

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Lok Sabha to the Joint Committee."

12.14 hrs.

STATEMENT BY MEMBER RE. ANSWER GIVEN TO USQ NO. 425 BY MINISTER OF STATE FOR HOME AFFAIRS AND STATEMENTS MADE BY MINISTER OF STEEL AND MINES REGARDING SETTING UP OF A SPECIAL COURT FOR TRIAL OF THE FORMER PRIME MINISTER

MR. SPEAKER: Before I take up the Calling Attention, Mr. Mavalankar to make a statement under Direction 115. The entire statement need not be read out.

PROF. P. G. MAVALANKAR (Gandhinagar): I will read out only the relevant portions.

As per Direction 115(4) of the Directions by the Speaker, Lok Sabha, I invite the attention of the House to the inaccuracy in the statements made by the hon. Minister of Steel and Mines on the question of Government's decision to set up a special court to try the former Prime Minister, Shrimati Indira Gandhi.

On Wednesday, July 19, 1978, I asked the Unstarred Q. No. 425 to which the Minister of State in the Ministry of Home Affairs, Shri S. D. Patil, gave the answer, which I quote:

"Will the Minister of Home Affairs be pleased to state:

(a) whether Government propose to bring forward at a very early date legislation providing for the setting up and functioning of special courts and/or other

judicial bodies for proceeding with the civil/criminal cases against one or more individuals whose conduct and deeds or misdeeds during the nineteen months old emergency were inquired into by the specially constituted Commissions of Inquiry;

(b) if so, broad indications thereto; and

(c) if not, why not?

The Minister of State in the Ministry of Home Affairs, Shri S. D. Patil replied like this:

"(a) to (c). Some specific proposals for legislation have been received by Government. The question of setting up a special court to try Shrimati Indira Gandhi is under the active consideration of the Government. In view of some doubts about the validity of such a legislation, Government have decided to seek the opinion of the Supreme Court on the question of validity under Article 143 of the Constitution."

On the same afternoon, that is, Wednesday July 19, 1978, however, the hon. Minister of Steel and Mines, Shri Biju Patnaik made repeatedly a series of points mentioning the subject of the special court and, I submit, the two Ministerial statements, one following closely the other within some hours, brought out uncertainty and confusion, if not, mutual contradiction.

While the Minister of State for Home Affairs told the House that "the question of setting up a special court to try Shrimati Indira Gandhi is under the active consideration of the Government", the Minister of Steel and Mines went on to say and even repeat that "as Government, we have decided to set up a special court".

In this connection, I wish to refer to the Uncorrected version of the Lok Sabha debates of July 19, 1978.

[Prof. P. G. Mavalankar]

wherein the Minister of Steel and Mines uttered several sentences, and did so several times, as can be seen from the extracts of the Debate I am placing before the House.

At the conclusion of Shri Vasant Sathe's speech on the MISA (Repeal) Bill, the Minister of Steel and Mines said:

(1) "I do not want to argue I am saying it as Government that we have decided to set up a Special Court and we are going to refer the matter to the Chief Justice of India in due course."

(2) "We are bringing a Bill. I am saying it as Government".

(3) "I have said and I repeat for the members of this House that the Government has decided to set up a special court. A Bill is being brought to this House—may be Mr. Ram Jethmalani's Bill—(Interruptions) under which the Government have decided to refer it to the Supreme Court. This is the decision taken by the Government."

(4) "I merely conveyed what Government have decided, viz., that we wish to try the cases, as follow-up actions of the Shah Commission's Report, by a special court. And the Chief Justice of the Supreme Court will be consulted. This is a decision of the Government. I merely conveyed a very minor, small decision which is not at all a policy matter or of a very great importance."

(5) "When I say that the Government have taken a decision, I am sure the hon. Members understand—they have been Ministers themselves—that the Cabinet has taken a decision. In fact, it was given as a hand-out by the Cabinet, nearly 10 days ago."

"If it has not come to his notice. I merely wanted to remind Mr. Sathe that such a decision has taken

place; and in continuation of that decision, and in pursuance of that decision, the matter will be referred to the Chief Justice of the Supreme Court for his opinion."

Finally Mr. Speaker, Sir, this is what the Minister of Steel and Mines said: "First the Government takes a decision, before it takes up further action—it is normal. You first decide and then you take some other action."

Now, Sir, I am not concerned here with the question of advisability or otherwise of setting up a Special Court, nor am I opinioning on it.

My whole point is that the House is given two quite different versions on the same subject on the same day, and this is objectionable as well as misleading.

