

श्री भगवत झा राजाव (भागलपुर) :
अब आप मिलने की बात क्यों कर रहे हैं।

श्री मधु लिये : जब अध्यक्ष महोदय कह रहे हैं कि उन दो मुद्दों के बारे में लिखिये तो आपको क्या ऐतराज है।

Shri Bhagwat Jha Azad: You must ask the Member not to speak like this, as if the House is his property. When I speak to you why should he shout at me?

Mr. Speaker: Order, order.

12.22 hrs.

RE. QUESTION OF PRIVILEGE
AGAINST THE CHIEF MINISTER
OF BIHAR AND OTHERS

Shri Tridib Kumar Chaudhuri (Berhampore): I want to raise the question of breach of privilege of myself as a member of the Lok Sabha and that of Shri Madhu Limaye, M.P. against the following persons:—

1. Shri K. B. Sahay, Chief Minister and Minister of Home Affairs in the Govt. of Bihar State;
2. Shri G. M. Dutta, Under Secretary of the Govt. of Bihar in the Home Department;
3. Shri B. P. N. Kumar, Deputy Superintendent of Police, Patna;
4. Shri S. P. Verma, Sergeant Major of Bihar Armed Police at Patna;
5. Shri Uday Pratap Narayan Singh, Sergeant of Bihar Armed Police at Patna; and
6. The Sub-Divisional Magistrate, Buxar,

on the following grounds:—

(i) for holding myself and Shri Madhu Limaye in forced detention in the V.I.P. Room in the Patna Air Port,

Bihar from 12⁰⁰ A.M. to 1.30 P.M. on August 9, 1966 at the instance of said Shri K. B. Sahay, Chief Minister and Home Minister of Bihar, and for forcibly preventing us from proceeding to Patna where we were to address a public meeting on that date, on the strength of an alleged order of externment under the Bihar Maintenance of Public Order Act, 1949.

(ii) for keeping us in virtual arrest and detention in the V.I.P. Room, Patna Air Port without any criminal charge and preventing our free movement with the help of armed police for the one and half hour period after the service of the above referred externment order upon us although we were free to move about in Bihar without any restraint in that period at least in terms of that order;

(iii) for not immediately intimating the fact of our detention to the Speaker indicating the reasons for the detention as also the place of detention in appropriate form;

(iv) for putting us by a show of physical force and threat of molestation into a Motor Vehicle belonging to the Bihar Police and taking us as prisoners under virtual arrest from the Patna Air Port to the Buxar Railway Station, about 85 miles from Patna and forcibly putting us in a passenger train kept waiting there again by a show of force and threat of molestation with the help and concurrence of the Sub-Divisional Magistrate, Buxar, who was present in the Buxar Railway Station with a posse of armed policemen brought for this purpose and taking us as prisoners under virtual arrest escorted by the above-named Uday Pratap Singh, Sergeant and a number of armed and unarmed Police guards to Mughal-sarai and releasing us there.

I therefore move that appropriate action be taken by the House for gross breach of the privilege of the mem-

bers of the House and gross contempt of the dignity of the House by the six persons named above.

Shri Nambiar (Tiruchirapalli): It is a police raj that is ruling over this country.

Shri Tridib Kumar Chaudhuri: I would draw your attention to rule 229 under intimation to the Speaker by magistrate, etc., 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 there is no doubt about it; the papers have reported so and I state here categorically that we were detained although formally we were not placed under arrest, our persons were seized and we were pushed into the VIP room and the room was locked; we tried to force our way open but we could not do that. Not only was the externment order palpably, on the face of it illegal, I am not challenging the legality or illegality of the order here; I shall seek a remedy elsewhere in the forums that are open to us.

