

[सभु सिसये]

दबा दिया गया है क्योंकि बीहिकल उन भालिको का था जिन के कई सिनेमा थैटर बम्बई में है। ये चाहे पचासो विधेयक बहा पर रखे इनसे कोई मतलब सिद्ध नहीं होगा अगर स्मगलिंग को रोकने का ये काम नहीं करेगे। यह पत्र मराठी में है। अगर मन्त्री महोदय चाहते है तो मैं इस को इन्हे देने के लिए तैयार हू।

अध्यक्ष महोदय, आपका याद होगा कि विगत साल महाराष्ट्र के कानून मंत्री श्री अतुले का मामला उठा था और श्री वसन्त राव नायक ने महाराष्ट्र की विधान सभा में विरोधी दलो को चुनौती दी थी कि उनके मामले में सी बी आई की इनक्वायरी करने के लिये हम लाग तैयार है—(इटरम्ज) यहा इन्होंने कहा था कि हम सोच रहे है महाराष्ट्र सरकार से ब त कर रहे है। लेकिन महाराष्ट्र असेम्बली में चुनौती दी गई थी इसके ऊपर महाराष्ट्र सरकार के मंत्री अगर इस मामले में बोधी है और सरकार न वचन दिया है कि सी बी आई की इनक्वायरी होगी तो मैं मंत्री महोदय से जानना चाहता हू कि सी बी आई की इनक्वायरी क्यों रुकवाई गई है? प्रधान मंत्री को अतुले साहब ने जो नोट भेजा और महाराष्ट्र असेम्बली में जो भाषण किया है उस में अमंगलिया है। उसके बारे में एक लम्बा पत्र मैं न प्रधान मंत्री की भेजा है। गणेश जी इस बात का खडन नहीं कर सकते है।

अध्यक्ष महोदय इट्राडक्ट्री स्टज पर आप खुद देखें कि डिस्क्शन का स्कार क्या होता है। इसको 377 के अन्तगत मान कर मैं उनको वह दूंगा कि वे स्टेटमेंट करें। यह चीज इस में नहीं आनी है।

श्री सभु सिसये बुनियादी बान प्रह है कि आप भी चाहते है और हम भी चाहते है कि स्मगलिंग रुके।

मैं जानना चाहता हू कि श्री अतुले का जो मामला उठा था उसका क्या किया आपने? आश्वासन तो बे दिए जाते है लेकिन ब द में कोई फोला अप एक्शन नहीं लिया जाता है। अतुले के मामले में आप भी मिल गए हैं? आपको भी उन्हाने भना बुरा कहा था लेकिन आप चुप्पी साधे बैठे है महाराष्ट्र असेम्बली में उन्हाने कहा था कि गणेश कौन हाते है, लेकिन फिर भी आप चुप्पी साधे बैठे है।

MR SPEAKER, Has the Minister anything to say?

SHRI K R GANESH Sir, as you have remarked, the hon Member has raised specific matters I do not think at introduction stage it can be done If the hon Member wants answers to these questions I am prepared to give the answers if specific notice is given

MR SPEAKER The question is 'That the leave be granted to introduce a Bill to consolidate and amend the law relating to customs duties'

The motion was adopted

SHRI K R GANESH I introduce\* the Bill

12 46 hrs

#### QUESTION OF PRIVILEGE

DETENTION OF SHRI GADADHAR SAHA AT NALBATI POLICE STATION

SOME HON MEMBERS Rose—

SHRI JYOTIRMOY BOSU— You may call Shri Gadadhar Saha

\*Introduced with the recommendation of the President.

MR. SPEAKER: Have some patience. Why can't you wait for your turn? He can explain it himself; he does not need supporters. He is very much there. I am allowing him to raise it, under 377.

SHRI GADADHAR SAHA (Birbhūm): Sir, under rule 222/223 I had given notice for seeking your consent to raise a vital question involving a breach of privilege of a member as well as of the House against the Officer in-charge of Nalhāti Police Station (West Bengal) for illegal detention of a Member of Parliament for hours together in the police lock-up despite the disclosure of my identity as the Member of Parliament. In spite of the fact that I showed my Identity Card, I was illegally detained. But, Sir, you did not admit it under rule 222/223. Now, you have allowed me to raise it under Rule 377. So, I raise it under Rule 377. I do not know the reason why you have not allowed it under rule 222/223.

MR. SPEAKER: When the information comes, I will examine it. If it is a breach of privilege, I will allow it.

