

12 hrs.

RE: ADJOURNMENT MOTION
(Query)

श्री अटल बिहारी वाजपेयी (बालियर) :
अध्यक्ष जी, मैंने एक काम रोकने प्रस्ताव दिया है। कल बलनार रेलवे स्टेशन पर युव कांग्रेस के प्रदर्शनकारियों पर गोली चली थी जिसमें एक व्यक्ति मारा गया और कई व्यक्ति घायल हुए।

अध्यक्ष महोदय : इस के बारे में मैंने कालिग अटेंशन एडमिट किया है।

श्री अटल बिहारी वाजपेयी : यह स्थगन प्रस्ताव का मामला है।

अध्यक्ष महोदय : इसमें स्थगन नहीं हो सकता है।

श्री अटल बिहारी वाजपेयी : फिर आप यह व्यवस्था दीजिये कि जिन्होंने नोटिस दी है, जिन्होंने एडजर्नमेंट मोशन दिया है उनका नाम भी शामिल कर लिया जाये।

अध्यक्ष महोदय : मैं पहले इनको देख लूँ।

श्री अटल बिहारी वाजपेयी : यह तो आप कर सकते हैं।

अध्यक्ष महोदय : मैं देखकर कर दूंगा।

श्री मधु लिनये : (बांका) अध्यक्ष महोदय, भगतपुर बैंगन फँकटरी के मजूदरों को गोली से उड़ा दिया गया है, दस लोग मारे गये हैं, तो इनके ऊपर 377 या कालिग अटेंशन कुछ होगा या नहीं ?

(अवधान)

12.02 hrs.

QUESTION OF PRIVILEGE

INCOMPLETE INFORMATION SENT TO THE SPEAKER re ARREST OF SHRIMATI BIBHA GHOSH GOSWAMI

SHRI JYOTIRMOY BOSU (Diamond Harbour) : I move:

"That the question of privilege arising from the incomplete intimation sent by the Officer-in-charge, Ranaghat Police Station, West Bengal, about the arrest of Shrimati Bibha Ghosh Goswami, MP., on the 3rd may 1974 and the subsequent explanation and regrets expressed by the District Magistrate, Nadia, and the Government of West Bengal conveyed to the House by the Speaker on the 9th August 1974, be referred to the Committee of privileges".

I must want to make a few submissions.

MR. SPEAKER : Let it go to the Committee of Privileges.

SHRI JYOTIRMOY BOSU : This is not the only case. I would make a brief submission.

This privilege motion should also include the District Magistrate, the District Supdt. of Police and other concerned police officers because, according to rule 229 the intimation must come to you from no less a person than a committing judge, magistrate or executive authority. Now in this case you will see from the telegram that this intimation came from a puny sub-inspector, officer-in-charge of the police station, which is highly objectionable. If you say they did not know, I would only draw your attention to the intimation that you had received in November 1973 in the case of the

arrest of Shrimati Bibha Ghosh Goswami once before from the District Magistrate.

Then another very important thing is that the District Magistrate has taken shelter by making...

MR. SPEAKER: Let it go to the Privileges Committee. We decided it the other day.

SHRI JYOTIRMOY BOSU: In the explanation submitted before you by the magistrate, they have said something which is grossly untrue and inaccurate. They must have done it deliberately to cover up serious lapses.

MR. SPEAKER: Let it go to the Committee.

SHRI JYOTIRMOY BOSU: The District Magistrate has informed that the news of the arrest of Shrimati Goswami was immediately notified by the SDPO, Sub-divisional police officer Ranaghat, to the hon. Speaker, Lok Sabha. You will see the telegram came only from the sub-inspector or inspector in charge of Ranaghat police Station. Then he says that rule 229 is not quite clear. But this is not the first time this has happened. This is also another untruth. Rule 229 quite clearly specifies that the intimation has to come as per requirement of the rule and the third schedule to be read together.

This is not one case. They have said so many untrue things to no less a person than the Speaker of the highest national forum, the Lok Sabha. Therefore, I request you to take cognisance of this and include these people also within the scope of investigation by the Committee and exemplary punishment should be given, because in West Bengal alone in two years' time, so many MPs belonging to my party have been harassed humiliated and intimidated by the police. There are three cases of privilege now pending before the Privileges Committee. You have been to many countries and as our spokesmen in the Inter-Parliamentary

Union you have seen in many countries MPs enjoying immunity from court and police action. Here the police are constantly harassing our MPs. You can see this in West Bengal from the number of cases that have been raised on the floor of the House.