I wish to add, Sir, that one of my advocate friends was present and we wanted to give him the power of attorney. He was immediately seized by the police and put in a police car and all the papers, even the so called externment order, were seized from him. We wanted to go to the High-Court because 1½ hours were free for us to move about in Bihar. That was not allowed and for three hours we were kept in that room. The rest of the thing, I have more or less described. It is a well established privilege of Members of Parliament in the UK and necessarily here also because we follow the UK precedent; and it is a breach of privilege to cause or effect their arrest save on a criminal charge during the session of Parliament. Similar privilege, I presume, we also enjoy. I am raising this question not because certain externment order was placed on us. We repeatedly asked the police officers and the persons who

arrested us to name the charge. They did not. They consulted their headquarters, the Chief Minister and the Inspector General of Police. They folded their hands and pushed us into the room; they always fold their hands before pushing us and they say: *maph ki jiyega*. In this way, we were treated. I am raising this question to establish the privilege that during the session no Member of Parliament should be arrested save on a criminal charge. That is a well established principle. I would only suggest that this matter—I need not discuss this question here—be referred to the Committee of Privilege and its verdict may be obtained.

श्री मधु लिमये (मुंगेर): अध्यक्ष महोदय, मैं घटनाओं के सिलसिले में नहीं जाऊंगा, मैं मेरी जो आठ आधार शिलायें हैं, ग्राउंड्स हैं उनको ही पढ़ कर सुनाऊंगा और उसके बारे में जो प्रेसीडेंट्स हैं वे आपके सामने रखूंगा। मेरी आठ आधार शिलायें इस प्रकार हैं जो कि एक पत्र द्वारा मैंने आपके सामने रखी हैं :

1. Could we be confined to the VIP room or even the airport in the period between the serving of the externment order and the expiry of the period of one and a half hours mentioned in that order?
2. Could they ask us to get into the waiting station wagon by falsely representing to us that they were taking us to the High Court to enable us to challenge the validity of the externment Orders?
3. Could they use physical force to restrain us from getting out of the car and cause hurt when we were not under arrest and, further, when we had not been told what we were being held for and which law had been violated?
4. Could they, again, without putting us under arrest threaten

[श्री मधु लिमये]

to dump us in the train compartment forcibly and push us out of Bihar?

5. Whether they could serve on me an externment order unrestricted in time and space for an indefinite period, applicable to the entire State of Bihar, where my parliamentary constituency happens to be and to whose grievances I am duty bound to attend and secure redressal for these to the best of my ability?

6. Parliamentary democracy presupposes a live and continuous contact between a member and his constituents. Any order that prevents a member from meeting his constituents will mean complete destruction of the very foundation of parliamentary democracy. It constitutes a flagrant violation of the Privileges of Members and Parliament under article 105.

7. Since there is no time-limit in the order, it means that I cannot even go to my constituency to report on the work done in this session nor can I organise my selection campaign there. It would mean depriving me of my effective membership of Parliament which presupposes live contact and constant exchange of views between the member and his constituents. It also destroys the possibility of my re-election from that constituency. This externment and forcible eviction from Bihar constitutes flagrant obstruction and molestation of a Member in performance of his parliamentary duties and in his journeys from Parliament to his constituency and as such a very grave breach of privilege.

8. After the above was written, I learnt that the lawyer friend

to whom we had given our notices, was whisked away by the police when he tried to enter the lounge to take our signatures on the *vakalat-nama* to enable him to file a petition in the High Court, and kept him in confinement for an hour or so. More importantly, the police seized the notices served on us by them and which we had handed over to the lawyer.

This, therefore, is my eighth ground for moving this privilege motion. Since these documents have been seized our lawyer has expressed his inability to send the originals or copies thereof to us. I am, therefore, sending herewith only a copy of the order served on Shri P. Ramamurthy. I presume that the orders served on us were identical except for the difference in names.

ये मेरे आठ कारण हैं। जहां तक संविधान की 105वीं धारा का सम्बन्ध है, उस में कहा गया है . . .

Shri S. M. Banerjee (Kanpur): Even the Deputy Minister has gone away. That is the callus way in which they behave.

An hon. Member: Shri Hathi is there.