Also objectionable is the fact that a Cabinet Minister should persist in repeatedly conveying what he termed as Government's decision to the House on a matter for which not he but the Home Minister and/or the Prime Minister could and should make a statement before the House.

Thirdly, the Minister of Steel and Mines was not intervening or replying on behalf of the Government, and he was not making a Government policy statement (with the proper and previous permission of the Chair) either.

On 19th July, afternoon itself, I had raised a point of order "in all seriousness" on this very question, and I had sought the Chair's guidance.

I do so again by this statement.

(Interruptions)

SHRI VAYALAR RAVI (Chirayinkil): He had given a notice of privilege. Why can he not make a statement?

MR. SPEAKER: This is not a privilege motion.

(Interruptions)

SHRI K. P. UNNIKRISHNAN (Badagara): Will you start allowing someone under direction 115? You go through your own directions. Whether the privilege motion on the same subject stands, I have got a precedence over that.

MR. SPEAKER: That on a privilege motion you have got.

SHRI K. P. UNNIKRISHNAN: Precisely on the same issue. It is under the same issue; it is not under a different issue.

MR. SPEAKER: Quite right.

SHRI K. P. UNNIKRISHNAN: After that, you had said that "you accept Mr. Patil's explanation on this regarding the started question in response to a question by Mr. Mavalankar." We sent another notice. You would recall that when you are discussing a matter where the substance is the same over which a privilege motion is pending, we will get precedence and not 115. You cannot change this. We shall not allow this. Now we shall not allow anyone to pull the wool over our eyes and help the Minister to come out with a statement white-washing his performance. We will not allow it.

SHRI VAYALAR RAVI: As soon as the Minister made a statement in the House—if you go through the record you will find—I immediately stood up on a point of order. I do not want to read my point of order here. Then I do not want to go into details what he has explained here. But the point is that immediately myself and Mr. Unnikrishnan moved a privilege motion against the Minister of State for Home Affairs, Mr. Patil. Then you decided that there was no privilege involved in the statement of the Minister of Home

Affairs, because he again had given a statement in writing. What is that is true. Then naturally any one of them might suggest something in the House. That is why, two days ago, Myself and Mr. Unnikrishnan gave a notice of privilege against Mr. Biju Patnaik and we very much wish, Sir, before you give your ruling, to make our submissions. But Mr. Mavalankar has dealt with it elaborately. I do not want to repeat what Mr. Mavalankar had said. But if you go through the record, the whole record on that day, you will find that Mr. Biju Patnaik is trying to get a shield over the decision of the Cabinet for a Supreme Court. But if you allow me to read only one sentence—what he said is: the Minister said: of course, Mr. Biju Patnaik: "When I say that the Government has taken a decision—I am sure the hon. Members will understand they had been Ministers themselves—that the Cabinet has taken a decision"—in fact, it has come as a hand-out by Cabinet nearly 10 days ago; it has not come as his notice. This is my mistake. He says: "10 days ago the Cabinet has taken decision to set up a Special Court." That is the decision. Referring to the Supreme Court is an immaterial point. Referring to the Supreme Court may be a concurrence only. So, it is a clear case of privilege. I do not want to repeat all this. But it is a deliberate attempt. That is what I said: "Immediately after Mr. Patnaik made a statement, I stood up on a point of order". Then Mr. Vasant Sathe stood up on a point of order. Then Mr. Kanwar Lal Gupta stood up on a point of order. Then Mr. Mavalankar stood up on a point of order and Mr. Somnath Chatterjee, who is a very eminent lawyer, tried to plead the case of a bad client. That is the comment made by Mr. Sathe. He tried to correct it. Then Mr. Patnaik said: "No, no, do not correct me, I will make my own statement". This is a clear case of breach of privilege and a deliberate attempt to mislead the House. So, my request is that instead of 115,

[Shri Vayalar Ravi]

please allow us to move privilege motion. Then you can give him a chance to explain.

SHRI VASANT SATHE (Akola):
On a point of order under Direction 1. Direction 2 says:

"Relative precedence of different classes of business:

"Unless the Speaker otherwise directs on any particular occasion, the relative precedence of the classes of business before the House specified below shall be in the following order,...

So, unless you have directed...

MR. SPEAKER: I have directed.

SHRI VASANT SATHE: The direction should be known to the House. If the order of business is to be changed, then the others' rights are involved. Your direction must have relevance to the other's rights also. Every one concerned must be informed. If a notice of privilege has already been given and that is before you, on the same subject-matter, then kindly see where it comes; the item which deals with questions of privilege is item (vi) here whereas the item which deals with statements under Direction 115 is item (xxi). The item relating to Direction 115 is very much down, (xxi) in the order of precedence. And now if you, in your wisdom, want to bring this item even above the question of privilege with a view to scuttling the privilege motion....

