this regrettable action of Shri Lalji Bhai". However, in view of the regret expressed and apology tendered by Shri Lalji Bhai, M.P., before the Committee, the Committee have recommended that "no further action need be taken in the matter" and that "the matter may be dropped".

If the House agrees, the matter may be treated as closed.

I take it that the House agrees.

SEVERAL HON. MEMBERS: Yes.

SHRI K. GOPAL (Karur): When you say that you have expunged the remarks made by Shri Lalji Bhai, how can you ask for his explanation?

MR. SPEAKER: He made an allegation that another Member demanded a bribe.....

SHRI K. GOPAL: When you have expunged it, how can you ask for an explanation? When it is expunged, it does not exist on record.

SHRI C. M. STEPHEN (Idukki): I rise on a point of order. The order that you have just now read out raises two issues. One, the Committee of Privileges has given a report. There is a procedure to deal with that report. The Committee of Privileges have found a particular Member guilty, and they have recommended that, in view of the apology given, a certain action may be taken; depreciation may be recorded and the matter may be closed. Now, the procedure is this. The Com-

mittee's report must be laid on the Table of the House. There must be some motion moved by somebody to accept it or reject it or modify it. It cannot come to the House the way it has now come to the House, that is to say, through the Speaker. The Committee's report must be laid on the Table of the House. Somebody must move a motion about it and that motion will have to be accepted. Well, Sir, one by one the procedure of the House is now being trampled upon. This cannot be allowed. In our wisdom, we have laid down a certain procedure. The Speaker has got certain powers, only certain powers, not beyond that. How a report of the Committee should be dealt with is a matter of significant importance, and it can be dealt with only in that manner. The Committee's report must be laid on the Table of the House; a motion must be moved; the motion may or may not be accepted. It is not for the Speaker to move a motion and to suggest that this may be accepted or not.....

MR. SPEAKER: I did not...

SHRI C. M. STEPHEN: This is how it has come. If the House agrees... This is what you said. It does not lie within your province. The Speaker's office cannot be used like this. In the other way alone, it can be done. Therefore, kindly do not put the proposition the way you have put it. Let it come in the proper manner, in the usual manner.

The second matter is what Mr. Gopal raised. It is a closed matter. Anyway, it is an important matter. I just cannot understand this. Once it has been expunged, it does not form part of the proceedings at all. It is non-existent. It never existed. If something is non-existent, how can proceedings be initiated on that? What was it that the Privileges Committee looked into? What is the record about it? The tape-record is no re-

cord for the House. The record for the House can only be the written record. There are certain methods about it. Once it is expunged, the thing ceases to exist. The expunction cannot be dealt with in this manner—'not recorded' and 'expunction'. This is going rather too far. It has certain limitations.

These are the two points I am raising.

This question as to whether the Committee is entitled to make a report to this House on the basis of a remark which is expunged is a matter which must be raised in the House when the report is considered. Therefore, the report must be laid on the Table of the House. The motion must be moved. At that time the question as to whether the Committee was competent to consider this remark will itself have to be considered and the House will have the opportunity to decide as to whether the Committee did a proper thing in considering a remark which was non-existent. Therefore, that opportunity must be available to the House.

MR. SPEAKER: I will examine the matter. I will go into the matter. (Interruptions).

SHRI C. M. STEPHEN: Then this order must be kept in abeyance.

MR. SPEAKER: Naturally.

SHRI K. GOPAL: You have also said that, even though it was expunged from the record, under your directions, it was referred. This is rather unfair.

SHRI HARI VISHNU KAMATH (Hoshangabad): On a point of order. Please refer to rule 314(1). This is about the Committee of Privileges. Rule 314(1) reads:

"The Committee shall examine every question referred to it..."

Now, *ab inito*, the question, before the House will be, what was referred

[Shri Hari Vishnu Kamath]

to, when it was expunged. (*Interruptions*),

MR. SPEAKER: I have said that I will examine it.

SHRI SAUGATA ROY: You keep your order in abeyance.

SHRI SHYAMNANDAN MISHRA (Begusarai): The hon. Leader of Opposition has raised a very important point of procedure. Although the House may be taking a very generous and lenient view in this matter, but there is no doubt that we have to be very strict about following a particular procedure laid down by the Rules of the House.

Now in this instant case the matter was referred by the hon. Speaker to the Committee of Privileges. That imparts a special feature to this report but, notwithstanding that, my submission is that the report again in this case also will have to be made to the entire House and it is not to the Speaker himself, although the Speaker might be disposed to take the view that since the matter was referred to by him, the report will have to be made to him.

MR. SPEAKER: Anyway, I will examine the matter... There are two types of references—one by the Speaker and one by the House. I will examine the matter.... (*Interruptions*)

SHRI K. GOPAL: It has to be referred on the basis of the proceedings of the House.

