

# LOK SABHA DEBATES

(Part II—Proceedings other than Questions and Answers)

23.03.2015

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## LOK SABHA

Tuesday, 4th December, 1956.

The Lok Sabha met at Eleven of the Clock.

(MR. DEPUTY-SPEAKER in the Chair)

### QUESTIONS AND ANSWERS

(See Part I)

12.03 hrs.

#### PAPER LAID ON THE TABLE

##### HIGH COURT JUDGES (PART A STATES) TRAVELLING ALLOWANCE RULES

The Minister in the Ministry of Home Affairs (Shri Datar): I beg to lay on the Table, under sub-section (3) of section 24 of the High Court Judges (Conditions of Service) Act, 1954, a copy of the High Court Judges (Part A States) Travelling Allowance Rules, 1956, published in the Ministry of Home Affairs Notification No. S.R.O. 2401, dated the 27th October 1956. [Placed in Library. See No. S-512/56.]

#### COMMITTEE ON ABSENCE OF MEMBERS FROM THE SITTINGS OF THE HOUSE.

##### EIGHTEENTH REPORT

Shri Altekar (North Satara): I beg to move:

"That this House agrees with the Eighteenth Report of the Committee on Absence of Members from the Sittings of the House presented to the House on the 3rd December, 1956".

508 L.S.D.—1.

Normally, when a report of the Committee on Absence of Members from the Sittings of the House is presented, the Chair ascertains the pleasure of the House by putting the question from the Chair. Now, I am coming with this Motion at this time because the Committee has recommended leave for 6 Members of the House and has not recommended leave in the case of Shri Sibnarayan Singh Mahapatra.

The circumstances of this case are that this hon. Member was granted leave by this House from time to time for long periods, amounting in all to 484 days upto 7-3-56. On 5th April 1956, the Member sent an application and asked for leave from the 8th March 1956 to the end of the Twelfth Session, that is, for 83 days, adding the ground "marriage in the family". The Committee in its sitting on the 3rd of May 1956, felt that marriage in the family was too vague a reason and not sufficient ground for granting such a leave, and asked the hon. Member's explanation of the ground. The letter was sent on the 10th May 1956. Reminders were sent on the 17th May, 3rd July and 13th July 1956, but no reply was given by the hon. Member.

At its meeting held on the 25th July 1956, the Committee considered the case and thought that the fact should be brought pointedly to the notice of the hon. Member that if he continued to remain absent for more than 60 days together, his seat was liable to be declared vacant by this House, and that he should give proper reasons. This is stated in the Report itself. Several reminders were given, but no reply was sent by him.

[Shri Altekari]

Then at the meeting of the Committee held on the 10th September, it came to the conclusion that no recommendation for leave could be made but that the fact should be brought to the notice of the hon. Speaker. When it was so brought, the hon. Speaker suggested that the hon. Member should be served with the views of the Committee through the State Government and an acknowledgement should be taken from him. It was so done. Then on 7-11-56, the hon. Member sent an application stating that leave should be given to him for the whole period on the ground of 'ill health and some domestic troubles'. One does not know what 'ill health' is. One might suffer from some catarrh and still that might be called ill health. No explanation was given of 'domestic troubles'. In any case, no regret was expressed as to why so many reminders remained unplied.

Under these circumstances, the Committee, at its sitting held on the 21st November 1956, felt that the Member had disregarded the Committee and had given no reply to its letters, and the reasons given by him were unsatisfactory, and therefore, no leave should be recommended. It also decided to recommend that the seat of the hon. Member should be declared vacant.

I commend the Report to the acceptance of the House.

**Mr. Deputy-Speaker:** Motion moved:

"That this House agrees with the Eighteenth Report of the Committee on Absence of Members from the Sittings of the House presented to the House on the 3rd December, 1956".

**Shri Kamath (Hoshangabad):** As the Mover of the Motion has already pointed out, this Report departs from other reports presented by the Committee to this House, and I believe for the first time in the history of this Parliament, a recommendation to the

effect that the seat of a Member be declared vacant has been made in paragraph 9, sub-paragraph (9)—I am sorry the same numerals have been used; I wish different numerals had been used; but that is a minor point. This recommendation has been placed before the House for its approval.