MR. SPEAKER: We had taken a decision the other day. The other day, when it came, some of the hon. Members desired and I also said: you better bring a motion and it will go to the Privileges Committee; they will examine the points mentioned the other day and today. There is no controversy about it.

THE MINISTER OF HOME AFFAIRS (SHRI UMA SHANKAR DIKSHIT): On intimation received from the Lok Sabha Secretariat, the Home Ministry contacted the officers concerned and finally the District Magistrate sent a detailed report and expressed his regret. Not only the District Magistrate but also the Government of West Bengal have expressed their regret for the omission that occurred. More than that we have no information. We are in your hands and in the hands of the House.

SHRI JYOTIRMOY BOSU: While expressing regret also he gave a wrong statement; I have given the example where he made the wrong statement.

MR. SPEAKER: You have said it.

SHRI MUHAMMED KHUDA BUKHSH (Murshidabad): After the Hon. Minister in charge of the Home Department has told the House that deep regret has been expressed I wanted to draw your attention to this point only. Sir, that the law requires that the executive authority should inform the hon. Speaker of this House in case of the arrest of an hon. Member of this House. Sir, does the hon. Member opposite want to exclude a police inspector or a police sub-inspector who has got the powers of arresting anybody with or without arrest warrant... (Interruptions). Is he or is he not an executive

authority under the meaning of this rule?

SHRI JYOTIRMOY BOSU: No, we are not excluding anybody.

SHRI VIKRAM MAHAJAN (Kangra): It is a settled principle that has been established in this House that this House does not believe in witch-hunting; once there is an expression of regret by the Government and the District Magistrate, the matter should end there. It should not be referred to the Privileges Committee.

श्री बसु तिमये (बांका) : क्या यह सत्ताधारी दल के सदस्य इसको बोट के द्वारा गिरा देंगे ? अगर आपकी यह राय है कि यह सदन की मानहानि का मामला जाना चाहिये तो कमेटी में जाने दीजिये, बोट से यह तय नहीं होना चाहिये ।

श्री अटल बिहारी वाजपेयी (स्वालिपर) : आम तौर पर अगर विशेषाधिकार भंग का मामला है और सम्बन्धित अधिकारी क्षमा याचना करता है तो सदन उसको स्वीकार कर लेना है लेकिन इस मामले में एक विशेष बात है कि जो माननीय सदस्य हैं उनको लेकर यह दूसरी घटना हुई है ।

श्री ज्योतिर्भय बसु : वीथी घटना है ।

श्री अटल बिहारी वाजपेयी : हमारे सामने जो तथ्य आये है उसके अनुसार, यह दूसरी घटना हुई है और पहली घटना के बारे में भी सदन को जानकारी नहीं दी गई ।

अध्यक्ष महोदय . अगर कोई ऐसी बात है तो उसके बारे में पता कर सकते हैं ।

श्री अटल बिहारी वाजपेयी : पश्चिम बंगाल के और भी मामले कमेटी के सामने आये हैं ।

अध्यक्ष महोदय : उमी दिन जिस दिन पहले यह मामला आया था उस अफसर ने रिपोर्ट किया था और मि० बसु और श्रीमतां घोष ने कहा था कि यह एक आफ इन्फार्मेशन की वजह से नहीं है, यह जेन्सुइन इग्नोरेंस की वजह से नहीं है ।

He wanted to send it back to the Privileges Committee. I think that was not sent to the Privileges Committee. This came as a matter of privilege and the information was sought and the information then came to the Speaker. The Officer had expressed his regrets and he said that he was under the genuine impression that the information sent by the police officer was enough. The West Bengal Government have also noted it for future and they also expressed their regrets.

Then he says, it should go to the Privileges Committee because this officer is committing this offence for the second time.

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): It is a matter for clarification whether it is the same officer who has done it for the second time.

श्री अटल बिहारी वाजपेयी : उस दिन जब हम सवान पर चर्चा हुई तो श्रीमती विभा घोष स्वामी ने कहा था :

"On 14th November, 1973, during the food movement, I was detained for 4 hours in the same place Ranaghat and no intimation whatsoever was sent to the Lok Sabha."