श्री मधु लिमये: संविधान की 105 धारा के अनुसार इस सदन के और इसके सदस्यों के जो विशेषाधिकार हैं वे वही हैं जो इंग्लैंड के हाउस ऑफ कामन्स के सदस्यों के हैं। अब जहां तक हाउस ऑफ कामन्स का सवाल है, विशेषाधिकारों के बारे में वाइ काउंट किलमूर साहब कहते हैं :

"In the seventeenth-century constitutional struggles privilege was the weapon used by Parliament to defend itself against the Monarchy".

इसमें केवल इतना ही आप फर्क करें कि "मीनर्की" की जगह पर आप स्वेच्छाकारी

श्रीर नीकरशाही सरकार ये शब्द लगा दें और 17वीं शताब्दी की जगह पर "बीसवीं शताब्दी के हिन्दुस्तान में" जोड़ दें। तब यह वाक्य यहां पर भी लागू हो जाता है।

मेरा निवेदन है कि गिरफ्तारी या बाधा या बलप्रयोग यानी इम्युनिटी फ्रॉम एरेस्ट, आबस्ट्रक्शन एंड मालस्टेशन, ये जो अधिकार इंग्लैंड में हाउस ऑफ कामंस के सदस्य को प्राप्त हैं, हमको भी यहां प्राप्त हैं और इनका हनन हुआ है। इसके बारे में इंग्लैंड में जो इस वक्त स्थिति है उसके सम्बन्ध में कैम्पियन की किताब से एक वाक्य में आपके सामने रखूंगा। यह पृष्ठ 64 पर है थर्ड एडिशन के। किताब का नाम है :

An Introduction to the Procedure of the House of Commons

कैम्पियन साहब कहते हैं :

"The privilege of freedom from arrest is not allowed to interfere with the course of criminal justice. Treason, felony and breach of the peace were always traditionally outside privilege. In the case of Wilkes in 1763 the House resolved that there was no privilege in the case of seditious libel, although the Court of Common Pleas had decided otherwise. The Committee of Privileges in 1831 reported that

"it has been considered as established generally that privilege is not claimable for any indicable offence' and this doctrine has been held to cover criminal contempt of the court."

इसी तरह से मेरी पार्लियामेंटरी प्रिविलेज के पृष्ठ 120-21, 17वें संस्करण में लिखा हुआ है :

Obstructing Members of either House in the discharge of their duty"

Arrest of Members

"It is a contempt to cause or effect arrest, save on a criminal charge, of a member of the House of Commons during a session or Parliament, or during the forty days preceding or the forty days following a session."

बाद में केसिस हैं वे आप देख लें। श्रीर आगे एक वाक्य है :

"The privilege of freedom from arrest does not extend to criminal charges, and upon the same principle, the internment याद रखिये— not externment—of a Member under regulations enabling the Home Secretary to detain persons in the interests of public safety or the defence of the realm has been held not to constitute a breach of privilege—

इसके ऊपर भी एक रेफरेंस है हाउस ऑफ कामन्स 164 (1939-40) का दिया हुआ है।

मेरा निवेदन है कि हम लोगों को गिरफ्तार किया गया है, क्योंकि इसको गिरफ्तारी ही माना जाएगा, डेढ़ घंटे बिल्कुल हम को इधर उधर कहीं उन्होंने जाने नहीं दिया। वी० आई० पी० कमरे से बाहर आने के लिए भी क्या हुआ वह परसों मैंने आपको बताया था, उसमें मैं नहीं जाता। हवाई अड्डे पर हम को गिरफ्तार करके रखा गया। क्या हमने अपराध किया है, कौनसा हमने क्रिमिनल ऑफेंस किया है, क्या हमारे खिलाफ आरोप है, क्या इल्जाम है, क्रिमिनल चार्ज क्या है, हमें नहीं बताया गया। हम को किस कानून की धारा के अन्दर गिरफ्तार किया गया है, यह भी नहीं बताया गया। बाद में जबदस्ती हम को एक स्टेशन वैन में बिठा कर और हम को बिहार के बाहर ट्रेन पर लाद कर के ले गये। उन बीजों को दोहराना मैं नहीं चाहता हूँ।