AN HON. MEMBER: It is a very serious matter.

SHRI VASANT SATHE:..then the rights of those who have given notice of privilege will arise. We had raised points of order immediately on that day. I had pointed this out; here is

the Minister of State who categorically says, 'We have not yet taken a decision about appointment of a special court because there are legal controversies about it, two opinions are there; therefore, first, we are taking the opinion of the Supreme Court and only on getting that opinion, Government will decide the matter'; as against that, here is the Minister of Steel and Mines who has said, 'No, the Cabinet has decided to appoint a special court'. I had pointed out in my point of order that day that, referring to the Supreme Court became redundant and superfluous if they had already taken a decision. Therefore, here is a case of direct breach of privilege. . .

MR. SPEAKER: You are on a point of order.

SHRI VASANT SATHE: My point of order is this: how have you changed the precedence?

MR. SPEAKER: I will deal with it.

SHRI SHYAMNANDAN MISHRA (Begusarai): May I rise on a point of order arising out of this? May I recall to your mind that, when I raised the question of transfer of 11 million dollars to a Swiss bank out of the discretionary funds of the Ministry of External Affairs, the hon. Minister of External Affairs made a statement thereon. After that, two hon. Members raised a question of privilege against the hon. Minister of External Affairs and against the hon. Minister of Finance. In the meantime, I had also submitted a request to you to make a statement under Direction 115. But my request was kept in abeyance, and the privilege motion was given precedence over Direction 115, with the result that my request under Direction 115, after prorogation of the House, has been scrubbed off the slate. Now, I will have to

come up again with a fresh request. So, this has been the practice always that a motion of privilege has got precedence over all other items of business precisely because of the reason that breach of privilege is an offence, and the moment the House gets seized of this, the matter becomes *sub judice*; if any other matter is sought to be raised, that might prejudice the matter which is already under consideration of the House. Therefore, first, the motion of privilege has to be dealt with, and then alone any matter having a bearing on that can be taken up by the House. That has been your order earlier; I think that you should stick to that order.

SHRI K. P. UNNIKRISHNAN: I don't want to take up much of your time. I don't want to repeat what others have said, but the main point is that: if the House is seized of a privilege issue, unless it is disposed of, no motion of any kind—and particularly under Direction 115 which can be used as a subterfuge by a Minister—can be allowed. That has been a precedent in this House followed right through. I can quote several instances, if you will permit me time. So, under this, I don't know how you can allow the Minister to make a statement. If I may submit, I did not want to interrupt while my friend Mr. Mavalankar was making a statement because you had permitted him to do so. But it was a wrong procedure. If you had disposed of our privilege notice, then you could have come to this. But we are also entitled to know and the House is entitled to know: it is not a private matter between you and me or between two other members. When the House is seized of a privilege issue, it is the property of the House and the House should know what goes on.

MR. SPEAKER: So far as the privilege motion against Mr. Biju Patil is concerned, it was given notice of only day before yesterday.

The matter is under my consideration. I have not either accepted or rejected it under Rule 222.

So far as Mr. Mavalankar's notice under Direction 155 is concerned, it was given several days earlier and I had already requested the Minister to answer it. That is why the Direction has come up earlier than they privilege motion. It is not correct to say that the House is seized of the privilege motion. The House will be seized of the privilege motion only when the consent of the Speaker is given under Rule 222.

SHRI K. P. UNNIKRISHNAN: You say it is under your consideration. . .

MR. SPEAKER: The House is not seized of it. (*Interruption*).

SHRI VASANT SATHE: You are contradicting yourself, Sir.

MR. CHAIRMAN: No, I am not contradicting myself.

SHRI VASANT SATHE: The moment you say it is under your consideration, this matter is also before you. (*Interruption*). It is a wrong thing. If you had rejected it, I can understand it, but the moment you say it is under your consideration, both matters are before you. Don't dictate wrong things, for Heaven's sake.

SHRI SAUGATA ROY (Barrack-pore): Let the impression not be created in the House that an attempt is being made to push the issue under the carpet. Once you allow the Minister to make a statement under 115, the whole issue of privilege has to be dropped; then the question of referring it to the Privilege Committee will not arise.

MR. SPEAKER: That may or may not be.

SHRI SAUGATA ROY: Once he makes a statement, he will have to submit his explanation for a wrong

[Shri Saugata Roy]

statement made in the House and then the question of referring it....

MR. SPEAKER: That is not a point of order you are raising?

SHRI SAUGATA ROY: The Minister will have to make a statement, a copy of which has already been given to you....

MR. SPEAKER: That is not a point of order.

