

12.00 hrs.

QUESTION OF PRIVILEGE—Contd.
INCOMPLETE INFORMATION SENT TO THE
SPEAKER RE. ARREST OF SHRIMATI BIBHA
GHOSH GOSWAMI

अध्यक्ष महोदय : यह जो आर्डर आफ दि विजनेस है वह उस दिन का पोस्टपोंड है और इस पर पहले बात होगी। उस दिन इस तरह का मोशन श्री बन्धु लाल थे और श्री श्यामनन्दन मिश्र, श्री बाजपेयी और बाका; सभी ने उस पर काफी कुछ कहा था। उन्होंने कहा था कि अभी अच्छी तरह देखा नहीं है इसलिए इसको आज रद्द दिया जाए। वताइये अब आप क्या चाहते हैं ?

SHRI MADHU LIMAYE (Banka):
You refer it to the Privileges Committee.

SHRI JYOTIRMOY BOSU (Diamond Harbour): Yes, Sir. Let them minutely examine it and come to a decision.

SHRI SHYAMNANDAN MISHRA (Begusarai): Although the offence loses its sting after the expression of regret, there are certain issues which remain to be sorted out in this particular matter. Hon. Member, Mr. Bosu had complained that this thing had been repeatedly happening in the case of members of his party. That is also a very serious thing to reckon with.

As you had been pleased to point out under rule 229, you have to decide who is the authority at a particular stage who is competent to communicate to you about this matter. In this case, an objection has been taken that the authority who had communicated to you was not the competent authority. But for that also there had been an expression of regret, as the District Magistrate had said it was

not clear to him who was the authority competent to communicate to you. But at the stage of arrest, it has to be decided whether even a non-gazetted officer is competent to communicate to the hon. Speaker. There are certain rules which are observed in the matter of correspondence with high dignitaries. Every officer cannot be competent to communicate with a high dignitary. Should it be left to a non-gazetted officer to communicate to the hon. Speaker? May be in future the arresting authority may be considered to be the Sub-Inspector of Police.

Now, in this case, it seems that a non-gazetted officer has sent the message. I am not quite clear whether it was by an inspector or by the sub-inspector and I really do not know whether the inspector of police in that State happens to be a gazetted officer.

Secondly, the information that has been given to you does not give the reasons for the arrest of the hon. Member. We are completely in the dark about the reasons for the arrest. We would like to know whether the reason had been given later.

So, there are certain issues involved which require to be sorted out by the Privileges Committee. But I would submit that after the expression of regret at various levels the offence does lose its sting.

श्री मधु लिमये : अध्यक्ष महोदय इसमें सबसे पहले जहां तक इत्तला का सवाल है मेरी स्पष्ट राय है आज तक जितने भी इटीमेशन्स आये हैं उन का अध्ययन करके देखें तो वह इटीमेशन्स सब-डिवीजनल मजिस्ट्रेट, डिस्ट्रिक्ट मजिस्ट्रेट, एडिशनल डिस्ट्रिक्ट मैजिस्ट्रेट या इसी स्तर के जो लोग हैं उन्हीं के द्वारा भेजे गये हैं और मिलने चाहिए। यह किसी सब-इंस्पेक्टर या इन्सपेक्टर का काम नहीं है।

दूसरे— हो सकता है इस अफसर ने पहली बार इतला देने में भलती की हो लेकिन जहाँ तक पुलिस अफसरों का सवाल है वह कई बार ही चुका है। घोटों के बारे में मैंने सवाल उठाया था (ध्वजवाण) जानकारी देने के बारे में मेरा कहना है कि जानकारी बड़े सेड्यूल के अनुसार पूरी होनी चाहिए। यह सवाल घोटों के बारे में मैंने उठाया था, अन्त में आपने मान लिया था। दण्डवतों के बारे में भी यही सवाल उठाया है और आपने कहा कि टैपरिकार्डर का जो सम्भाषण है वह दिखलाइये, उसमें, सही ढंग से इतला दी गई है या नहीं, इसका खुलासा हो जायेगा।

श्रीमती घोष का जो मामला है, हमने नैबशन देनेसे कम नहीं बनता है, आप हमारे सेड्यूल को देख लीजिए

"I have the honour to inform you that I have found it my duty, in the exercise of my powers under Section . . . of the . . . (Act) to direct that Shri. . . ., Member of the Lok Sabha, be arrested/detained for . . . (reasons for the arrest or detention, as the case may)."