SHRI GADADHAR SAHA: Sir, the facts of the case are as follows:—

On 4-5-74, you read out the following wireless message dated 3-5-74 from the Superintendent of Police, Birbhūm (West Bengal):—

"In the early hours (at about 03.00 hours) of 3rd May, 1974, the Officer in-charge, Nalhāti Police Station went to a place in Nalhāti Police Station area for arresting some persons under Section 151 Cr. P. C. Seven persons were found at that place. A few of those persons did not disclose their identity at that time. Therefore, all of them were brought to Nalhāti Police Station for interrogation and for establishing

their identity. At Nalhāti Police Station, "It was discovered that one of the persons was Shri Gadadhar Saha, Member, Lok Sabha. Shri Saha was released on personal recognition at 07.00 hours on 3rd May, 1974."

This is the message from the Superintendent of Police, Birbhūm, to you.

Rule 229 makes it absolutely mandatory for the following:—

Intimation to Speaker by Magistrate of arrest, detention, etc. of a Member. Rule 229 reads:

"When a member is arrested or a criminal charge or for a criminal offence or is sentenced to imprisonment by a court or is detained under an executive order, the committing judge, magistrate or executive authority as the case may be, shall immediately intimate such fact to the Speaker indicating the reasons for the arrest, detention or conviction, as the case may be, as also the place of detention or imprisonment of the member in the appropriate form set out in the Third Schedule."

You will see that he had not at all complied with the requirements of rules.

Further more, what is even more serious is that I was arrested in the early morning at 0.30 hours on 3rd May, 1974, by the Officer-in-charge of Nalhāti Police Station, while I was proceeding to Delhi to attend the Lok Sabha. I was taken to the Nalhāti Police Station in a police van along with several persons for interrogation. In spite of the fact that I had showed my identity card then and there they did not take any notice of it. On the contrary, they seized my identity card, Lok Sabha diary, the other important Parliamentary documents and my other belongings like watch, pen, etc. They detained me in

[Shri Gadhadar Saha]

the police lock-up for hours together. After keeping me in illegal detention they released me at 12.30 hrs. on 3rd May, 1974. I should say that there was no warrant against me, no injunction under section 144. I appeal to you and through you to all the hon. members of this House to consider whether it was reasonable on their part to have detained a member like this seizing his identity card and other belongings. I appeal to you, Sir, to send the matter to the Privileges Committee.

**SHRI JYOTIRMOY BOSU** (Diamond Harbour): If you read the message, if you read the proforma given under Schedule III, you will find that it is a gross violation of the privilege. It is obvious that they wanted to hide certain things. They had deliberately done something wrong which they wanted to conceal from hon. Speaker. That is why they have sent you a garbled version, a concoction. What also you want, Sir, for breach of privilege than this? It is a fit case of breach of privilege. It should be sent to the Privileges Committee and suitable punishment should be awarded to those officials.

**SHRI SEZHIYAN** (Kumbakonam): The person sending the intimation has said that the member was released on personal recognition at 12.30 hrs. or so. I want to know why it could not be done earlier, at 3 o'clock in the morning. What were the causes for the delay in personal recognition?

**श्री अटल बिहारी वाजपेयी** (ग्वालियर): अध्यक्ष महोदय, ऐसे मामले जब भी उठाए जाते हैं, तो ब्रीच घाफ़ प्रिविलेज के रूप में उठाने जाते हैं। लेकिन उन्हें स्वीकार करने से पहले आप राज्य सरकार से जानकारी मांगते हैं। मैं समझता हूँ कि इस मामले में यही तरीका अपनाया जाना चाहिए था कि माननीय सदस्य इस को ब्रीच घाफ़ प्रिविलेज के रूप में उठाते और आप जानकारी घाने तक उस

को स्वयं रक्खते। लेकिन आप ने इस मामले को नियम 377 के अन्तर्गत उठाने की अनुमति दी है। यह मामला प्रिविलेज का है।

**MR. SPEAKER:** I have already said that it has come under 377. It will be given the treatment due to the privilege. At the beginning itself I made it clear as to how it came under 377. Two points are very important.

I shall have to see the points raised by Shri Bosu to see what is the scope and content of the information that is required to be sent to the Speaker. When a magistrate or an officer forwards this intimation to me, he does it within a reasonable time. This point was raised earlier also in this House and we had some procedures set down. Normally what happens is that in many cases, the officer sends immediately the telegram but the details come by letter. Under the law, they always mention under what section and under what breach of law etc. a Member is arrested. In this case after ascertaining the facts I shall have to examine it and shall come before the House again.

**SHRI JYOTIRMOY BOSU:** He was coming to Delhi to attend the session.

**MR. SPEAKER:** I have made the observation already.

**SHRI JYOTIRMOY BOSU:** This should be sent to the Privileges Committee because it can examine in evidence many things.

**MR. SPEAKER:** Please sit down. I have to satisfy myself first. The other thing is that this is not connected with Parliament.