While we are anxious to set up and establish very good parliamentary precedents and conditions we must also ensure that no action is taken or no approval is given to a recommendation made by the Committee before a detailed examination of the same has been made by the House. Therefore, I would crave your indulgence and the indulgence of my hon. colleagues for a little more detailed discussion of this matter in this House today.

You will be pleased to refer to page 4 of this Report, sub-paragraph (7) of paragraph 9. It says:

"The Member subsequently sent an application for leave of absence on 7-11-56 stating that he could not attend the House because of ill health and some domestic troubles".

Now, two documents have been appended to this Report. One is a letter that went from the Lok Sabha Secretariat to the Chief Secretary to the Government of Orissa. The second is one from the Lok Sabha Secretariat to the hon. Member concerned. The two documents have been appended and also a third one giving the details of the hon. Member's absence from the House. It is a serious matter, of course, for the House that a Member should remain consistently absent from successive sittings of the House. I agree. But, may I submit that this letter to which reference has been made in sub-paragraph (7) of para 9, a letter sent by the hon. Member concerned or rather an application sent by him stating that he could not attend the sittings of the House because of ill-health and domestic troubles, has not been appended to the Report, and has not

been placed before the House so that we can have a clearer idga.

**Shri U. M. Trivedi** (Chittor): It has been mentioned.

**Shri Kamath:** But, so many documents have been appended. In fairness to the hon. Member his application should also be before the House for its consideration because we want to know the details mentioned by him as regards his ill-health and domestic troubles. In fairness to our colleague that application must also be before the House before we approve of the recommendation made by the Committee.

**Mr. Deputy-Speaker:** It has been said that no mention has been made about the nature of the domestic troubles or ill-health; that nothing has been given and, therefore, it is difficult to assess what those troubles are and how serious is that ill-health.

**Shri Kamath:** The hon. Mover said that there is no reference to the nature of the domestic troubles and the kind of troubles that he has had to face. But in the previous application the reason given by the hon. Member was 'marriage in the family'. He had also mentioned illness. I do not like to dilate on that point. But I reiterate that in fairness to the Member as also in fairness to all of us we should know exactly the contents of the second application. If the hon. Mover wants to keep it as a secret document which he cannot disclose to the House, then he may give the contents of the letter which was sent to the Committee.

**Shri Altekar:** It is an application of three or four lines in which he says that he should be given leave on grounds of ill-health and domestic troubles and says that the reason to be mentioned is 'ill-health' only. I would just read that.

"Because of my ill-health and domestic troubles, I have not been able to attend the sessions of the Lok Sabha so far. I would request you, therefore, to kindly

grant me leave for the period of my absence on the ground of reasons of ill-health."

So, there are some domestic troubles and also ill-health. These are the contents of the letter. No explanation is given of these vague terms.

**Mr. Deputy-Speaker:** There are so many hon. Members on their legs. Let one hon. Member finish.

**Shri Kamath:** I will finish in one minute.

I would urge one more point and that is the last one. This colleague of ours belongs to the Scheduled Tribes—an Adivasi. I think we should give some consideration and some latitude to our Harijan and Adivasi colleagues. In the Constitution also we have provided some concession to these people. I would ask the hon. Mover to tell us.....

**Mr. Deputy-Speaker:** The motion does not require so much time.

**Shri Kamath:** Only five minutes. Under the Rules, half an hour is allotted for the entire discussion.

**Mr. Deputy-Speaker:** I would only request the hon. Member to be brief.

**Shri Kamath:** I would request the hon. Mover of this motion to say whether the motion to be made under Rule 284 will come before this House this session, because, presumably, this is the last session of Parliament. I think this matter should be considered in all its aspects in this very session; if not today, at least when the motion is made.

**Shri Tek Chand** (Ambala-Simla): May I very briefly submit that the remissness of the hon. Member should not be visited with the drastic action proposed. So far as the ground of domestic trouble is concerned, there can be matters of certain delicacy and matters of certain embarrassment the divulgence of which may not necessarily be insisted upon. The same thing about ill-health also. If the importance of furnishing these details

[Shri Tek Chand]

had been brought to the notice of the hon. Member, perhaps, he might have been in a position to furnish more details. I, therefore, would hesitate to counsel my colleagues that they should accept the recommendation which entails a disability of the nature that is being proposed.