SHRI SAUGATA ROY: This is the point of order, the privilege motion will then get automatically dropped.

MR. SPEAKER: No. That will be considered on its own merits.

SHRI VAYALAR RAVI: Sir, we have given the privilege motion notice immediately, on the same day. On the same day Mr. Biju Patnaik made the statement, we gave the privilege motion.

MR. SPEAKER: But there you mentioned that it is against Mr. Patil.

SHRI K. P. UNNIKRISHNAN: There is no question of a statement on the same subject arising at all: there is no question. You want to pre-judge the issue. You are now allowing a statement to be made to pre-judge the issue. You have admitted that the motion is under your consideration: so he should not be allowed to make a statement.

SHRI VAYALAR RAVI: I am on a point of order under Rule 115.

SHRI K. P. UNNIKRISHNAN: If you are violating the procedure of the House,

MR. SPEAKER: I am not violating and procedure.

SHRI K. P. UNNIKRISHNAN: If you allow the Minister to make a statement, then you are violating the procedure.

MR. SPEAKER: That is your opinion.

SHRI K. P. UNNIKRISHNAN: It is not a matter of opinion: it is a well established fact. It is not a matter of opinion. Just because you have dictated it, it does not mean I should say what you have done is right.

SHRI VAYALAR RAVI: Sir, you have already given a ruling. It is not fair on our part to question the ruling and I am not questioning it, even though on the same day we both had given notice of a privilege motion against Mr. Patil. Then you informed us, two days ago, that he had sent you a statement.... (Interruptions). As far as Direction 115 is concerned, I will read not the whole of it, but only 115(s) which says:

"The Minister or the Member concerned may make a statement in reply with the permission of the Speaker and after having informed the other Member concerned."

Shri Mavalankar has raised this matter under Direction 115 regarding the inaccuracy in the statement made by Shri Patil, not by Shri Patnaik. Shri Mavalankar has raised this question which relates to the statement by Shri Patil, Minister of State in the Ministry of Home Affairs: it is not Shri Patnaik. Shri Patnaik made a statement subsequently. Who has to correct the statement? Shri Mavalankar, the hon. Member, can only under Direction 115 ask for the statement to be corrected by Shri Patil and not Shri Patnaik. That is the question.... (Interruptions). It can only be corrected by Shri Patil, Minister of State in the Ministry of Home Affairs. May I, therefore, know under what rule you are asking Shri Patnaik to correct the statement?

SHRI GAURI SHANKAR RAI (Ghazipur): Sir, on a point of order which is very much interlinked with this question. As long as the matter is under your personal consideration, the matter is not sub judice: it is not under the consideration of the House.

MR. SPEAKER: I have mentioned that.

SHRI GAURI SHANKAR RAI: You have not yet decided the *prima facie* question of privilege in this case. It cannot be said that it is a *subjudice* matter before the House; it is under the consideration of the Speaker. That is not very much relevant.

One thing more. My hon. friends feel that in the present case if the records are put straight, the question of privilege stands nowhere. If the records are put straight and a proper explanation is given, why are the hon. Members interested here like in a criminal case. It is not a criminal case.

SHRI VAYALAR RAVI: You moved a motion against Shrimati Indira Gandhi for the breach of privilege and this House accepted it.... (Interruptions).

SHRI SHYAMNANDAN MISHRA: Sir, this is a very important matter and it is a question of the rights of the House. Since the right of the House is involved in this case, we will have to pay enough attention to this.

If it is your proposition that the chair can sit over a privilege motion for a number of days, I think, we would respectfully disagree with it. We are supposed to follow the practice in the House of Commons where the privilege motion has to be treated as the highest priority item on the agenda of the day. Here, if we are following a strange practice, that the chair can sit over the matter for a number of days and in the meantime, the matter loses its urgency, and if the chair's case is that since the chair has been considering the matter, therefore, it is not *sub judice*, then the chair must in every case allow the Member to raise the matter in the House as has been the practice in the House of Commons. But since we have faith in the chair that the chair would come forward with its own ruling at the earliest, and in the instant case the chair has not

done so, I think that there has been, what I would say with all humility, a lapse on the part of the chair. This is because in the meantime I have been a victim of this, the chair sat over my request under Direction 115 for a number of days, for a number of weeks, and in the meantime, the privilege motion was allowed to be taken up in this House. Would not the chair go into this matter, whether any discrimination should occur in this and should we not also make it a practice that whenever a question of breach of privilege is brought before the House, it is disposed of as the highest priority item on the agenda, otherwise a great injustice would be done and you would not be following the practice in the House of commons.