SHRI JYOTIRMOY BOSU: Firstly, the intimation should have come from

the District Magistrate, as it did come in November 1973. At that time, Shrimati Biba Ghosh Goswami was arrested and an intimation as required under rule 229 and third schedule read together came to your goodself under the signature of the District Magistrate. This time, the intimation came from a Sub-Inspector or Inspector of Police, who is the Officer in charge of the Ranaghat police station. That is one lapse. He is not competent to communicate to the hon. Speaker. It should come from the District authorities, the sitting judge or the Principal Executive. Secondly while expressing regret, they have made certain mis-statements. In the explanation that the District Magistrate has submitted to you, they have said something which is grossly untrue and inaccurate and this must have been done deliberately to cover up their serious lapse. The District Magistrate informed that the news of arrest of Shrimati Goswami was immediately notified by the SDPO (Sub-divisional Police Officer) Ranaghat to the hon. Speaker. The SDPO is a gazetted officer, holding charge of a sub-division. He is also an executive authority. But you will see that the telegram was actually sent by a mere sub-inspector or inspector of the police station. The District Magistrate also tried to take shelter under a plea of misunderstanding which is also not tenable rule 229 is quite clear on the subject and this is not the first time that they have done it in the case of an M.P. He has also gone to the extent of trying to mislead us in that he has stated "I thought that the report as per the third schedule should be sent by the judicial authorities". So, even while expressing regret, he is trying to mislead the House and deliberately trying to give wrong information to cover up the lapse. Since it has been constantly repeated as far as MPs belonging to my party from West Bengal are concerned, you being our protector in this House, I would beg of you to refer the matter to the privileges committee. If they find them to be guilty let them give them exemplary punishment, so that the people's representatives are not haras-

sed by the police. You know in many countries the MPs enjoy immunity from court and police action. Not only we do not have it in this country, but the MPs belonging to a particular party, because they are opposed to the ruling party are constantly harassed by the police. Therefore, I beg of you to send this matter to the privileges committee. Let them sit in judgment on it and give their verdict.

SHRI VASANT SATHE (Akola): Sir, if you will recall, last time when this matter came up, Shri Jyotirmoy Bosu had submitted, as he had submitted just now, about the error committed by the sub-inspector and the authorities is not sending proper intimation. But we felt that the matter was aggravated when Shrimati Goswami came up and said that this is "not for the first time". The impression we then got was that the same officer in the same place had previously also committed the same breach. But it is seen that that was not the case. If that was the case, we on this side would have joined to say "yes, this is an aggravating factor, therefore, the matters should be referred to the Privileges Committee. But now the position is that the West Bengal Government and also the magisterial authorities have categorically and unconditionally express their regrets over this incident. If there was any aggravating factors we would have joined hands with Shri Bosu in demanding a reference of the case to the Privileges Committee. As has been explained by Shri Bosu, in the earlier case intimation was sent by the proper authorities under rule 229 to you. So, there is only a technical lapse and no disregard of the House. No purpose will be served by referring it to the Privileges Committee which will come to the same conclusion. This is not a fit case for reference.

SHRI DASARATHA DEB (Tripura East): Sir, on a point of order. A member of the Privileges Committee should not express his opinion now.

SHRI VASANT SATHE: As far as I am concerned, I am no more a member of the Privileges Committee

श्री अटल बिहारी वाजपेयी : प्रिविलेज का मामला पार्टी का नहीं मारे सदन का मामला है। उस दिन जब चर्चा हुई थी, बसु साहब माफ़ करे मुझे, उस से हमारे दिमाग में यह धारणा बनी थी कि अपराध इसलिये गम्भीर हो गया है कि उम्मीद अफसर ने दो बार गलती की है। लेकिन आज जो नथ्य सामने आये है वे इस के विपरीत है। श्री दीनेन भट्टाचार्य ने कहा था

"The same police officer on the 14th November, 1973 had detained the same member in the same place Managhat and no intimation was sent to the Speaker"

इस के बाद श्रीमती विभा गोस्वामी ने इस बात की रुष्टि क। श्री शंभर-दन मिश्र ने भी यहाँ बात ही थी उस दिन।

"Would you kindly consider whether an officer should be allowed to go scot-free with a mere expression of regret although he has been repeating the same offence."

