

[Shri Subiman Ghose]

Commander; but that has not been done. I will be very grateful to Government if they can show any instance in which they have done it.

We hear very good words at the time of birthday celebrations and sometimes in elections. But we never find that Government has acknowledged its debt to the *Azad Hind Fauj* or its Supreme Commander. They fought for India and I have quoted the British author that the *Azad Hind Fauj* hastened the withdrawal of British rule. Because of these facts and other circumstances, I think there cannot be possibly any objection on the part of Government to accepting these names.

Mr. Deputy-Speaker: Resolution moved:

"This House is of opinion that the Andaman and Nicobar Islands be named as 'Swadesh Dwip' and 'Swaraj Dwip' respectively."

There is an amendment of Shri Tridib Kumar Chaudhuri.

Shri Tridib Kumar Chaudhuri (Berhampore): Sir, I beg to move—

In the Resolution,—

for 'Swadesh Dwip' substitute 'Sahid Dwip'.

My amendment, of course, is not very important. It only seeks to rectify a typographical mistake. As a matter of fact, Netaji Subhash Chandra Bose wanted the Andamans to be named 'Sahid Dwip' and not 'Swadesh Dwip'. That is because, Andamans, as you know, has been the graveyard of many patriots.

Mr. Deputy-Speaker: Would the hon. Member like to continue next time?

Shri Tridib Kumar Chaudhuri: Yes, Sir.

Mr. Deputy-Speaker: The hon. Member may continue next day.

16.50 hrs.

*ELECTION PETITION

Mr. Deputy-Speaker: Now, we will take up the half-an-hour discussion of Shri Ram Krishan Gupta. The hon. Member is aware that he shall have 10 minutes for himself and ten minutes for the reply.

Shri Ram Krishan Gupta (Mahendragarh): I shall be very thankful if I can have 15 minutes.

Mr. Deputy-Speaker: Fifteen minutes for the hon. Member and another fifteen minutes for the Minister's reply. Then, no other hon. Member can participate.

Shri Ram Krishan Gupta: The time may be extended, Sir.

Mr. Deputy-Speaker: I cannot extend 30 minutes into a longer period. He may have 12 minutes, then.

17 hrs.

श्री राम कृष्ण गुप्त : उपाध्यक्ष महोदय, यह स्वेचन नं० ५६८, जिसके बारे में आज डिस्कशन हो रहा है, बहुत ज्यादा अहमियत रखता है। यह जो एलेक्शन पिटिशन है, जिसकी बाबत इस स्वेचन में जिक्र किया गया है, वह जुलाई सन् १९५५ से पेंडिंग है। प्राप अन्दाजा लगा सकते हैं कि अगर एक पिटिशन में इतने साल लग जायें तो बाकी देश के ऊपर क्या असर पड़ेगा। मैं यह बात इसलिये कह रहा हूँ कि हमारे देश के अन्दर जो डिमाक्रेटिक ढाँचा है उसका बारम्बार एलेक्शन पर है। इसके बारे में दो रायें नहीं हो सकतीं। मानरेबल मिनिस्टर ने अपने जवाब में यह फरमाया था :

"The Election Commission is doing all that is within its power to expedite its disposal. It has stressed on the Chairman of the Tribunal the desirability of expediting the trial of the petition."

उन्होंने अपने जवाब में जो कुछ फरमाया है उसके बावजूद इसमें काफी देर हुई। मैं आज हाउस के सामने यह बतलाना चाहता हूँ कि इस देरी का असली कारण क्या है।

जहां तक मैं समझता हूँ यह सही बात है, और मैं इसे जरूर हाउस के सामने रखूंगा कि अगर इस एलेक्शन पिटीशन में पंजाब के चीफ मिनिस्टर रेस्पांडेंट न होते तो इस का फैसला पहले ही हो जाता। इसके लिये मैं कुछ सबूत भी हाउस के सामने पेश करूंगा। आनरेबल मिनिस्टर ने अपने जवाब में यह भी कहा कि देरी के जो कारण थे उनमें सबसे बड़ा कारण यह था :

“Unavoidable changes in the composition of the Tribunal.”