**Shri Gidwani (Thana):** I rise to support the motion. I am surprised that we are asked to be lenient in this matter. After all, if a Member does not attend so many sessions—and out of a total number of 753 days that the Parliament has sat, he has remained absent for more than 636 days....

**Mr. Deputy-Speaker:** He has remained absent for 484 days and that absence was condoned.

**Shri Gidwani:** That has been condoned. But we have to realise that there are two aspects in this matter. One is, the tax-payer's money is being paid to him. He is being paid a salary. If there was no question of salary, I can understand that one can sit away.

The other is the political aspect. The constituency remains unrepresented. If we are going to be lax in such matters, then we might say 'good-bye to democracy. We are ourselves the makers of law and so shall we be so lenient? I therefore agree with the Committee and congratulate them on their courage for taking this step. Otherwise, we would be stultifying ourselves.

**Shri U. M. Trivedi:** Mr. Deputy-Speaker, Sir, I very strongly support this motion. Those of us who are working in this Committee—although I was not present when this Committee took this decision—know how leniently we consider all the applications that come before us for granting leave of absence. Our Constitution is very clear on this point that if a Member continuously absents himself for more than 60 days without leave, certainly, his seat can be

declared vacant. That is the predominant thing in our minds whenever we sit to consider all these applications. We have relaxed the Rule to such an extent that we had done away with the idea of any Member producing any certificate about his ill-health provided he did state that he is suffering from such and such a malady. We always took the word of the hon. Member as correct—that he is suffering from rheumatism or malaria or something else.

We even went to the extent of saying that if an application is received before the expiry of 60 days giving some valid reason for the absence, we would agree to grant leave. From time to time we have been telling hon. Members that for their own sake and for the decorum of this House, they must state briefly what are the reasons which prevent them from attending the House and that they must be very specific about it. We have condoned many cases where we ought not to have condoned to the extent that we did. But, in this particular case, what has happened is that the Member has not even given any indication whatsoever.....

**Shri C. D. Pande (Naini Tal Distt. cum Almora Distt.-South-West cum Bareilly Distt.-North):** It is there already.

**Shri U. M. Trivedi:** I know that he has applied. On what grounds does he want leave? He says for reasons of ill-health and for family troubles, but he also says, 'Treat my application as only for purposes of ill-health'. We should presume that he is ill and not that he has any domestic troubles. All this is far-fetched. At the same time, let us be honest to ourselves. Sitting here not only as legislators but also as the highest sovereign body, we have to be honest to the Constitution and also the public at large. It is high time that we must decide that sympathetic and sentimental considerations should not weigh with us so much as to outdo all the good work that is being done by the Parliament.

**Shri Nambiar (Mayuram):** I very strongly support this motion. I submit that the motion must be accepted. I do not want to repeat the arguments already brought forward, but I have to submit to you that behind the screen there is something else. Shri Mahapatra was not willing to stand for election even during those days. It is the Congress Organisation that forced him to do so, and ever since he was elected, he did not want to come to the Parliament. But the Congress Organisation wanted him to continue so that there should not be a bye-election if his seat is vacated, and that was why they permitted him to continue.

**Mr. Deputy-Speaker:** We have to consider the report of this Committee which has now reported that this leave or absence of the Member concerned should not be condoned.

**Shri Nambiar:** The Congress body as such was behind the screen and was trying to pamper his membership till the next election. Now since they found it impossible, they had to take some other decision. My submission is that for the reasons already advanced, there cannot be any consideration whatsoever; he must be permitted to be absent permanently from this House and we must support the motion. Otherwise, there is no reason whatsoever to allow the Congress body to behave in such an irresponsible manner.

**Shri C. D. Pande:** On many occasions we have had to grant applications for leave; there were applications for long leave on account of ill-health also; there were also applications on the ground that the Member did not get a particular communication to attend the Parliament.