[श्री मधु लिमये]

अन्त में मैं एक विशेष बात कहूँगा। इसके बारे में कोई मुझ को प्रेसीडेंट नहीं मिल रहा है। ऐसा कभी हुआ ही नहीं है दुनिया के इतिहास में कि एक पार्लियामेंट के सदस्य को अपने क्षेत्र से और वह जिस सूबे का और क्षेत्र का प्रतिनिधित्व करता है, उससे उसको अनिश्चित काल के लिए बिल्कुल निकाल दिया जाए। यह कभी हुआ ही नहीं है। इसलिए मैं अब से अब कहूँगा कि यह मामला है विशेषाधिकार समिति के सामने आप सीप दें और विशेषाधिकार समिति इन पर गौर करे और मदद्यों के जो अधिकार हैं, उनको रक्षा की जाय। यह जो स्वेच्छाचारी और नोकरशाही सरकार, यह जो एक तानाशाही हुकूमत इस वक्त हमारे देश में कायम है तो जा रही है, उससे हम को आप बचायें।

अध्यक्ष महोदय : बनर्जी साहब यह डिमकशन तो नहीं हो रही है जो आप बोलना चाहते हैं।

श्री मधु लिमये : अध्यक्ष महोदय, एक वाक्य रह गया है। मुझ को अगर वे भारत सुरक्षा कानून या प्रिवेंटिव डिस्टेंशन एक्ट के मातहत भी गिरफ्तार करते तो भी इनसे यह कवर होता जो मैंने अभी पढ़ कर सुना है और विशेषाधिकार का भंग नहीं माना जाता। चूँकि यह एक्सटर्नमेंट है और इसको बिहार पुलिस गिरफ्तार ही नहीं करते हैं, इसलिए मैंने अध्यक्ष को इतिज्ञा देने का मुझा नहीं उठाया है।

Shri S. M. Banerjee: I have given this privilege motion on the 8 grounds which have been narrated by Shri Madhu Limaye.

Sir, I have to say that there is a provision in the Constitution which gives immunity and certain privileges to the Members of the House. Article 105(3) says:

"In other respects, the powers, privileges and immunities of

each House of Parliament, and miffes of each House, shall be such as may from time to time be defined by Parliament by law, and until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom....."

Just now, Sir, when you pronounced your judgment you quoted certain conventions of the House of Commons 80 years old or 70 years old. Here is a convention. Unless the define by law the privileges and powers of the House, the same privileges and conventions as in the House of Commons will be made applicable in our case.

What happened in this case? Shri Tridib Kumar Chaudhuri and Shri Madhu Limaye went to Patna for doing their work... (Interruptions).

Mr. Speaker: Order, order.

Shri Hari Vishnu Kamath (Hoshangabad): They should not usurp your powers.

Mr. Speaker: What has happened to them they have related themselves. I would not allow those things to be repeated. If he has something legal to show, certainly I will allow him.

Shri S. M. Banerjee: Sir, my submission is only this. This is not the only case where the police or the executive has acted in this manner. The other day I moved a privilege motion which you disallowed. A very senior Member of this House, Professor Mukerjee.....

Mr. Speaker: Order, order.

Shri S. M. Banerjee: Sir, Kindly hear me.

Mr. Speaker: I can hear relevant things. The point that some other adjournment motion or privilege motion was disallowed is not relevant here. So many things might have happened.

Shri S. M. Banerjee: Sir, this is encouraging the Executive to arrest...

Mr. Speaker: That is also a different thing. The point here is whether this constitutes.....

Shri S. M. Banerjee: Certain precedents have been quoted. I also want to quote certain precedents.

Mr. Speaker: He may quote precedents

Shri S. M. Banerjee: I want to bring out what the police and the Executive, under the patronage of this Government, are doing towards the Members of this House. The other day, the Commissioner of Police, Ahmedabad, rang up Professor H. N. Mukerjee... (*Interruption*).

