

MR SPEAKER: If you like, I am asking the Finance Minister to come out with his statement.

If you like you can come to the other motion

(Interruptions.)

MR SPEAKER: I am not allowing.

(Interruptions)

SHRI PRIYA RANJAN DAS MUNSI (Calcutta—South). May I make a submission, Sir?

MR SPEAKER: About the adjournment motion I am not going to hear any point of order. Kindly sit down

(Interruptions)

MR SPEAKER: Order please, I am not calling anybody. No please, I am not allowing any point of order. Please do not do it

They can come through many other ways if they want to censure. But I have to go by rules whether it is a recent matter, which suddenly cropped up. I had asked him to clarify the position, but no adjournment motion. I have not allowed it. So far as statement by the Minister is there I can direct him to make a statement. It cannot come as an adjournment motion. Let it come under any other motion

I can call the Minister to make a statement. At the same time I say if it does not satisfy you, I do not debar reference to it under Rule 377

(Interruptions)

13 hrs.

SHRI JYOTIRMOY BOSU: I take it that you are not in possession of full facts.

MR SPEAKER: I have been allowing it on all possible occasions. This is continuing since long. And suddenly you make it an adjournment motion. How can it be like this? The hon. Minister will make his statement. The motion as comes in this form is not admissible as an adjournment motion

Shri H N. Mukerjee and some other hon. Members then left the House.

SHRI MADHU LIMAYE: I rise on a point of order.

MR SPEAKER: I have not allowed it

13 01 hrs

QUESTION OF PRIVILEGE AGAINST SHRI L N MISHRA RE IMPORT LICENCE CASE—Contd.

SHRI SHYAMNANDAN MISHRA (Begusarai): May I begin? I am taking up the issue

MR SPEAKER: Mr. Mishra, your leader Shri Morari Desai has written to me

SHRI SHYAMNANDAN MISHRA: That is different. The privilege motion is continuing. I want to make my submission which you allowed me

MR SPEAKER: You want to make a submission about this. Shri Morari Desai wrote to me a letter yesterday which has already come in the Press. I wanted to tell you that I am not referring to this. But, I shall be calling a meeting of the Opposition Leaders at 4-30 p.m. in my committee room

SHRI SHYAMNANDAN MISHRA: Sir, three hon. Members had made their submission yesterday with regard to the issue of breach of privilege against my hon. friend, Shri L N Mishra. I am coming after much ground has been covered by

the proceeding speakers. The basis for the complaint is the assertion by the hon. Minister during the course of the debate in the last session that he had only passed on the licence memorandum... (Inter-  
rptions)

MR. SPEAKER: We had taken up this privilege motion yesterday and it is still continuing. In between, something else has come and it has taken one hour. I am very sorry. Kindly do not interrupt him. Let me listen to him.

SHRI SHYANANDAN MISHRA: Sir, the hon. Minister has told the House during the last Session that he received the memorandum signed by a number of MPs and he had only passed it on in a routine manner to the officials concerned or to the office concerned. In other words, what he wanted to convey to the House was that there was nothing particular, there was nothing special and there was nothing unusual about the course that he had adopted, that he had been completely neutral in this matter and that he had not bestowed any special care or solicitude on it. As he was receiving hundreds of petitions and memoranda, everyday, and he was passing them on to the official concerned, he had taken a similar step. I think, this was the impression which he conveyed to the House when he said that he had passed it on in a routine manner to the office concerned. Now, that meant that he had taken no active interest in it nor he wanted any action to be taken on it, in a particular way.

The second point for your consideration is— he further asserted—that 'no order was passed by me'. These words are within quotes. That is, he had not asked for a specific kind of action to be taken, that he was completely passive in this.

Now, these are the two bases on which the complaint had been made.

Now, Mr. Speaker, the intention of the hon. Minister was that he was not concerned with the grant of licences and if licences had been granted, then, it was the responsibility of some other Minister, his successor. The intention was that he was not at all concerned.

Nok, other Members seem to be agreeing, but, only the new Minister of State does not seem to be agreeing.

Sir, if that could be the finding of the investigating agency, no one would have been happier than myself. In fact, we want to make it clear that the issue of breach of privilege is not a partisan issue. This issue must be the collective issue of the entire House. The House is interested in the ascertainment of truth in any particular matter, and therefore, when we are bringing it before the House, it is not because we are after the blood of a particular Member or a Minister that we do so. We do so in the pursuit of truth and in that pursuit of truth, there must be cooperation from the entire House. It is in that spirit that I am making these submissions to you, Sir.