मैं यह जानना चाहता हूँ कि ट्रिब्यूनल के कम्पोजीशन में जो चेन्जेज हुए उनके क्या कारण थे। हमारे माननीय मिनिस्टर ने जो जवाब दिये थे उनको अगर गौर से पढ़ा जाय मेरी बात बात, जो मैंने अभी कही थी, वद साफ तौर पर साबित हो जायेगी। माननीय मंत्री ने यह फरमाया था :

“If I may give their names, the first gentleman who was appointed was a gentleman by the name of Shri Manohar Singh Bakshi, District and Sessions Judge, Hoshiarpur. He was appointed as the Chairman of the Tribunal. There was an allegation against him later on that he was a very close associate of one of the respondents to the petition.”

मैं जानना चाहता हूँ कि जिस रिस्पांडेंट से पहले चेअरमैन का ताल्लुक था वह कौन था। क्योंकि जैसा कि इस पिटीशन में कहा गया है, इस बात का शुरू में खयाल रक्खा जाता, और मेरा भी यह खयाल है कि एलेक्शन कमीशन को यह चाहिये था कि जब ट्रिब्यूनल मुकर्रर किया गया उस वक्त इस बात का खयाल रक्खा जाता कि ऐसे आदमी को चेअरमैन मुकर्रर न करे जो कि किसी रिस्पांडेंट से एसोसियेटेड ही न हो, बल्कि क्लोजली एसोसिएटेड हो।

अगर शुरू में इस बात का खयाल रक्खा जाय तो मेरे खयाल है कि पिटीशन का फैसला करने में इतनी देरी न होती।

दूसरी बात जो मैं हाउस के सामने रखना चाहता हूँ वह यह है कि कुछ अरसे के बाद उनमें से एक मेम्बर को असिस्टेंट एडवोकेट जनरल बना दिया गया और एक मेम्बर को रिहैबिलिटेशन मिनिस्ट्री में एक जिम्मेदार पोस्ट दी गई। अगर यह भी मालूम करने की कोशिश की जाये कि यह क्यों हुआ, इसके लिये क्या कारण था, तो उससे भी जो कुछ मैंने पहले कहा, उस बात के लिये काफी सबूत मिल जायेगा।

तीसरी बात जो मैं इसके बारे में कहना चाहता हूँ, और यह मेरा सबाल था कि जो रिस्पांडेंट है, जिसके लिये करप्ट प्रैक्टिसेज के चार्ज हैं, वह कौन है। इसके बारे में कह दिया गया कि यह क्वेश्चन एराइज नहीं होता। लेकिन आगे चल कर माननीय मंत्री जी ने खुद मेरी इस बात को तसलीम कर लिया कि इस पिटीशन में अगर कोई क्वेश्चन है तो वह सिर्फ एक ही क्वेश्चन है और वह करप्ट प्रैक्टिसेज का है। उन्होंने आगे चल कर कहा :

“There are certainly other issues involved, mainly charges of corrupt practice against some respondents which, I suppose are the main issue. So, it be tried fairly and properly after examination of all the witnesses available and that is going on at the present moment.”

इस लिये मेरे कहने का मतलब यह है कि इस पिटीशन में मेन इश्यू यह है। तीसरी बात जहां पर देरी का ताल्लुक है, आनरेबल मिनिस्टर ने अपने जवाब में यह फरमाया कि कमीशन को यह पावर हासिल नहीं है कि ट्रिब्यूनल जो आलरेडी एंवाइटेड हो चुकी है उसे डिसमिस कर दे। यह बात ठीक है और मैं इस से एग्री करता हूँ, लेकिन मैं माननीय मंत्री जी से यह मालूम करना चाहता हूँ कि क्या जो पुराना एक था, या जो एकट अब है उसको भी ले

[श्री राम कृष्ण गुप्त]

लें, उस ऐक्ट के अन्दर यह सेक्शन मौजूद है और उसमें साफ तौर पर कहा गया है :

"If during the course of the trial any member of a Tribunal is for any reason unable to perform his functions or has to relinquish his membership, the Election Commission shall appoint another member, in accordance with the provisions of sub-section (3) and upon his joining the Tribunal the trial shall be continued as if he had been on the Tribunal from the commencement of the trial...."