DR. SUBRAMANIAM SWAMY (Bombay North East): Sir, there appears to be an argument that there is a conflict between the privilege notice and the directions issued. I draw your attention to Rule 228 which very clearly says:

"The Speaker may issue such directions as may be necessary for regulating the procedure in connection with all matters connected with the consideration of the question of privilege either in the Committee of Privileges or in the House"

Even in the matter of consideration of the question of privilege, you can issue directions. As my hon. friend, Shri Gauri Shankar Rai said, there is nothing outstanding here. The Minister made a statement earlier. The House will have a complete opportunity, you also shall have a complete opportunity to take into account the total evidence in considering the question of privilege after the Minister makes a statement. I would earnestly request to stop this matter here.

MR. SPEAKER: I have understood it.

SHRI NIRMAL CHANDRA JAIN (Seoni): I have to make one very little submission....

MR. SPEAKER: Point of order is not a debate.

SHRI NIRMAL CHANDRA JAIN: Should I sit down? Would you allow others to speak on this and not me?...

MR. SPEAKER: It is totally wrong on your part....

SHRI NIRMAL CHANDRA JAIN: Under protest I sit down. This is very unfair.

MR. SPEAKER: Mr. Vayalar Ravi's contention that Mr. Mavalankar's notice is against Mr. Patil is not correct. Mr. Ravi has given his notice as against Mr. Biju Patnaik. Therefore, that notice has to be sent to Mr. Patnaik and Mr. Patnaik has alone been called upon to reply.. (Interruptions)

PROF. P. G. MAVALANKAR: As far as I am concerned, I have not said it.... (Interruptions)

MR. SPEAKER: He has not mentioned the name but the entire allegation is against Mr. Patnaik....

SHRI K. GOPAL: No, no.. (Interruptions).

SHRI ANNASAHIB GOTKHANDI (Sangli): Who is misleading the House? Is it Mr. Patil or Mr. Patnaik?..

SHRI K. GOPAL: You have agreed that one of them misled the House. Who has done that?

SHRI VAYALAR RAVI: It can come under Rule 387 and not 115.

MR. SPEAKER: Coming to the objection of Mr. S. N. Mishra, it is not correct...

SHRI MOHD. SHAFI QURESHI (Anantnag): Why do you not hear Mr. Mavalankar because he is not clear in his statement against whom the allegations are made. Before you give a ruling, please hear him.

SHRI K. GOPAL: It is a sheer commonsense. You agree with us that one of them misled the House—either, Mr.

Patil or Mr. Patnaik. You tell us who has done it. We will proceed further. The matter will end there.

MR. SPEAKER: So far as the objection raised by Mr. Mishra is concerned, Mr. Mishra has evidently not been informed correctly about the facts. So far as the privilege motion against Mr. Biju Patnaik is concerned, it was given only day before yesterday. It is true that earlier, Shri Unnikrishnan and Shri Vayalar Ravi had given a notice of privilege against Mr. Patil. Mr. Patil has replied to that notice and after considering it, I have refused to give my consent....

SHRI K. P. UNNIKIRISHNAN: What was the reply?

MR. SPEAKER: It was mentioned.

I have refused to give my consent to that motion.

Now the well-established practice of this House is that whenever a privilege motion is moved against a Member of the House, his comments are called for. In this case also we have called for the comments of Mr. Patnaik in respect of the notice against him. Hence so far as the question of Direction 115 is concerned, it is independent.... (Interruptions) Therefore, I call upon Mr. Biju Patnaik to make a statement. (Interruptions) I do not think privilege motion is a vested right.... (Interruptions)...

SHRI K. P. UNNIKIRISHNAN: You cannot violate the Directions of the Speaker.... (Interruptions) That we will not permit you to do....

MR. SPEAKER: Mr. Patnaik (Interruptions)

THE PRIME MINISTER (SHRI MORARJI DESAI): When my hon. friend says, "I will not permit you", is it right to say that?

MR. SPEAKER: That I have been pointing out to them.

SHRI MORARJI DESAI: This is what I am asking. Why should he say

that? He can object, how can he say that he will not permit. That ought not to be said.

That has gone on record.

(Interruptions)

SHRI K. P. UNNIKRISHNAN: You cannot violate the rules of the House.

MR. SPEAKER: Somebody must decide, rightly or wrongly. But somebody must decide.

(Interruptions)

MR. SPEAKER: I do not agree.

(Interruptions)

MR. SPEAKER: I have heard all points of yours.

SHRI K. P. UNNIKRISHNAN: Do we go by the rules of procedure or by your arbitrariness? I want an answer for that. You are a creature of this House.