Now, what are the findings of the CBI in this matter? Let me prayerfully hope and wish that ultimately the hon. Minister would prove that the CBI findings are not correct. But, CBI findings are there and those findings are there because the Government had ordered the CBI investigation in this matter. This CBI investigation had not been ordered by the House.

What does the information available to us indicate? Let us go into the sequence of events and also into the sequence of dates.

The first thing to be noted is that hon. Member Tulmohan Ram's earlier memorandum was rejected by the hon. Minister Shri L. N. Mishra. Up to that point of time, Shri L. N. Mishra was acting in consonance with the

[Shri Shyamnandan Mishra]  
policy that had prevailed for the last eighteen years. I really do not know why this Government has become so insensitive to public criticism and public feelings in this matter. Do they not owe an explanation to the entire country and to the House why the policy which had been pursued for the last eighteen years was abandoned on one fine morning?

Another point has been submitted to you earlier and this requires a little emphasis, that the CCI and E had advised the Minister not to reopen the case and if a case was instituted in the court, the CCI and E wanted it to be contested. This advice was tendered on 28-8-72.

AN HON. MEMBER: Who gave the direction?

SHRI SHYAMNANDAN MISHRA: If you kindly wait, you will find how I am trying to pursue the truth objectively. In the chargesheet it is mentioned that advice was sought from the Law Ministry also but we really do not know what happened to the advice of the Law Ministry or what advice was tendered by the Law Ministry. Why this information has been withheld from us, we do not know, but there it is, intriguing though

Then it has been pointed out to you that there had been a search for a person who could yield some intimate influence on the hon. Minister Shri L. N. Mishra. In that connection came the hon. Member Shri Tulmohan Ram. Then begins the reopening ceremony of the grant of licence. Earlier the hon. Minister had himself closed it, just as his distinguished predecessors had done, including probably Shri Lal Bahadur Shastri who also happened to be a Minister of Commerce. The whole galaxy of his distinguished predecessors had rejected the move.

Now, how does the reopening ceremony begin? You will bear in mind that on or about 22nd November 1972

a representation was taken by the hon. Member Shri Tulmohan Ram to the Minister, but since the Minister was not available, it was handed over to the special assistant Shri N. K. Singh. Handing over to the special Assistant did not satisfy the hon. Member Shri Tulmohan Ram; he did not allow grass to grow. Had it been a matter of routine, the representation was handed over to the Special Assistant and the matter would have rested there.

This is again from the charge-sheet. The hon. Member Shri Tulmohan Ram went to the hon. Minister Shri L. N. Mishra the next day. On 23rd November 1972. After meeting him, he said that the hon. Minister had asked the CCI&E to examine and put up the matter. Now, there is a note by the hon. Minister Shri L. N. Mishra on the relevant file on the same date; 23rd November 1972. Shri Tulmohan Ram after being closetted with him goes out and tells the entire world that the CCI&E would examine and put up the matter.

The relevant note says:

Refer my minutes at page 11/N. This matter has been unduly delayed. I should like the points raised in my notes on page 12/N be examined with speed and file submitted to me by the 30th.."

This is conclusive. This was on 23rd August 1972.

श्री नचु ललमये (बांका) : अध्यक्ष महोदय, मेरा पॉइंट ग्राफ ग्राइंडर है। अध्यक्ष महोदय, मैंने यह चार्ज शीट बहुत गौर से पढ़ी है। मैं जानना चाहता हूँ कि क्यामनन्दन मिश्र जी जो यह नोटिंग है वह कहाँ से पढ़ रहे हैं, कोट कर रहे हैं? क्यों कि यह चार्जशीट में नहीं है। मैं और अगर किसी सरकारी डॉक्यूमेंट से कोट कर रहे हैं तो नियमों के अन्तर्गत वह डॉक्यूमेंट हमारे सामने प्रान्त चाहिए। यह कोई नई जानकारी दे रहे हैं।

SHRI SHYAMNANDAN MISHRA: This note of the Minister is contained in the files which have been submitted to the CBI.

श्री मधु लिमये : अध्यक्ष महोदय, वह फाइल आनी चाहिए मैं आप की व्यवस्था चाहता हूँ अपने पॉइंट आफ ऑर्डर पर। वह फाइल कहाँ है? अगर सी० बी० आई० के कब्जे में, पजेशन में हैं तो उस को मंगाइये।

MR. SPEAKER: It is for the hon. member who quotes from it to produce it.