इस सेक्शन को हाउस के सामने रखने से मेरा मतलब यह है कि मैं यह जानना चाहता हूँ कि जब बैररमैन को जो दूसरे की पोस्ट उसे दी गई और उसे कबूल कर लिया तो क्या उसके बाद उसको यह लेटर लिखा गया कि उसे खुद बखुद रिजाइन कर देना चाहिये। इसलिये मैंने इस सेक्शन को इस हाउस के सामने रखा है। नये कानून में जो सेक्शन ८६ है उसमें दिया हुआ है :

"The Election Commission may at any stage after notice to parties and, for reasons to be recorded, withdraw any petition pending before a Tribunal and transfer it for trial to another Tribunal...."

अगर इस पुराने कानून की तहत भी इस सेक्शन को क्लोजली स्टडी किया जाये तो मेरा खयाल है कि एलेक्शन कमीशन कम से कम बैररमैन को यह खत जरूर लिख सकता था और यह सलाह जरूर दे सकता था कि चूंकि उन्होंने एक जिम्मेदार पोस्ट को एक्सेप्ट कर लिया है, इसलिये उन्हें इस पोस्ट से स्तीफा दे देना चाहिये।

इसके बाद जो दूसरी बात मैं इस सिलसिले में कहना चाहता हूँ वह भी बहुत अहम है, और वह यह है कि आप को यह जान कर हैरानी होगी कि जो मेन रिस्पॉण्डेंट का बकील है उसको भी असिस्टेंट एडवोकेट जनरल की

पोस्ट दे दी गई है और वह अब तक इस पिटीशन के अन्दर इस केस को कंडक्ट कर रहा है। आप शायद यह कहेंगे कि यह मुकदमा सिविल ला का है सिविल ला की तहत शायद यह परमीशन उसे हो सकती है। मैं यह जानना चाहता हूँ कि इस बात के लिये परमीशन देने वाला कौन है। इसलिये यह बात भी बहुत अहमियत रखती है। इसके साथ साथ आखिर में यह कहना चाहता हूँ कि जहां तक एलेक्शन पिटीशन का ताल्लुक है, उसके बारे में एक नहीं आपको काफी क्लिअर ऐसी मिलेगी कि एलेक्शन ला कई लिहाज से मामूली सिविल ला से डिफर करता है। एक जजमेंट में ऐसा कहा गया है :

"An election petition is not a matter in which the only persons interested are candidates who are arraigned against each other at the election. The public also are sufficiently interested in it. It is not merely in the sense that election has news value but election is an essential part of the democratic process."

यह बात मैंने इसलिये कही कि एलेक्शन ला को आम सिविल ला ट्रीट करेंगे और स्टेट का जो एडवोकेट जनरल है उसकी सर्जिसेज को युटिलाइज किया जाय इससे आप अंदाजा लगा सकते हैं कि दूसरी पार्टीज को कितना नुकसान हुआ होगा। इसलिये मैं यह बात हाउस के सामने रखता हूँ कि यह भी एक बड़ा अहम मामला है और इस बात की तरफ भी पूरा ध्यान दिया जाय। बल्कि इसके बारे में यहां तक कहा गया है :—

An election enquiry is of a quasi-criminal nature inasmuch as its findings on corrupt practices have penal effects.

