

had put a question and the hon. Minister had answered it ; I cannot ask the hon. Minister to answer to his satisfaction

SHRI HEM BARUA : May I submit that you are the custodian of the rights and privileges of this House ?

MR. SPEAKER : That is true. But the Speaker has no right to change the views of Government.

SHRI BAL RAJ MADHOK (South Delhi) : When did the Government of India protest first ? You may please direct him to answer at least that much.

SHRI S. M. KRISHNA (Mandya) : Did they ever protest at all ?

12.30 hrs.

RULING RE QUESTION OF DISCREPANCY BETWEEN GOVERNMENT STATEMENT IN THE HOUSE AND AFFIDAVIT FILED IN COURT ON KUTCH AWARD

MR. SPEAKER : On the 6th May, 1968, during the discussion on the West Bengal Budget, Shri Madhu Limay raised a question that discrepancies in the statements made in the House and the affidavit relating to the implementation of the Kutch Award filed in the High Court of Delhi by an official on behalf of the Government should be discussed by adjourning the business of the House. He was supported by Shri Bal Raj madhok and Shri Prakash Vir Shastri. Shri Hem Barua, who was in the Chair, observed that he would ask the Prime Minister to make a statement. Later in the day, when the Prime Minister came to the House and expressed her inability to make a statement, I observed that the matter would be discussed on the 7th May along with the discussion on the discrepancies in the communications regarding the restraint and removal of certain Members in connection with the agitation in Kutch. There was, however, a demand by certain Members that copies of the affidavit, in question, should be circulated.

2. On the 7th May, there was again a

request in the House that copies of the affidavit should be circulated. I said that I would ask the Minister. Subsequently the Law Minister made a statement objecting to the circulation of the copies of the affidavit on the following grounds :

- (i) it was a document in the record of the High Court :
- (ii) Points fit to be commented upon in the affidavit had been placed before the High Court by parties and the High Court had reserved Judgment. Hence the matter was *sub judice*.

3. At 6 o'clock on the same day, when Shri Madhu Limay was called upon by me to move his motion standing in the list of business, a point of order was raised by Shri Narayan Rao that the motion related to a matter which was *sub judice*. He submitted that the moving of the motion would be contempt of court as the High Court had not given its judgment. He further contended that the freedom of speech in Parliament was governed by Article 19(2) of the Constitution. I straightaway rule out this point of order because freedom of speech in the House is subject only to the rules of procedure of the House and such articles of the Constitution as regulate the procedure in the House. Article 19(2) does not come in the way of speeches in Parliament.

4. The Law Minister, however, raised a more substantial point of order. He contended that as the court had reserved judgment, discussion on the affidavit would mean discussing a matter which was *sub judice* and was hit by rule 186 (viii) which prohibited discussion on a matter which was under adjudication by a court of law.

5. Shri Nath Pai speaking on the point of order stated that the question whether a particular matter was *sub judice* or not should be decided by the Speaker on the merit of each case and such matter could be discussed unless it appeared to the Chair that there was real and substantial danger or prejudice to the trial of the case. He further stated that the House could give instructions to Government as to how the proceedings should be conducted before the court and mere filing of a writ could not immobilise Parliament. He

[Mr. Speaker]

also said that the affidavit was a public document and anybody could obtain it and make a legitimate use of it. Shri Madhu Limaye, also speaking on the point of order, stated that discussion on the discrepancies in the statements made in the House and the affidavit did not touch matters which were before the court of law as the merits of the case would not come under discussion. He further said that the affidavit was a public document. He also said that in fact he had got a copy of the affidavit. He sought to lay it on the Table.

6. On my enquiry from the Law Minister whether the affidavit was a privileged or secret document, the Law Minister stated as follows :—

“I did not say that it is a privileged document ;

I said that it is a document which is now being considered by the court and it is not open to a party in litigation in court to publish that document. This is similar to a plaint and a written statement in a regular case. It is not usual for a party to a case to publish this It is so stated, for example, in the Commentary on the Evidence Act, that the class of documents which consists of plaints, written statements, affidavits and petitions filed in court cannot be said to form such acts or records of acts as are mentioned in this Section and are, therefore, not public documents. This is an affidavit which has been produced by one of the Under Secretaries to Government on behalf of Government. It has been produced in court and it is not correct to say that anybody will get a copy. A copy will be given only to the party and, after the case is decided, it may be available for others.”