इस के बाद श्री पेंक्षियान ने भी यहाँ कहा था।

"The State police officer has done this. We can understand it the first time. If it is repeated we have to see what we should do"

जब ये बातें बही गईं कि इस मामले को प्रिविलेज कमेटी को भेज दिया जाय तो मैं ने भी कहा कि अगर एक ही पुलिस अफसर दो बार उनी ससद् सदस्य के साथ गलत व्यवहार करता है और आपको सूचना नहीं देता है तो इस का अपराध गुरुतर है, गम्भीर है, और केवल माफी माग्ने से उस को छोड़ा

नहीं जा सकता है और प्रिविलेज कमेटी को उस के अपराध पर विचार करना पड़ेगा। लेकिन अब जो तथ्य सामने आये है उन से ऐसा लगता है कि बही पुलिस अफसर इससे जुड़ा हुआ नहीं है, जो जुड़े हुए है उनका अपराध पहली बार है, उन्होंने क्षमायाचना कर ली है मैं अपने मित्र श्री ज्योतिर्मय बसु ने अपील करूंगा कि वे इस पर जोर न दें। उनके दर्द को मैं जानता हूँ। प्रिविलेज कमेटी के पास पश्चिम बंगाल के ससद् सदस्यों के कई मामले पड़े हुए हैं। उन के साथ पुलिस अफसरों का व्यवहार बुरा रही है। हमारी पार्टी के मंत्री श्री ईश्वर चौधरी का भी हथकड़ी डाल कर पुलिस अफसर कोर्ट ले गए। ये अप्राप्तजनक बातें हैं। लेकिन इस मामले में मैं श्री ज्योतिर्मय बसु से कहूंगा कि माफी माग ली गई है, उस को वह स्वीकार कर ल और इस मामले को अब आगे न बढ़ाये। तथ्य यह बताते हैं कि एक ही अफसर दोबारा अपराध करने का दोषी नहीं है।

SHRI PILOO MODY (Godhra). I have only one thing to add I do not think that in the explanation given the District Magistrate has the right to plead ignorance of the law No citizen is permitted to plead ignorance of the law Ignorance of the law is no excuse where the citizen is concerned Where the District Magistrate is concerned, it is criminal neglect That is all I have to add

MR SPEAKER Rule 229 reads:

"When a member is arrested on 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 ..."

It means the person who arrested. In the case of an arrest of a person, it is the arresting authority, in the case of a conviction it is the convicting magistrate or judge. Suppose the stage for conviction or trial has not come, is the magistrate or judge still bound to send it, or the man who has arrested alone is responsible for sending it?

SHRI PILOO MODY: The magistrate will have to send it.

MR. SPEAKER: I will have to examine this. I will get opinion on it, because it is complicated. Suppose a person is arrested and then let off. Should it not be done by the arresting authority? But if he is committed, then it has to be done by the committing authority whether it be the judge or magistrate. The term "as the case may be" gives scope for thinking on other lines also. What would you advise me? Should we accept his apology?

SHRI PILOO MODY: My advice is that is should be sent to the Privileges Committee, which can consider whether it is the first offence, second offence or no offence at all. It is very difficult to have the whole House decide something like that. When a Committee is appointed for the purpose, it should go into the merits of the case and decide on it.

MR. SPEAKER: If the fact to be ascertained is whether it is the same man who has committed the offence the second time we can obtain it even otherwise.

SHRI PILOO MODY: If it is done a second time the matter becomes so much more serious. The fact he has done it for the first time does not make the matter less serious. If he has done it at all, then it should be properly examined by a competent authority like the Privileges Committee.

SHRI SHYAMNANDAN MISHRA (Begusaral): Could it be the pleasure of the House to postpone it for a day so

that we are able to comprehend fully what are the issues involved? Frankly speaking, some of us have not been able to comprehend the matter fully. You may kindly permit it to be postponed for a day.

MR. SPEAKER: Tomorrow or some other day?

SHRI JYOTIRMOY BOSU: Tomorrow, if possible.

SHRI ATAL BEHARI VAJPAYEE: We can have it on the 16th. 15th August is a holiday.

MR. SPEAKER: All right. I would expect you do not take a lot of time on that day, too.

In this connection I would assure the House that, so far as privilege of a member is concerned whether it relates to a member on the right or it relates to a member on the left, it is privilege of a member in which all are interested. We interpret it most dispassionately and very objectively. I hope, Mr. Joytirmoy Bosu also does the same. I have sometimes doubts about him.

SHRI JYOTIRMOY BOSU: That is casting aspersions on me.

MR. SPEAKER: So, we shall take it up on the 16th August.

SHRI PILOO MODY: That means another discussion.

MR. SPEAKER: No discussion.