**Shri U. M. Trivedi:** That is reasonable.

**Shri C. D. Pande:** There is a Member who belongs to the Scheduled Tribes, whose education is absolutely meagre or perhaps nil. He has applied for leave, and you are putting

so much legal interpretations on his reasons or grounds of ill-health. He might not have understood what he had said or stated. I think it is absolute cruelty on him at the fag end of this Parliament to debar a Member from his membership of the House. Let his constituency take the decision. If he has not served his constituency well, he will not be returned. I think it will be going too far to demand from him the reasons and details of the malady etc., and I think we are taking things too far, and this matter should be dropped. I request the hon. Member who has made this motion to reconsider whether it is necessary.

**Mr. Deputy-Speaker:** Now it is for us to consider.

**Shri Joachim Alva (Kanara):** It is difficult to be in the strange company of my active friend, Shri Kamath; but for once I feel I should support what he has said. My friend, Shri Gidwani, is a happy bachelor and he does not know the liabilities of rearing up a family. I want to know how any hon. Member can state in detail his "domestic reasons" in an application for leave of absence from the House. I am going to quote an extreme case. If my wife is of unsound mind or my daughter is of unsound mind, am I going to state all that in my application? When I state "domestic reasons," I think the House should bear me up my acts of commission and omission. Declaring a man insolvent, sentencing him to jail or striking him off the roll as an advocate or striking him off from membership of Parliament—these are all drastic steps like sentencing him to death! Above all, my hon. friends must remember that this particular hon. Member has had not even the average ability or intelligence as other Members of Parliament. He is not so fortunately circumscribed as some of us are in the matter of education, training and experience. As such, the senior members of a family should bear with the infirmities or weaknesses of the lesser members of

[Shri Joachim Alva]

the House. In a spirit of liberality we should condone his absence when an hon. Member says that it was due to domestic reasons that he could not attend, and the matter should end there. All I suggest is that this matter should be held over till the next session and we should not take the drastic step of striking him off from the membership of the House.

**Pandit Fotedar** (Jammu and Kashmir): This is a very important matter in which Parliament is called upon to give a decision regarding vacating a seat by a Member of Parliament. Some points have been raised by Shri Gidwani that he has not been representing his constituency. It is too late now to think about it when fresh elections are to be held within three or four months' time.

Secondly, there is only one technical flaw in the whole thing, which is that he has not submitted his medical certificate along with his application. All that he has said is that he has domestic troubles and that he was not feeling well. As you have yourself been pleased to say, about 400 days have already been condoned and it is only a question of certain other days. I feel that deliberately the Member concerned has not flouted either the dignity or the prestige of the House. It is perhaps the ignorance of a certain procedure that has not permitted him to attach a medical certificate along with the application that he has made.

I agree with my hon. friend, Shri Alva, that this absence should be condoned, but in the meanwhile the Committee should once again ask him that if he was ill, he should submit a medical certificate in substantiation of his contention and permit the House to condone his absence. I agree with my hon. friend that in a matter like this we should not take up decision in a summary manner and ask a Member to vacate his seat. It will be setting up a sort of precedent which will affect the dignity and

prestige of the House. Therefore, I do not agree with the motion.

**Shri Altekar:** If the dignity and prestige of the House are to be maintained under the circumstances of the case which have been fully narrated, the only conclusion that the House can come to is not to grant him leave. An absence of 636 days out of 753 days speaks for itself, and no further comment is needed. The argument that because he was granted leave for about 480 days, he should be granted this further leave, is not right, and I think no such right of prescription can be claimed.

The hon. Member belongs to the Scheduled Tribes, and from a perusal of Who is Who one will find that he has served as member in several committees and institutions for public works and that *prima facie* he should know his responsibilities and ought to have replied to the several reminders that were sent to him. He failed to reply to about 8 or 9 letters and reminders. That in itself is sufficient to show that he is not showing proper respect to this House.

If you say that "domestic troubles" or "ill-health" is a sufficient reason, then I think there will be no case in which any leave can be refused, because the term "ill-health" is so broad that anything can come under it. When enquiries were made with regard to the details of the grounds, he should have stated them sufficiently in a way which could convince the Committee and the House. He has not done so. Under these circumstances it was only a flimsy letter he has addressed stating that on account of ill-health and domestic troubles, he might be granted leave. I think it amounts to rather showing disrespect to the House without understanding his responsibilities properly. Therefore, no further concessions should be shown to him. The Committee has been over-lenient to him. Under the circumstances, the Member concerned should not be given any further leave.