SHRI VASANT SATHE: To-day are you going to allow (Interruptions) when the Prime Minister is there.

(Interruptions)

MR. SPEAKER: You have said it a number of times.

SHRI VASANT SATHE: I am referring now to the Prime Minister.

MR. SPEAKER: You cannot do it any number of times.

SHRI VASANT SATHE: I want the Cabinet decision when the Prime Minister is there.

He first said that he was declaring the cabinet decision.

MR. SPEAKER: Now we are not on that.

SHRI VASANT SATHE: You are allowing him under 115.

(Interruptions)

SHRI VASANT SATHE: Shri Patnaik wants to be a bridegroom. (Interruptions) Shri Patnaik wants to be a crown. If there is a ruler of the country. (Interruptions) Can you allow this? This is what is happening. (Interruptions) Why do you allow Shri Patnaik to play this rone?

(Interruptions)

SHRI MOHD. SHAFI QURESHI: I take strong objection to that.

(Interruptions)

SHRI SAUGATA ROY: The allegation is very serious. The Minister was deliberately misleading the House.

MR. SPEAKER: I have sent him a letter.

SHRI SAUGATA ROY: The Minister is deliberately misleading the House. I was saying, if he gives notice under 115 he cannot make a statement in this House. Let him give notice under 357 and let him come with whatever personal explanation is there with regard to his cavalier attitude and behaviour. But it cannot come under 115 when the charges have been there for misleading the House—when this allegation is pending.

MR. SPEAKER: You have said that.

SHRI SAUGATA ROY: It is a question of deliberately misleading the House, which cannot be allowed in this august House and you are not giving a ruling.

MR. SPEAKER: That question of deliberately misleading will always be there. The question, whether it is deliberate or not is always there.

(Interruptions)

SHRI SAUGATA ROY: He is in the habit of making of the record statement.

MR. SPEAKER: There are many members who are in the habit of making off the record statement.

(Interruptions)

(Mr. Speaker)

I am not interested in anybody. I am interested in following the rules.

SHRI KANWAR LAL GUPTA (Delhi Sadar): May I rise on a point of order?

MR. SPEAKER: What is your point of order?

SHRI NIRMAL CHANDRA JAIN: You are allowing others, but not me.

MR. SPEAKER: What is your point of order?

SHRI VASANT SATHE: I want to know about the Cabinet decision and not anybody else. I want an authoritative statement about the cabinet decision.

MR. SPEAKER: You have mentioned that Mr. Jain what is your point of order?

SHRI MOHD. SHAFI QURESHI: Let him first become the Home Minister and not the Prime Minister and then come.

(Interruptions)

SHRI VASANT SATHE: Do not poke your nose in everything.

MR. SPEAKER: Mr. Jain, what is your point of order?

SHRI KANWAR LAL GUPTA: Have you withdrawn the permission given to me?

MR. SPEAKER: What is the Point of Order? I have called Mr. Jain.

SHRI NIRMAL CHANDRA JAIN: My first point of order is this. After a ruling is given, there cannot be anything to get it over rules immediately. My second point of order is this....

MR. SPEAKER: You are right.

SHRI NIRMAL CHANDRA JAIN: Sir, I sat down when you allowed others. I wish to have my say. Kindly see the rule, Sir. I am the most obedient Member of this House. Kindly see Rule 225. Under Rule 222, the privilege issue is raised. Under Rule 225 the Speaker gives consent to

the matter raised under Rule 222. The rule says: 'If he holds that the matter proposed to be discussed is in order, he shall call the Member concerned'. Till now decision has not been given. Rule 222 cannot be said to have any preference over Direction 115.

SHRI VAYALAR RAVI: Who is this lawyer?

SHRI NIRMAL CHANDRA JAIN: Mr. Ravi with your biased mind, you can never understand things, you will never. Kindly have a dis-interested point of view. Now, the Privilege Motion has not yet been declared to be in order. One should declare it to be in order. That is the first thing. Then Rule 225 comes in and it says: 'The Speaker shall call the Member concerned who shall rise in his place, and, while asking for leave to raise the question of privilege, make a short statement thereto.' Now, Rule 225 is not there. The question of privilege does not arise.

MR. SPEAKER: What about you, Mr. Gupta?

SHRI KANWAR LAL GUPTA: I am thankful to you for calling me, Sir. You allowed Mr. Mavalankar to raise the issue under Direction No. 115. Now you are asking Mr. Patnaik to reply. Sir, let me read out to you Direction No. 115. It says:

'A member wishing to point out any mistake or inaccuracy in a statement made by a Minister or any other Member shall, before referring the matter in the House, write to the Speaker, pointing out the particulars of the mistake or inaccuracy, and seek his permission to raise the matter in the House.'