**SHRI SHYAMNANDAN MISHRA** (Begusarai): May I submit my point? A report has to be called for from the State Government; that is something different. When a member categorically makes a statement from the other side, that must be referred to

the Privileges Committee because the House is bound to go by the statement which the hon. Member has made.

MR. SPEAKER: I think we had some procedure set for it. I shall look into it if that is the procedure. Then, I shall straightway send it to the Privilege Committee. There is no question of any controversy over it.

SHRI H. N. MUKHERJEE (Calcutta—North East): This being the last day of the session and the fact being very clear that the Member himself had made a statement which, you and I, have heard, at least in the course of the day, you would look into the matter and tell something in the House.

MR. SPEAKER: I have to get information from the other side. I shall send it along with that information. We have been following this procedure. We will have to get the comments from the other side. I want to tell you that this is a matter which has been raised by Shri Bosu. I am examining it independently of the first one. This is much more important for me.

SHRI SOMNATH CHATTERJEE (Burdwan): According to information that has been received by the Superintendent of Police, without any charge-sheet, a Member of Parliament was kept in detention, according to the police for four hours. Then, he was released not on personal grounds but they were satisfied with his identity. To find out his identity of a person, it took them about four hours.

13 hrs.

Now the hon. member says that he was detained for 12 hours. Therefore, the discrepancy is whether it is 4 or 12 hours. But so far as the question of breach of privilege is concerned, there is no dispute. Whether it is 4 hours or 12 hours, it does not matter. The question is whether he was kept in detention, although they were aware of his identity. Is it believable that for

4 hours they could not find out a person's identity when in this case he was having his Parliament identity card. Could it be believed that it was not produced till after 4 hours? On their own statement, he was detained for 4 hours. Therefore, it should go to the Privileges Committee.

MR. SPEAKER: I will act according to the procedure.

SHRI JYOTIRMOY BOSU: There is a gross contradiction in the observation you have made

MR. SPEAKER: I will see what we did in the past and act according to that procedure. The procedure followed in the past will automatically be followed in this case.

SHRI JYOTIRMOY BOSU: On 22 December, a similar case came before the House. The hon. Deputy-Speaker was in the Chair. He made the observation that the House should not go to the extent of examining evidence.

MR. SPEAKER: I will see what observation he had made.

SHRI JYOTIRMOY BOSU: Without going into the merits and demerits which the House is not competent to do, it should be sent to the Privileges Committee which should be asked to look into it

MR. SPEAKER: We will act according to the procedure.

SHRI S. M. BANERJEE (Kanpur). The facts of the case show that it is a clear case of breach of privilege, under rule 222. He had been detained in spite of the fact that he had an identity card. He said he was a member of the Lok Sabha. So there was no question of not identifying him. Secondly, he had been treated as a ordinary criminal indulging in an anti-social activity. His watch was taken away from him. I expect this Government to treat Opposition members at least better than ordinary criminals.

[Shri S. M. Banerjee]

His identity card was also taken away by the police before sending him to the lock-up. I would beg of you uphold the banner of parliamentary dignity of which you are the custodian, and send this matter to the Privileges Committee without waiting for a concocted report from the State Government.

श्री मधु लिम्बे : (बाका) : अध्यक्ष महोदय, इस में कौन से प्रायोजक की बात है वेरी समझ में नहीं आता है।

SHRI BHAGWAT JHA AZAD (Bhagalpur): The matter is very simple. When the member himself makes the statement that his pass was taken away and he was illegally detained for four hours when he was coming to attend Parliament session, it is a clear case of privilege. What will the procedure you are suggesting amount to? The letter will go to the State Government which will send it to the Chief Minister, who will send it to the IG who will pass it on to the SP, that is to the same police station. He will give his version. Which version do you take? Is it suggested that his version will be judged against the version of the hon member?

I would request you, this being a clear case of breach of privilege, to refer it to the Committee of Privileges. Let the facts be ascertained. Let the other side give its version. It is a very serious case. It is very strange that the police officer should, in spite of the identity being disclosed to him, have taken him into custody without no warrant, with nothing against him. Why was he taken away in that fashion? Therefore, it is a straight case of privilege.

Let it go to the Committee. After that, let them give their version and say that the member was wrong.

SHRI SAMAR MUKHERJEE (Howrah): I fully support what has been said just now.

MR. SPEAKER: I also quite appreciate your observation. In this case, what I said was that I would treat it as a privilege motion. I make it clear that it is by mistake that it has come under Rule 377. In the very first observation I made before Mr. Saha got up, I made my observations. So far as the identity or other matters are concerned, I think we have laid down this procedure that we shall send it straightaway to the Privileges Committee. So far as the point raised by Mr. Jyotirmoy Bosu is concerned about the reasonableness of the time, about the contents of the intimation, about other things, I am going to examine it myself and I am not leaving it to the Privileges Committee.