SHRI P. K. DEO (Kalahandi): If it is wrong, he can bring a privilege motion against the hon. member. It is a challenge thrown to the Government.

SHRI MADHU LIMAYE: I want that that file should be produced.

MR. SPEAKER: I greatly admire your ingenuity about it. Shri Shyamnandan Mishra says he is quoting from a file. It is for him to produce the document from which he quotes. How can I ask anybody else to produce it?

SHRI SHYAMNANDAN MISHRA: This was submitted to the CBI. You can get hold of it.

The representation of the MPs with the Minister's note was despatched to the CCI&E on 24th November 1972. You will kindly bear in mind that Mr. Tulmohan Ram met the Minister on the 23rd and the next day it is despatched with this very note of the Minister. And, the acknowledgement was conveyed by the Minister's Personal Secretariat, Personal Section. It was not conveyed by the Special Assistant. The Special Assistant has absolutely no substantive role. What does a Special Assistant mean? It was conveyed by the Minister's Personal Section on the same day, i.e., 24th November 1972.

THE MINISTER OF RAILWAYS (SHRI L. N. MISHRA): I only wanted to know, how does he know that it was sent through the Personal Section  
2987 LS—8.

and not through Special Assistant? How does he know No. 12/N and all that?

SHRI SHYAMNANDAN MISHRA: This charge-sheet mentions it. I am not saying anything outside it.

It is also remarkable with what super-speed and super-efficiency the whole operation was carried out. Can I crave you indulgence to impress upon your mind whether you have seen any action of the Government having been taken with such super-speed and super-efficiency. If the implementation of the Plan had been carried out with that speed, probably the fate of the millions would have been completely different. But this 'plan' is carried out so thoroughly and with such efficiency!

Here I am trying to establish that there was active personal interest of the hon. Minister in this matter.

On the same date on which the CCI&E advised the hon. Minister, the hon. Minister ordered an on the spot inquiry in Pondicherry and Mahe. I am saying this again on the basis of the charge-sheet. Does it not indicate something special? Does it not indicate that the Minister was departing from his own earlier rejection, from the policy that had been pursued by his predecessors earlier? He was now taking recourse to a special procedure of instituting an on-the-spot inquiry. I repeat: does it not indicate some special active interest on his part?

It is also noted that the intimation of the withdrawal of the writ petition had been conveyed not to the department but to the hon. Minister direct. Why was this unusual procedure adopted? I am not bringing in the school or anything else here.

Then, it has been rightly pointed out to you earlier, that on the 5th of February, Shri N. K. Singh had sent a note. This had been read out to you, it says:

"The Minister desires that this case should be finalised quickly, as it has been pending for long time..." I

[Shri Shyamnandan Mishra]

do not want to weary the House with a repetition of what has been quoted earlier by some hon. friends, but this is one of the key passages in the charge-sheet that had been prepared by the CBI.

Would you think that the officer made this note because he himself wanted to do it or it was in keeping with what the hon. Minister had done on 23rd August 1972? The wordings are almost the same; there is absolutely no difference in the wording. So, he recorded it on the same day on which the Minister was changing his portfolio and, to our great satisfaction, he was also being elevated to the Cabinet rank. So, on that very auspicious day this was conveyed. It is clear again that this was the Minister's order. The ministerial responsibility is attracted or established. It was pointed out earlier that the Minister had not passed any order. This is the order of the Minister. Who can say that this note was not the order of the Minister? Because of this note of 23rd August 1972 the Minister had passed an order of that kind and that order and the representation of the MPs were despatched to the CCI&E. This noting of the official was in keeping with his earlier noting also. My hon. friend, Prof. D. P. Chattopadhyaya had loudly proclaimed and asserted that everything had been done in the right manner, and that there was nothing fishy about it. So, it goes to establish that this note of the officer was in keeping with the position that had been taken by the hon. Minister. Even the previous noting by the Minister and the subsequent action by the hon. Minister of Commerce, Shri D. P. Chattopadhyaya, clearly establish that it was quite a link in the chain and it was in consonance with the policy.

It is one of the sacred principles of Parliamentary democracy that the responsibility is ministerial. No Minister can be considered to be an honourable Minister who does not take the blows himself, who wants to shield himself and throw the officials to the wolf. No

Government can run if you do this. The officials are not there to defend themselves. So, the Minister takes the responsibility.