Mr. Mavalankar wrote something to you to allow him to raise the matter in the House. But Mr. Mavalankar just now said 'I have never mentioned whether Mr. Patnaik was wrong or Mr. Patil was wrong.'....

AN HON. MEMBER: Both of them are wrong....

SHRI KANWAR LAL GUPTA: He has not mentioned whether he wants Mr. Patnaik to correct his answer or he wants Mr. Patil to do so. He can't ask both of them. Does he think that Mr. Patnaik is wrong or Mr. Patil is wrong? Who does he think is wrong? Therefore, my point of order is this. Mr. Mavalankar should clarify whether he wants an explanation from Mr. Patnaik or Mr. Patil. From both he cannot ask. So, let him say about that first. Then you may please give your ruling. He says: 'I have not mentioned the name of Mr. Patnaik' and he also says 'I have not mentioned the name of Mr. Patil'. Then, whose reply should be corrected? Let him be asked to state first his point of view and then you may ask the concerned Minister to reply.

SHRI MOHD. SHAFI QURESHI: Mine is also a point of clarification. You have said that these matters are before you and you have not taken any decision in this matter. You have referred the matter to the Minister for his comments. Now, Sir, an identical matter has been raised under Direction No. 115 by Mr. Mavalankar, and you are asking the Minister to make a statement. So, Sir, my submission is that in identical cases, you cannot ask for the comments of the Minister and also direct him to make a statement because that might influence your judgment in deciding the privilege issue.

So, the rules are well laid down that precedents should also be given in the matter of privilege. Direction No. 115 will come after that. I would seek a clarification from you whether the statement which the hon. Minister is making now will not be a breach of privilege where you have asked for the comments of the Minister.

(Interruptions),

SHRI K. P. UNNIKRISHNAN: Sir, I am on a point of order. (Interruptions)

MR. SPEAKER: I have no opportunity to.... (Interruptions)

SHRI K. LAKKAPPA: Sir, my intention is to protect the Chair. In your own wisdom, you have given a ruling in a privilege matter and you are not expected at least to clarify the position by Mr. Patnaik because he is guilty of the breach of privilege. And if you depute him to make a statement to clarify his position, the whole gamut of the rule 222 as a weapon will be taken away and the weapon on the Opposition side will be nullified. Therefore, the only option for you to resolve this is to straightaway send this motion to the Privileges Committee.

SHRI G. NARASIMHA REDDY (Adibabad): Sir, after all this discussion, one thing is very clear that neither the House nor the Speaker knows which of the Minister's statement is defective. This is a very clear point. That is why we gave the privilege motion against Mr. Patil. (Interruptions).

Therefore, Sir, one thing is very clear in this House that we do not know which of the Minister's statement is defective. Only because of that, Mr. Ravi and other gentlemen gave the privilege motion against Mr. Patil.

Under the circumstance, I would request the hon. Minister to settle this. There the matter ends and the remaining proceedings may go on.

MR. SPEAKER: Mr. Unnikrishnan.

SHRI K. P. UNNIKRISHNAN: I am really very sorry.... (Interruptions)

SHRI JYOTIRMOY BOSU (Diamond Harbour): What do they want. (Interruptions)

MR. SPEAKER: I have called Mr. Unnikrishnan. (Interruptions).

SHRI K. P. UNNIKRISHNAN: I am really very sorry that on a very trivial issue, we have spent a whole lot

[Shri K. P. Unnikrishnan] of time. This is because the well laid down precedents of this House have not been followed. I am sorry to say this.

Now, Sir, Direction 115 says:

"A Member wishing to point out any mistake or inaccuracy in a statement made by a Minister..."

Now, I would like to be guided by you what is a statement made by the Minister. The Minister is a defined quantity not only according to our Constitution but as per the Rules of Procedure. Now, I would like to know what statement is made by the Minister that is to be defined. A casual interruption of somebody who pokes his nose is a Nosy Parker's work. A point made by Minister is sought to be corrected. He was not the Minister-in-charge of the Bill. Mr. Dhanik Lal Mandal was the Minister in-charge of the Bill.

MR. SPEAKER: Mr. Patil.

SHRI K. P. UNNIKISHNAN: Mr. Dhanik Lal Mandal, let me make it clear, was the Minister in-charge of the MISA Repeal Bill and not Mr. Biju Patnaik.