Mr. Speaker: Order. order. My request to Shri Banerjee is that here we are concerned with a particular incident that has happened to Shri Chaudhuri and Shri Madhu Limaye. I am not concerned at all, at this moment, with what the police has been doing at other places or whether the police does it on so many occasions. These are not matters that are relevant here. I cannot take a decision influenced by these facts that the police usually does this. I have to take a decision independently and exclusively on the merits of the facts that have been stated here. If he has to cite any precedents or quote any law, I am prepared to hear him.

Shri S. M. Banerjee: Sir, when we were arrested in Bihar, myself and Shri Indrajit Gupta, the Sub-divisional Officer or the Magistrate there... (*Interruptions*). Sir I am not going to submit to them. Unless you ask me, Sir, not to speak, I am not going to submit to them.

Mr. Speaker: If he will submit to me, I am thankful to him. I have told him three times....

Shri S. M. Banerjee: Sir, if you do not want me to speak, say so. Why

do you show this democratic action. Say that I should not speak and I will sit down.

Mr. Speaker: All right.

Shri S. M. Banerjee: This is what is encouraging the Executive. Here we are not allowed to speak at all.

Mr. Speaker: I do not mind that.

Shri S. M. Banerjee: You do not mind that because you do not have to face lathi charges; we face it.

Mr. Speaker: This is worse than a lathi charge.

Shri S. M. Banerjee: Sir, you have never been arrested even once. Only a man who has gone to jail knows this.

Mr. Speaker: I had also been to jail.

Shri S. M. Banerjee: I do not know.

Shri Hari Vishnu Kamath: Sir, may I invite your attention to the very historic and magnificent ruling which you gave in the case of my hon. friend, Shri Umanath when I raised the issue as to whether he could attend the House while he was on parole? I have got with me that ruling here. In that ruling, after elaborate reasoning, you have very cogently stated, after quoting May's Parliamentary Practice, that any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member from the discharge of his duties, or which has a tendency directly or indirectly to produce such an effect shall be contempt, even though there is no precedent for the offence. Further, you stated in the same ruling that Shri Umanath, whose movements had been restricted by virtue of the Madras Government Order and the so-called elucidation thereafter—his movements were restricted to the municipal limits of Tiruchi and he was asked to report

[Shri Hari Vishnu Kamath]

to the police station every day, every 24 hours—you rightly held in the public interest, the supreme national interest, the interests of Parliament, in consonance with the highest traditions of the best Parliament of the world, you held at that time that if the Member so desired, he could even fly from his constituency to Delhi to attend Parliament but for the condition laid down restricting his movements to the municipal limits. Then you proceeded to mildly censure the Madras Government. As it is the first case of this kind, towards the end you said "I would advise the House to drop it". So, you were convinced morally—I say even legally and constitutionally, but morally definitely—that this was an instance where a Member of this House had been impeded, had been prevented from proceeding from his constituency to the House to perform his duties. (Laughter). It is not a matter for laughter. You can have this cacophonous cachinnation later on. Sir, if they do not want to maintain the privileges of Parliament, I think they have no place here. I would only submit, in the end, that in the case of Shri Madhu Limaye—perhaps not in the case of Shri Tridib Kumar Chaudhuri because, unfortunately, Bihar is not his constituency; it is in Bengal—his constituency lies beyond Patna. He has to go to Patna first and then proceed to Monghyr. If he is arrested in Patna and that too not on a criminal charge, he is just arrested and kept in the VIPs room—I do not know why he was kept in the VIPs room; perhaps, the policemen also wanted to be in the VIP room—if he is arrested at Patna on his way to Monghyr, he is prevented from reaching his constituency, his place of residence, from discharging his duties in his constituency, from returning to Parliament to discharge his functions as a Member from that constituency from which he had been elected in Bihar. I, therefore, submit in all humility but with all earnestness that *prima facie* a breach of

privilege has been committed and that it should be referred to the Committee.

Shri D. D. Mantri (Bhir): Let him produce an affidavit that he was on his way to his constituency... (interruptions).