MR. SPEAKER: That is another aspect.

SHRI VAYALAR RAVI: By your order the matter was referred to the Privileges Committee. A matter can be referred to the Privileges Committee under Rule 222 or certain other rules. But nobody has raised that issue and you sent it *suo motu*.

MR. SPEAKER: It was referred *suo motu*. I will go into the matter.

PROF. P. G. MAVALANKAR (Gandhinagar): The matter was referred to us in the Committee of Privileges on the basis of unexpunged remarks of the House and thus we examined something which came to us.

SHRI SAUGATA ROY: Your order of expunction is not in order. That is the crux of the matter.

SHRI KANWAR LAL GUPTA (Delhi Sadar): As per Rules 222 and 223 a matter can be referred to only if there is a notice by a Member. In this case no Member gave notice of a privilege motion. So it was only the Speaker who referred the matter to the Privileges Committee on a non-issue which was not said here because it was expunged. So, my point of order is this: can the Speaker, on his own and without anything on record, refer *suo motu*, without any notice from any member, a matter to the Privileges Committee?

MR. SPEAKER: On that, rule 227 specifically says:

"Notwithstanding anything contained in these Rules, the Speaker may refer any question of privilege to the Committee of Privileges for examination, investigation or report."

SHRI VASANT SATHE (Akola): On a point of order. Under rule 222 who raised it?

MR. SPEAKER: Prof. Sher Singh.

SHRI K. GOPAL: On what did he raise?

SHRI VASANT SATHE: Under rule 222:

"A member may, with the consent of the Speaker, raise a question involving a breach of privilege..."
Then 223 says:

"A member wishing to raise a question of privilege shall give..."

It is mandatory.

"...shall give notice in writing to the Secretary-General before the

commencement of the sitting on the day the question is proposed to be raised..”

So, the question can be raised by a written notice given by a Member. Only thereafter under rule 227 you can refer it to the committee.

SHRI SAUGATA ROY: Please see Rule 380. The whole question has brought forward the succinct question of the powers of the Speaker to expunge the remarks in the House. The powers of the Speaker to expunge remarks in the House are clearly laid down under Rule 380 which says:

“If the Speaker is of opinion that words have been used in debate which are defamatory or indecent or unparliamentary or undignified, he may, in his discretion, order that such words be expunged from the proceedings of the House’

MR. SPEAKER: You are right. He cannot otherwise do it.

SHRI SAUGATA ROY: So the Speaker's powers in this respect are not arbitrary. They are well-defined under Rule 380.

Very often you are giving orders ‘Don't record’ etc. I want to mention that the powers to give orders ‘Don't record’ etc. are not arbitrary. They are governed by the rules.. (*Interruptions*). Such an anomalous situation will arise in future.

MR. SPEAKER: This has been gone into already and my rulings are very clear in that regard.

Papers to be laid.

12.25 hrs.

PAPERS LAID ON THE TABLE

NOTIFICATION UNDER POST-GRADUATE INSTITUTE OF MEDICAL EDUCATION AND RESEARCH, CHANDIGARH, ACT, 1956.

THE MINISTER OF HEALTH AND FAMILY WELFARE (SHRI RABI RAY): I beg to lay on the Table a copy of the Post-Graduate Institute of Medical Education and Research, Chandigarh, (Amendment) Regulation 1978 (Hindi and English versions) published in Notification No. G.S.R. E3/NF/78 in Gazette of India dated 22nd May, 1978, issued under section 32 of the Post-Graduate Institute of Medical Education and Research, Chandigarh, Act, 1956. [*Placed in Library. See No. LT—4360/79*].

NOTIFICATION UNDER INLAND VESSELS ACT, 1917

THE MINISTER OF STATE IN CHARGE OF THE MINISTRY OF SHIPPING AND TRANSPORT (SHRI CHAND RAM): I beg to lay on the Table a copy of the Mechanically Propelled Inland Vessels (Third Party Insurance) Rules, 1978 (Hindi and English versions) published in Notification No. G. S.R. 601(E) in Gazette of India dated the 30th December, 1978, under sub-section (5) of section 74 of the Inland Vessels Act 1917. [*Placed in Library. See No. LT—4361/79*].

NOTIFICATION UNDER CENTRAL EXCISE RULES, 1944 AND AN EXPLANATORY MEMORANDUM

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI ZULFIQUARULLAH): I beg to lay on the Table:—

(1) A copy each of the following Notifications (Hindi and English versions) issued under the Central Excise Rules, 1944:—

(i) G.S.R. 250 (E) published in Gazette of India dated the 17th April, 1979 making certain amendments to Notification No. 33/69-CE dated the 1st March, 1969 regarding inclusion in the Schedule annexed thereto. Rectangular Beverage Jug (Hot) for the purpose of