**Pandit Thakur Das Bhargava** (Gurgaon): Just a word, Sir. A suggestion has been made by many Members here that the Member concerned should be asked to send a medical certificate and also give reasons for his absence (*Interruptions*). There is a proverb—

“झापकी ने खानियों ने गुस्ताख कर दिया”

For action being taken against any Member, has he been asked to submit a medical certificate, and does he know that the production of a medical certificate is necessary? Now in the fag end of this Parliament I would rather like an opportunity to be given to the gentleman to send his reasons as also a medical certificate if he can procure one.

It may be that he is not ill; somebody else is ill; the way this man is behaving may be objectionable, but what is the punishment that we are giving? This is a solitary instance in all these 5 years when a recommendation has been made in this manner. Everybody knows that these matters are taken not in a very strict way. If anybody has made any submission whatsoever, we have without enquiring whether they are correct or wrong always been granting this leave of absence. What does our Constitution say? It says that if a person comes here once in 60 days, then it is all right. The thing can go on and if you kindly take a census of the attendance of all these Members, how many have attended this House and in what way, it would be interesting. It would appear that all this talk about duty by attending here and doing something in the constituency will vanish. I submit that this is not a case in which such drastic punishment should be given. At least, he should be asked to explain the position. Supposing he sends an application and gives you a medical certificate, it should satisfy us. Supposing it transpires that his wife, daughter or somebody is ill, what then? I therefore think that his having written in his application

certain reasons should not become the subject matter in which we should take such a drastic action. I would submit to all hon. Members at least to hold their hands and not set this example in this last session. At the same time, if any action is to be taken, I would respectfully submit to you personally that you may kindly just adjourn this discussion and give him an opportunity of stating what he has to say in respect of this matter. He has not been heard on the matter; no question has been put to him. We cannot punish a member unheard. This will not be fair.

(*Interruption*).

Is there any rule on the subject? If there is, the Constitution does not say that we should not ask him to explain the position. We are condemning a man unheard.

So far as this gentleman is concerned, he does not know English; he does not know what drastic action can be taken. Such absence has been condoned so far.

**Mr. Deputy-Speaker:** On account of these disabilities, he has the right to continue?

**Pandit Thakur Das Bhargava:** I am not asking the House to agree to this. After his reply is received, if the House thinks that it is not satisfactory, or that he is not really ill, I think the House can take action then. I submit that we should adjourn the discussion and I consider that no person should be punished without being heard.

**Mr. Deputy-Speaker:** I suppose there has been enough discussion. I would propose that the House might take a decision as it likes; it is for the House to do so. I would not give any opinion of mine, nor is it my business. I might inform the House that some hon. Members have expressed doubts whether such action has been taken before. In 1950 that action was taken against 3 Members of the House and the seats were declared vacant. Some hon. Members

[Mr. Deputy Speaker.]

have made certain observations which rather reveal that attention has not been sufficiently drawn to para (4) of the report which reads thus:

"At its sitting held on the 25th July, 1956 during the Thirteenth Session the Committee desired that the member be informed that his continuous absence for more than 60 days without permission of the House would attract the provisions of Article 101 (4) of the Constitution. This was duly done on the 2nd August, 1956. Three reminders were sent to him on the 14th August, 23rd August and 31st August, 1956, but no reply was received from the member."

I am not giving any opinion but only bring it to the notice of hon. Members. I will put the motion before the House, for its decision.

**Shri Kamath:** May I request, you to put the first and the last parts separately to the House?

**Mr. Deputy-Speaker:** Yes; this is correct. I shall put motion in two parts.

The question is:

"This House agrees with the Eighteenth Report of the Committee on Absence of Members from the sittings of the House presented to the House on the 3rd December 1956 recommending leave of absence to certain Members."

*The motion was adopted.*

**Mr. Deputy-Speaker:** The Members who have been granted leave of absence will be informed accordingly. So far as Shri Mahapatra's case is concerned, I shall now put separately the motion regarding him.