He further went on to say :

“The point is that, assuming but not conceding that the affidavit filed by the Under Secretary is in variance with the statement which the Home Minister may have made here, that is something which tells upon the strength and efficiency of that affidavit. And that is a matter which will be discussed in the court and which, as a matter of fact,

was discussed in the court. As a matter of fact, now I can submit, on behalf of Government, that the question was raised in the court that this affidavit by the Under Secretary is slightly at variance with what the Home Minister has stated..... That is a matter which, probably, the judges are considering and, therefore, I cannot conceive of a matter which will be more directly and clearly in violation of the *sub judice* rule which I pointed out.”

7. After hearing the members and the Law Minister I reserved my ruling. There are three questions before me on which I have to give my decisions :

- (i) whether a paper or a document including a plaint, written statement, affidavit or petition filed in a court by the Government can be laid on the Table of the House ;
- (ii) whether the copy of an affidavit which is stated to have been filed by an Under Secretary on behalf of the Government of India in the High Court of Delhi and which is sought to be laid by Shri Madhu Limaye on the Table of the House should be allowed to be laid ; and
- (iii) whether the following motion, notice of which has been given by Shri Madhu Limaye, and which appeared in the list of business on the 7th May, should be admitted and allowed to be discussed in the House .

Motion

“That this House disapproves of the statements made by Shri Ranganathan, Under Secretary Ministry of External Affairs, on behalf of the Government of India in his affidavit in opposition on the 21st April, 1968, before the Delhi High Court which are contrary to the statements made by the Minister of Home Affairs in the House on the 28th February, 1968 in regard to implementation of Kutch Award”.

8. As regards the first question, a document or a paper is laid on the Table

of the House for the information of Members and also to assist them in debates and discussions in the House. The document or paper laid on the Table becomes public after it is laid on the Table. Government have unlimited right in the matter of laying documents/papers on the Table of the House. They can do so of their own accord or in response to requests from the Members. The only restriction in the Rules of Procedure of Lok Sabha on this right is that a Minister may not lay a paper or document on the Table of the House if he states that it is of such a nature that its production would be inconsistent with public interest. So far as documents or papers including complaints, written statements, affidavits and petitions, which are filed in a Court of Law by or on behalf of the Government, are concerned, they are nonetheless Government documents. So far as I have been able to make out, the classification of documents as private documents under the Evidence Act does not debar Government from producing them before the House. The classification of documents as public or private under the Evidence Act is primarily for the purpose of proving them before a Court of Law. The relationship between Government and Parliament is on a Constitutional footing and in my opinion, there is nothing in the Constitution or in the Rules of Procedure of Lok Sabha or in the Evidence Act which the Law Minister has quoted, to prohibit the Government from producing such a paper before the House, to which the Government is responsible. Rather the Government should not keep back from the House a document which they have filed in a Court. I therefore, consider that ordinarily a paper or document including a complaint, written statement, affidavit or petition, submitted before a Court of Law, can be placed on the Table of the House. It is, however, open to a Minister to decline to lay a paper or document on the Table of the House if he states that it is of such a nature that its production would be inconsistent with public interest. The Chair cannot compel the Minister to lay such a paper or document on the Table of the House but the House has adequate remedies available to it.

8. As regards the second question, in the light of my above decision, I permit

Shri Madhu Limaye to lay on the Table of the House a copy of the affidavit, in question, provided he complies with other requirements under the rules for laying of documents by Private Members on the Table of the House.