Although I have established his factual responsibility, even in the context of parliamentary democracy, there is the ministerial responsibility. May I quote what does Mr. Morrison say on this? I quote:

"There can be no question whatever that Ministers are responsible for everything that their officers do...."

Further, he says:

"Somebody must be held responsible to Parliament and the public. It has to be the Minister, for it is he and neither Parliament nor the public, who has official control over his civil servant. One of the fundamentals of our system of Government is that some Minister of the Crown is responsible to Parliament and, through Parliament, to the public, for every act of the executive. This is a corner-stone of our system of parliamentary Government. There may, however, be an occasion on which so serious a mistake has been made that the Minister must explain the circumstances and processes which resulted in the mistake, particularly, if it involves an issue of civil liberty or individual rights. Now and again the House demands to know the name of the officer responsible for the occurrence. The proper answer of the Minister is that, if the House wants anybody's head it must be his head as the responsible Minister and that it must leave him to deal with the officer concerned in the Department...."

It must be the Minister's responsibility.

Sir, I am only making a submission to you, both on factual grounds and also on the cardinal principles on which the parliamentary democracy rests....

MR. SPEAKER: What about officers who wrongly advise sometimes?

SHRI SHYAMNANDAN MISHRA: If you keep an officer who wrongly

advises you, you are responsible, you are a bad Minister. If you keep a Secretary-General who wrongly advises you, you are responsible. I will not ask for his head. I will ask for—I will not say what.

I have read this out. This is the sacred principle of parliamentary democracy.

I think, it is established beyond any shadow of doubt that the hon. Minister had taken an active interest in this matter. The noting on the 23rd clearly says so. The noting on the 5th February, next year, also says so. If the Minister had taken kindly to the representation of the MPs, then, he should have said, "I have taken kindly to the representation of the MPs." There could be no difficulty about it. But since he has taken a position which is factually incorrect and since there seems to be a chain of events which would indicate that this was deliberately done, therefore, a question of privilege does arise. (Interruptions).

MR. SPEAKER: Now, we will listen to the Minister tomorrow. Now we adjourn to meet again at 2.30p.m.

13.31 hrs.

The Lok Sabha adjourned for Lunch till thirty minutes past Fourteen of the Clock.

The Lok Sabha reassembled after Lunch at thirty three minutes past Fourteen of the Clock.

(MR. DEPUTY-SPEAKER in the Chair)

MR. DEPUTY-SPEAKER: Now Papers to be laid on the Table.

श्री मधु लिमये : अध्यक्ष महोदय, आप को मेरा नोटिस मिला होगा ।

बम्बई में मांटुगा रेलवे वर्कशाप में बाहर के गुंडे लोग आए, रिवाल्वर लिया और मज-

दूरों को पीटना शुरू किया ? लगातार दो दिन ये घटनायें हुई 3 तारीख को और 4 तारीख को और आज वहाँ स्ट्राइक की नौबत आ गई है। मेरी आप से प्रार्थना है कि आप संसद कार्य मंत्री के द्वारा मांटुगा वर्कशाप रेलवे में जो स्थिति उत्पन्न हुई है उस पर ध्यान दिलवायें। सभी लोग चाहते हैं कि रेल गाड़ियां सुचारु ढंग से चलें। रेल के ट्रैफिक में किसी तरह की रुकावट न पड़े। . . . . . (व्यवधान) . . . . . आप उन्हें डायरेक्शन दीजिए।

MR. DEPUTY-SPEAKER: How can I? Order please.

श्री मधु लिमये : यह केन्द्र का मामला है। यह तो ला एंड आर्डर नहीं है। बल तो आप ने टाल दिया, मुर्गेर जेल में जो लडकों की पिटाई हुई उस को यह बल बर टाल दिया कि यह ला रेंड आर्डर का सवाल है। लेकिन यह तो रेलवे का मामला है।

MR. DEPUTY-SPEAKER: Now, Papers to be laid on the Table.

SHRI P. K. DEO (Kalahandi): The way the institution of Governor is being used to test the strength in the Assembly is wrong. In Manipur the Governor is asked to find out the majority. It should have been decided on the floor of the Assembly. Why should Governor decide? The assembly should decide it.

14.35 hrs.

PAPERS LAID ON THE TABLE

HINDI TRANSLATIONS OF SIKH GURDWARA AMENDMENT RULES

THE DEPUTY MINISTER IN THE MINISTRY OF WORKS AND HOUSING (SHRI DALBIR SINGH): On behalf of Shri Mohsin, I beg to lay on the Table a copy each of the following