The question is:

"This House further agrees with the recommendation of the Committee on Absence of Members in respect of Shri Sibnarayan Singh

Mahapatra contained in the Eighteenth Report of the Committee."

**Shri C. D. Pande:** I would suggest that before the motion is placed before the House, the matter should be referred to the Committee again for re-consideration. You may place that before the House for voting and then this. That is the best thing.

**Mr. Deputy-Speaker:** No amendment or formal proposal had come up to me; otherwise, I would have put it as desired.

Those in favour of this motion say 'Aye'. Several Hon. Members: "Aye".

**Mr. Deputy-Speaker:** Those against this motion may please say "No".

Some Hon. Members: "No".

**Mr. Deputy-Speaker:** The "Ayes" have it.

Some Hon. Members: No; the "Noes" have it.

**Mr. Deputy-Speaker:** Would the House like to divide on this issue? Very well. The bell is being rung.

Order, order. The hon. Members may resume their seats. I am going to put this motion to the vote of the House.

The question is:

"This House further agrees with the recommendation of the Committee on Absence of Members in respect of Shri Sibnarayan Singh Mahapatra contained in the Eighteenth Report of the Committee."

*The motion was adopted.*

**Mr. Deputy-Speaker:** We will now proceed to the next business....

**Shri V. G. Deshpande (Guna):** I challenge the result, Sir....

**Mr. Deputy-Speaker:** Order, order. The hon. Member is very late. He was not serious enough even to stand up in his seat and say, as an hon. Member ought to do when he



wants to object. He was sitting in his seat without any seriousness and I too heard something but I never considered that they were meant to be serious. We will take up the next business.

#### ELECTION TO COMMITTEE

INDIAN INSTITUTE OF TECHNOLOGY,  
KHARAGPUR

**The Deputy Minister of Education**  
(Dr. M. M. Das): I beg to move:

"That the members of this House do proceed to elect, in such manner as the Speaker may direct, two members from among themselves to serve on the Board of Governors of the Indian Institute of Technology, Kharagpur, from the date the Indian Institute of Technology (Kharagpur) Act, 1956, comes into force, in pursuance of the provisions of clause (h) of Section 11 of the said Act."

**Mr. Deputy-Speaker:** The question is:

"That the members of the House do proceed to elect, in such manner as the Speaker may direct, two members from among themselves to serve on the Board of Governors of the Indian Institute of Technology, Kharagpur, from the date the Indian Institute of Technology (Kharagpur) Act, 1956, comes into force, in pursuance of the provisions of clause (h) of Section 11 of the said Act."

*The motion was adopted*

#### CENTRAL SALES TAX BILL

**The Minister of Revenue and Civil Expenditure** (Shri M. C. Shah): Sir, I beg to move:

"That the Bill to formulate principles for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce or outside a State or in the course of

import into or export from India, to provide for the levy, collection and distribution of taxes on sales of goods in the course of inter-State trade or commerce and to declare certain goods to be of special importance in inter-State trade or commerce and specify the restrictions and conditions to which State laws imposing taxes on the sale or purchase of such goods of special importance shall be subject, be taken into consideration."

The House has had an opportunity of discussing the recommendations of the Taxation Enquiry Commission on the subject of Sales Tax when the Constitution (Sixth) Amendment Bill was taken up in the Budget Session. You are aware that the Commission, after going very carefully and in detail into the problem of sales-tax, came to the conclusion that it must be a State tax and its levy, distribution, etc. must rest with the State. But, they also stated that the power and responsibility of the State should end and those of the Union must begin when the tax falls administratively on the dealers and financially on the consumers of another State. The House is also well aware that the Taxation Enquiry Commission recommended that there must be some control of the union over the sales-tax when it is imposed on certain raw materials which are very necessary for the manufacture of certain goods, whether those raw materials are produced in one State and the goods are also manufactured in the same State or the raw materials are exported to another State and the goods are manufactured in that State. It added that the question of the cost of the manufactured goods is a matter of concern for the Central Government, and if no restriction is placed on the powers of the States to impose sales tax on the raw materials going into the manufacture of certain goods, then the cost will be rather increased and the consumers will be affected. Therefore, it has stated that six articles of raw materials are

\*Moved with the recommendation of the President.