मेरे ही केश में पंज व हाई कोर्ट का और एक केश में इल.हब द हाई कोर्ट का निर्णय है कि रिजन्स का मतलब, प्राउन्स का मतलब है कि पूरी जानकारी देना चाहिए, केवल कानून का धारा संशोधन साइट करने से काम नहीं चलेगा। तो इस तरह का जानकारी के क्रम-क्रम को पूर्ण क्रम के साथ खोर देना चाहिए और जो जानकारी अफ वर डिप्टी-मैजिस्ट्रेट से आवे। एग्जिक्टिव एचरिटी का मतलब है क्या से कम सब-डिप्टी-मैजिस्ट्रेट, इसके नीचे

बाला कोई इग्जिक्टिव एचरिटी नहीं होता है।

SHRI JYOTIRMOY BOSU: Sir, on a point of order, arising out of what the hon. Members have just now said. Firstly, the district authority was fully in the know of the procedure as to what should be adopted, because in November last when Shrimati Bibha Ghosh Goswami was arrested the District Magistrate had given the intimation. Therefore, this time that intimation coming from a sub-inspector or inspector is highly improper, and that has been done with the full knowledge that he should not have done it.

Secondly, on 16th November, 1973 you read out the telegram dated 15th November, 1973, which was sent by the District Magistrate, Nadia, and not by a sub-inspector. Here we found the police had no real charge against her, because she was discharged within 3½ hours from the time of the arrest. This will amply prove that the arrest was made in order to harass her and there was no bona fide reason. If there are any reasons for the arrest then she should have been put before a trying magistrate or judge and it was up to the judge, to imprison her or acquit her or to confine to keep her in custody. Since there was no case against her, this was done simply to harass her.

MR. SPEAKER: You are repeating the points you mentioned the other day.

SHRI JYOTIRMOY BOSU: I am only making points arising out of what you have said and what Mr. Limaye has said.

Now, the District Magistrate says in his explanation that the S.D.P.O who is a Gazetted Officer has sent the telegram. It is wholly untrue. The telegram was received from the Police Officer in-charge of the Police Station, a Sub-Inspector or an Inspector, both of whom are non-gazetted persons.

Then, what the District Magistrate has said—he tried to take shelter under the plea of misunderstanding—is untenable. Rule 229 is quite clear on the subject. This is not the first time of the District Magistrate handling the case.

He further said that he thought a report as per Third Schedule should be sent by the judicial authority. This is also ridiculous. It has been stated that Shrimati Bibha Ghosh Goswami has been committed before a Magistrate. Now, this man is asking for your pardon.

This is a fit case where the Privileges Committee of the House which enjoys our confidence should be allowed to examine witnesses, give a judgment and submit a report to the House.

श्री अटल बिहारी वाजपेयी (म्बालियर):

दो तीन बातें मैं निवेदन करना चाहता हूँ। यह देखने हुए कि सम्बन्धित अधिकारियों ने क्षमायाचना कर ली है, यह प्रश्न अपनी गम्भीरता खो चुका है। आखिर विशेषाधिकार समिति क्या करेगी? समिति के सामने जो मामला जाता है उस में जब यह देखा जाता है कि अधिकारियों ने अपनी गलती स्वीकार कर ली है तो विशेषाधिकार समिति मामले को वहीं छोड़ देती है और मामला खत्म कर दिया जाता है।

श्री बसु के कथनानुसार जब श्रीमति बिभा जोष भौखानी का पहले मामला हुआ तो सूचना डिस्ट्रिक्ट मैजिस्ट्रेट ने जेजी बी। उली को भेजा था और पुलिस अफसर द्वारा सूचना