An hon. Member: This is not a court.

The Minister of State in the Ministry of Home Affairs and Minister of Defence Supplies in the Ministry of Defence (Shri Hathi): It is really an important question when a breach of privilege of a Member of the House is alleged to have been committed by some officers of the Bihar Government. I for one, whether it may be Shri Tridib Kumar Chaudhuri or Shri Madhu Limaye or any Member of the House, would not at all come forward and say that this matter should not be considered if there is a breach because we have to maintain the dignity of the House and uphold the rights and privileges of Members. But the question is one of facts. The facts, as they have been stated, have to be *prima facie* looked into and in fairness to the persons we will have to get the full facts. One version is, as Shri Chaudhuri has said, that they were detained, they were arrested and they were not allowed to move. According to Shri Madhu Limaye, he was going to his constituency while in the notice Shri Chaudhuri has said that they were going to address a public meeting at Patna.

श्री मधु लिमये : यह मैं ने भी कहा है ।

Shri Hathi: I do not want to contradict what you say. I only want to say that the facts have to be ascertained and unless we are in full possession of the facts, it will be difficult for me to say anything in the matter. In fairness, I think, we should be allowed time to get full facts as to whether they were detained or arrested. The order was an order of externment and not of detention.

Mr. Speaker: There is one thing that I would request the hon. Minister to particularly draw to the notice of officers. Besides the points that have been raised as a breach of privilege, which have to be considered as to whether there has been a breach of privilege, there are certain other allegations, such as, ordinary courtesy was not extended to them.

श्री राम शेखर प्रसाद सिंह (छपरा) :
इसके बारे में तो आपने कहा है कि बहुत अदब के साथ हाथ जोड़ कर कमरे तक ले गए।
(ब्यवधान)

Mr. Speaker: I have said it here also sometimes that there are objectionable words and phrases uttered and sometimes I feel insulted, but then the Members says that he is doing it most respectfully.

He might get all those facts. When would it be possible for him at the earliest opportunity to tell the House?

Shri Hathi: On Tuesday.

श्री मधु लिमये : इसी लिए मैंने परसों इसका नोटिस दिया था।

प्रध्यक्ष महोदय : अच्छी बात है। मैंने ट्यूजडे को एक पहले से ही रखा है।

This would be taken up on Wednesday because I have already put down one breach of privilege notice for Tuesday.

Shri H. N. Mukerjee (Calcutta Central): Here is a statement. We have heard the statements from two of our colleagues in this House. The Committee might very well look into the matter. Whatever the Government might have to say, they can tell the Committee. On the face of it, it appears to me at any rate, I may be wrong, you have to announce your decision according to your lights. There seems to be very definitely more than a *prima facie* case. If there is a question of investigation with

regard to the facts, the Committee might very well do it. We are there for that purpose.

Shri Surendranath Dwivedy (Kendrapara): If I may quote a precedent, there was a telegram from George Fernandes. It was submitted by a Member of the House and you did not direct the Government or anybody to get information as to whether he was the person who had sent the telegram. It was sent to the Privileges Committee and the Committee ascertained the facts.

Mr. Speaker: I had also received that and the Member also received that. There was intimidation contained in that; therefore, we decided that way. So far as the notice of detention or the service of the order was concerned, the intimation was sent to us. We have received that intimation. I am rather concerned with what treatment was meted out to those Members.

Shri Hari Vishnu Kamath: Only that?

Mr. Speaker: No; the other facts also.

Shri Hari Vishnu Kamath: Comparative.

Mr. Speaker: It would be fair that the facts are known before I give my decision. Therefore I will take it up on Wednesday.

PAPERS LAID ON THE TABLE

12.54 hrs.

ANNUAL REPORT OF THE EXPORT CREDIT AND GUARANTEE CORPORATION LIMITED.

The Deputy Minister in the Ministry of Commerce (Shri Shafi Qureshi): Sir, on behalf of Shri Manubhai Shah I beg to lay on the Table—

(1) A copy of the Annual Report of the Export Credit and