9. As regards the third question, the rule whether a motion which relates to a matter which is under adjudication by a court of law should be admitted or discussed in the House has to be interpreted strictly. While on the one hand the Chair has to ensure that no discussion in the House should prejudice the course of justice the Chair has also to see that the House is not debarred from discussing an urgent matter of public importance on the ground that a similar, allied or linked matter is before a court of law. The test of *subjudice* in my opinion should be that the matter sought to be raised in the House is substantially identical with the one on which a Court of law has to adjudicate. Further in case the Chair holds that a matter is *sub judice* the effect of this ruling is that the discussion on the matter is postponed till judgment of the court is delivered. The bar of *subjudice* will not apply thereafter, unless the matter becomes *subjudice* again on an appeal to a higher Court. Applying these two tests to the present notice of motion by Shri Madhu Limaye, I consider that in view of the statement by the Law Minister, that "the question that the affidavit filed by the Under Secretary is slightly at variance with what the Home Minister has stated has been raised in the Court and is under adjudication by the Court", the very matter which is sought to be raised by the Member is awaiting adjudication by the Court of Law. Hence I consider that discussion on the notice of motion should be postponed until the court has delivered its judgment. I am, however, clear that the matter is of public importance which should be discussed in the House and its importance will not be lost if the House waits until the court has adjudicated in the matter.

श्री मधु लिमये (मुंबई) : अध्यक्ष महोदय...

MR. SPEAKER : Nothing to discuss now,

श्री मधु लिम्बे : अध्यक्ष महोदय, मेरी बात आपकी हलिंग पर, निर्णय पर नहीं है। मैं दूसरी बात कहना चाहता हूँ। कानून मंत्री के द्वारा जो आरोप उठाया गया था, आपने उसके आधार पर निर्णय दिया है ?

MR. SPEAKER : That is over now.

श्री मधु लिम्बे : मैं उस पर नहीं बोल रहा हूँ, लेकिन आपके पास मेरा दूसरा नोटिस भी पड़ा हुआ है, जो प्रिवलेज को लेकर है। जब प्रिवलेज का मामला आता है, तब सबजूडिस का मास्का नहीं आ सकता है।

MR. SPEAKER : You can give it. The papers to be laid.

श्री मधु लिम्बे : कितने दिनों से यह आपके पास पड़ा हुआ है।

MR. SPEAKER : I will see that.

श्री मधु लिम्बे : कल आप सभा स्थापित करने जा रहे हैं—इस तरह से नहीं चलेगा, अध्यक्ष महोदय। संविधान के तहत यह पार्लियामेंट के अपने अधिकार हैं। आप कृपा कर मुझे पांच मिनट सुन लीजिये।

MR. SPEAKER : Not now. The papers to be laid. Shri Gujral.

श्री मधु लिम्बे : अध्यक्ष महोदय, मेरी आप से विनम्र प्रार्थना है कि आप प्रिवलेज के बारे में मेरी बात सुनिये।

अध्यक्ष महोदय : अभी नहीं।

श्री मधु लिम्बे : फिर कब ? यही तो नियमों के अनुसार समय है।

12:37 hrs.

PAPERS LAID ON THE TABLE

Annual Report of the Hindustan
Teleprinters Limited, Madras

THE MINISTER OF STATE IN THE
DEPARTMENTS OF PARLIAMENTARY
AFFAIRS AND COMMUNICATIONS
(SHRI I. K. GUJRAL) : I beg to lay on
the Table—

- (1) A copy of the Annual Report of the Hindustan Teleprinters Limited, Madras for the year 1966-67 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon, under sub-section (1) of section 619A of the Companies Act, 1956 (Hindi and English versions). [Placed in Library. See No. LT-1237/68.]

Statements showing the action taken
by Government on various Assu-
rances, promises etc.

SHRI I. K. GUJRAL : Sir, I beg to lay on the Table :—

Following statements showing the action taken by Government on various assurances, promises and undertakings given by the Ministers during the various sessions of Lok Sabha shown against each :—

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| (i) Supplementary Statements Nos. I and II. | Fourth Session, 1968
(Fourth Lok Sabha) |
| (ii) Supplementary Statement No. V. | Third Session, 1967
(Fourth Lok Sabha) |
| (iii) Supplementary Statement No. XIII. | Second Session 1967
(Fourth Lok Sabha) |
| (iv) Supplementary Statement No. XIII. | Sixteenth Session, 1966
(Third Lok Sabha) |
| (v) Supplementary Statement No. XIV. | Fifteenth Session, 1966
(Third Lok Sabha) |
| (vi) Supplementary Statement No. XV. | Thirteenth Session, 1965
(Third Lok Sabha) |