(Interruptions)

I believe what the hon. Member says I want to make it clear again that I am not going into the rights or wrongs of the matter. I am directly sending it to the Committee of Privileges. As to the point about the reasonable time within which intimations should be sent to the Speaker, what should be the contents, what are the precedents I am going to examine these points myself. The earlier part raised by Mr. Saha will go to the Privileges Committee.

(Interruptions)

Some Members are all the time on their legs. They should have some courtesy for others also. They do not allow others to speak; they do not allow even the Speaker to make the observations that he wants to make. About 377 motions, this, being the last day, if you take not more than two minutes, you can make them.

SHRI ATAL BIHARI VAJPAYEE: Mine is pending since yesterday.

MR. SPEAKER: That is correct. Yours is pending since yesterday.

SHRI SHASHI BHUSHAN (South Delhi): There was a notice from me also yesterday.

MR. SPEAKER: Yours and Bibhuti Mishra's are also pending since yesterday. I have requests from other members also. Prof. Dandavate wants to raise the fast of George Fernandes and other leaders

13.10 hrs.

#### MATTERS UNDER RULE 377

MR. SPEAKER: Today, it is a free for all. But, there is one point. You have completely robbed the Government of their official time. Whatever has been listed for today, may not be taken up. During the last three or four days, no Government Business has been transacted.

श्री अटल बिहारी वाजपेयी: (ग्वानियर).  
आपने वन घेरे बारे मे एलान किया था।

अध्यक्ष महोदय मैंने बहुत कुछ कहा था लेकिन नया बाने आ गई। दूसरे आपके मामले कुछ बाने कर्नी है, एज स्पीकर कर्नी है लेकिन इस तरह मे बडा मुश्किल हो जाता है।

गदाधार साहा के बारे मे बात कर्नी थी लेकिन वह बीच में ही टूट गई और दूसरी तरफ चल पडे। हर पार्लमेंट में मेम्बरों की आइडेंटिटी के लिए कुछ होना है, एक बैज सा कुछ बना होना है। यहाँ भी कुछ न कुछ होना चाहिए। बाहर भी उसका फायदा हो सकता है। साथ ही कुछ नुकसान भी हो सकता है, अगर कोई उठाकर ले जाये तो एम० पी० बन जाये। . . . . . जब ऐसा खतरा हो तो उतारा और जब मे डाल लिया। यह ऐसा देश है, पहले तो चुन लेत है मेम्बर को, और फिर पाच साल उसकी नुकता करत है। पहले उसको चुनते

हैं, सब कुछ करते हैं और फिर उसके पीछे पड़ जाते हैं।

मेडिकल एजुकेशन के बारे में वाजपेयी जी, भान सिंह और मधु निमये जी ने एकट्ठा दिया है। आप मे कोई एक करले।

श्री अटल बिहारी वाजपेयी : आपने मुझे कन ही इजाजत दे दी थी।

अध्यक्ष महोदय : पहले आपका ही नाम है।

श्री अटल बिहारी वाजपेयी : अध्यक्ष महोदय, मैं आपकी अनुमति में सार्वजनिक महत्व का एक मामला उठाना चाहता हूँ। लुधियाना में दयानन्द मेडिकल कालेज के नाम से एक कालेज चलना है। यह कालेज 1964 में स्थापित किया गया था। आर्य मेडिकल स्कूल के रूप में इसका आरम्भ हुआ था। बाद में आर्य प्रतिनिधि सभा ने इस कालेज को एक मैनेजिंग कमेटी को सौंप दिया। हर साल इस कालेज में मान्यता प्राप्त करने के लिए आन्दोलन होता था लेकिन हर साल अस्थाई मान्यता प्रदान कर दी जाती थी। मेडिकल कौन्सिल इस कालेज को अस्थाई मान्यता देती थी। इस कालेज में प्रवेश अर्थों के आधार पर होता है, सिफारिश या चन्दे के आधार पर नहीं। जो भी छात्र छात्राये पढने है उनका चयन गुणों के आधार पर किया गया। अब इस समय स्थिति यह है कि बहुत से छात्र छात्राये चतुर्थ वर्ष में पहुच गए है लेकिन इसी समय मान्यता वापिस ले ली गई है। आर्य सभा कालेज को चलाने के लिए तैयार नहीं है, पंजाब सरकार कालेज को लेने के लिए तैयार नहीं है। पंजाब सरकार के स्वास्थ्य मंत्री ने कालेज के लिए 40 लाख रुपया देने का वाकदा किया था लेकिन वह वायदा पूरा नहीं हुआ। पंजाब के मुख्य मंत्री ने भी 15