भेजने का कोई औचित्य नहीं था। मैं मानता हूँ कि यह बात स्पष्ट होनी चाहिए कि सूचना कौन दे? लेकिन यह प्रश्न केवल इस मामले से सम्बन्धित नहीं है। यह एक ग्रहण मामला है जिस पर आप को विचार करना है। एग्जिक्यूटिव प्रायोरेटि का क्या अभिप्राय है इसकी आपको व्याख्या करनी है और वह केवल इसी मामले पर लागू नहीं होगी दूसरे सभी विशेषाधिकार से सम्बन्धित मामलों पर लागू होगी। एक बात अनजाने में श्री बसु ने स्वीकार कर ली है। अगर पहले डिस्ट्रिक्ट मैजिस्ट्रेट ने सूचना दी और बाद में पुलिस अफसर ने दी नहीं तो कोई योजना पूर्वक यह निश्चय किया गया है कि केवल पुलिस इन्सपेक्टर सूचना देगा, डिस्ट्रिक्ट मैजिस्ट्रेट नहीं देगा। अगर पहले मामले में डिस्ट्रिक्ट मैजिस्ट्रेट दे सकते थे तो इस मामले में भी दे सकते थे लेकिन नहीं दी और इस लिए उन्होंने क्षमायाचना की है।

तीसरी बात यह है कि संसद सदस्य अगर अपने विशेषाधिकार के मामले के बारे में बहुत ज्यादा चिन्तित होंगे और क्षमायाचना के बाद भी अगर मामला विशेषाधिकार समिति में भेजा गया तो बाहर यह धारणा पैदा होगी कि संसद सदस्यों को अपने विशेषाधिकारों की बहुत अधिक चिन्ता है, और वे आम नागरिक के विशेषाधिकारों की उपेक्षा करने के लिए तैयार हैं।

मैं श्री बसु से कहूँगा कि जहाँ तक एग्जिक्यूटिव प्रायोरेटि की व्याख्या का सवाल है

वह एक बड़ा सवाल है और उस पर आपके निदेश से विचार हो सकता है, लेकिन जहाँ तक क्षमायाचना का सम्बन्ध है, क्षमा कर देना तो बड़प्पन की निशानी है।

MR. SPEAKER: The question is whether it should be sent to the Privileges Committee or not. Shall I put it to the House?

SHRI CHANDRAJIT YADAV (Azamgarh): Why should you put it to the House? He has expressed regrets.

MR. SPEAKER: So, we accept this regret. Regarding the suggestion that was brought to my notice by Shri Shyamnandan Mishra and Shri Vajpayee, I re-read rule 229. I quoted it the other day and I read it again. I think I will get the advice of the Attorney General on it. It is quite confusing. Rule 229 says:

“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....”

That is, the man who is doing it at that stage.

“...shall immediately intimate such fact to the Speaker indicating the reasons for the arrest, detention or conviction....”

Whoever arrests or convicts or sentences; whosoever does it at that time. I will consult him and I will try to straighten it out. In my own opinion, the order is as mentioned in the rule. But to be more definite, we must have the Attorney Generals opinion on it.

SHRI JYOTIRMOY BOSU: What about the three points that I had raised? He has given wrong information.

The SDPO never sent you a telegram. Secondly, the District Magistrate was fully in the know of the requirements of rule 229. Even in that where he is asking for pardon he has made lots of mistakes. I have already pointed them out. Let these be examined. I could have understood if he had asked for an unconditional apology for what had happened. But here he says that the SDPO sent you a telegram. It was never sent.... (Interruptions).

MR. SPEAKER: It is all over now.

SHRI SHYAMNANDAN MISHRA: Would it be possible for the Home Ministry to communicate all these points to the West Bengal Government?

MR. SPEAKER: If you like, I will myself convey these points to them.

SHRI JYOTIRMOY BOSU: He has given deliberately wrong information while seeking apology from you. That is my objection.

MR. SPEAKER: I do not think he has qualified his apology. He has given it in an unqualified form.

SHRI JYOTIRMOY BOSU: I want to ask you one question, Sir. Did the SDPO send you a telegram at any time? He has not. He has told three untruths in his letter of apology. It is up to you to decide....

MR. SPEAKER: No. I am not the only man now. The House is seized of it. It has discussed it and views have been expressed. It is upto the House to decide.

SHRI JYOTIRMOY BOSU: You may decide it.

MR. SPEAKER: I will look into it.