So, in between, Mr. Patnaik, as Member of Cabinet made some remarks without the permission of the Prime Minister. I do not know whether he was authorised by the Prime Minister to make this announcement or declaration in this House. What was done in the Cabinet I do not know. The Prime Minister's interpretation regarding the Cabinet proceedings we shall not be allowed to know. But he made some remarks. Now, the same morning, Mr. Patil had given a reply and we had given you a notice of privilege. Mr. Patil, according to the reply which you must necessarily share with this House, says that what he has stated on the subject during the course of his reply to the starred Question is the position of the Government of India and our privilege against Mr. Patnaik arises out of that.

I want to be guided whether Mr. Patnaik's interruptions can constitute a statement made by a Minister in the House. That is the point I wish to raise.

SHRI SOMNATH CHATTERJEE:

Sir, the point that has been made is whether 115 will have precedence or 225 will have precedence. May I draw your attention to the fact that 115 relates to a very limited subject—very very limited subject—whether there is any mistake or inaccuracy in the statement made by the Minister or any other member. Another member feels that there is some mistake or inaccuracy—mistake may be bonafide or deliberate but mistake is there.

Therefore, Sir, 115 is a right of the hon'ble Member of this House to point out and seek a statement from the Minister, subject to your permission.

AN HON. MEMBER: Which Minister?

SHRI SOMNATH CHATTERJEE:

It is for the member concerned who has given notice to make up his mind. That will appear from the notice itself. There is no question of verification and putting that member under a query.

The second thing is 222 is completely different. If there has been any mis-statement on the floor of the House unless it is a deliberate mis-statement the question of privilege will not arise. The privilege notice can be given on various subjects and various acts of misconduct on the floor of the House or even outside. Therefore, to equate necessarily a 222 notice with 115 notice would not be correct. Therefore, my submission is that 115 direction confers a right on an hon'ble Member once you have permitted him. So far as 222 matter is concerned when it is pending your consideration I am sure 115 notice will not affect your consideration of that matter.

MR. SPEAKER: Surely.

SHRI SOMNATH CHATTERJEE: Therefore, this limited subject be allowed to be gone through otherwise the notice becomes infructuous (*Interruptions*).

PROF. P. G. MAVALANKAR: Mr. Speaker, Sir, I am on the limited subject of 115 (iv). I am not on the subject of privilege. My friend Mr. Unnikrishnan and Mr. Ravi have have raised a question of privilege about which I am not making any mention. About the other thing as I happen to be a Member of the Privilege Committee, I do not think, it is right on my part to raise the issue. I am on the limited subject of 115 (iv).

Sir, I have given two notices—one dated July 20 and the second again yesterday the 26th July. In yesterday's notice I mentioned the point as to which Minister I had in mind. But while reading out the statement since the first para was referring to communication I left it out and I began from the second para. I sought your guidance and advice on the matter about inaccuracy of the Minister. My friend Mr. Ravi has tried to put another interpretation. (*Interruptions*)

13.00 hrs.

I am clear, Sir. I had not read out the first paragraph. But the first paragraph of my notice, which I had given yesterday, I will read out if you permit me.

As you know, Direction 115 sub-clause (4) states as follows:

"115(4) The Speaker may then if he thinks it necessary, permit the member who made the allegation to raise the matter in the House and the member so permitted shall, before making the statement, inform the Minister or the member concerned".

Therefore, in my notice given yesterday, in the first paragraph I said this:

"I wish to raise the following important matter in the House at a very early date, and I am grateful

to you for your permitting me to do so. On hearing from you the exact date of my statement, I shall inform the Hon. Minister of Steel and Mines as per Speaker's Direction 115(4)."

SHRI VAYALAR RAVI: Our privilege motion was also given on the same day, on the 19th (*Interruptions*).

SHRI VASANT SATHE: Our privilege motion was there even before. Now, Sir, you correct yourself. (*Interruptions*).

MR. SPEAKER: I have heard all of you. So far as the notice under Direction 115 is concerned, Mr. Mavalankar had given it several days earlier. (*Interruptions*).

SHRI SHYAMNANDAN MISHRA: How could it be a proper notice unless the particular Minister was mentioned? How was it a proper notice to begin with?

MR. SPEAKER: I am in the course of dictating my order.

SHRI SHYAMNANDAN MISHRA: Let there be accuracy also.

MR. SPEAKER: In accordance with the rules, he was asked to clarify matters. So far as the privilege motion is concerned, it is still under my consideration, as it was given only day before yesterday.

Now, any answer given by the Minister in response to the direction under 115 cannot affect the merits of the privilege motion for the simple reason that the gravamen of the charge under the privilege motion is that he has deliberately misled the House. That question is independent of the exceptional that he may give now. The present question is only about correcting the statement if there is a mistake. But if I come to the conclusion that the mistaken statement is not deliberate, in any case I would not be giving consent. That question will independently be con-