यह तो सिर्फ करप्ट प्रैक्टिसेज की ही बात है। इन बातों को ध्यान में रखते हुए मेरी माननीय मिनिस्टर से यह अपील है कि इस बात की पूरी कोशिश की जाय कि इस पेटीशन का जल्द से जल्द फैसला किया जाय इस के लिये

में दो तजबीजें हाउस के सामने रखना चाहता हूँ। एक तजबीज तो यह है कि एक ऐसा नया ट्रिब्यूनल बनाया जाय जिसके कि चेयरमैन पंजाब से बाहर हों ताकि उनको एन-कुलेऐंस न किया जा सके। दूसरी तजबीज मेरी इस बारे में यह है कि इसकी हियरिंग डेट डे होनी चाहिये और दोनों पार्टीज को अपना डिफेंस करने का इक्वैल मौका दिया जाये क्योंकि इसी पर हमारी डेमोक्रेसी की कामयाबी का दारोमदार है।

इसके बाद अन्त में मैं दो सवाल माननीय मंत्री के सामने रखना चाहता हूँ

उपाध्यक्ष महोदय : जी नहीं बहुत हो लिये। पन्द्रह मिनट आपको बोलते हो गये और अगर मैं आपको बोलने दूँ तो जहाँ अन्य मेम्बर साहबान क्वेश्चन करना चाहते हैं उनको मैं एकोमोडेट नहीं कर सकूँगा।

श्री राम कृष्ण गुप्त : बहुत अच्छा। मेरी आखिरी अपील यही है कि चूँकि यह पेटीशन ६ साल से पेंडिंग है इसलिये इसको जल्द से जल्द तय कराने के वास्ते पूरी कोशिश की जाय।

Some Hon. Members rose—

Mr. Deputy-Speaker: Only Sardar Iqbal Singh and Shri Sadhan Gupta have sent advance notices to me.

Shri Tangamani (Madurai): I am one of the sponsors.

Mr. Deputy-Speaker: I cannot allow all the sponsors in a half-hour discussion.

Shri Tangamani: I am one of the sponsors and I must be given a chance.

Mr. Deputy-Speaker: That does not matter. If there are 12 sponsors in half-an-hour how can I provide time for all the sponsors?

Shri Tangamani: Because my name was there I did not send advance

notice; otherwise I would have also sent an advance notice.

Mr. Deputy-Speaker: That is under rule 55(2). Under 55(5) advance intimation is to be sent to the Chair. Now, Sardar Iqbal Singh. I will allow Shri Tangamani an opportunity to put a question.

सरदार इकबाल सिंह (फीरोजपुर) :
डिप्टी स्पीकर साहब, मैं इस सिलसिले में सबसे पहले तो यही बात कहना चाहता हूँ कि जो यह प्रेजेंट काम किया गया है

उपाध्यक्ष महोदय : सवाल पूछिये, तकरीर नहीं कर सकते।

सरदार इकबाल सिंह : ऐसे वक्त जब कि एक एलेक्शन पेटीशन चल रही हो, मैं यह तो मान सकता हूँ कि उसका ट्रिब्यूनल नहीं बना लेकिन ताहम जब कोई एलेक्शन पेटीशन एक दफा दाखिल हो जाय तो वह एक स्मि की जुडिशिएल प्रोसीडिंग्स हो जाती है और उसमें यहाँ पर पार्लियामेंट के उन मेम्बरों का दखल देना कुछ मुनासिब नहीं . .

उपाध्यक्ष महोदय : आर्डर, आर्डर। मैंने पहले भी कहा कि आप सवाल पूछिये, तकरीर आप नहीं कर सकते।

सरदार इकबाल सिंह : इसलिये मैं तो यही कहना चाहता हूँ कि इस मौके पर दखल देना मुनासिब नहीं और जो इंटरस्टड हैं वे उसमें दखल देना चाहते हैं।

Shri Tangamani: Sir, in reply to the Starred Question No. 568 the hon. Minister stated that the first Chairman of the Tribunal was replaced and the second Chairman was also replaced. I would like to know whether the third Tribunal which has been set up with Messrs. Chaddah, Puri and Seth is properly constituted. I would like to know whether there is any truth in the fact that Shri Chaddah, Chairman of the Tribunal has retired and has been appointed in the Punjab. I

[Shri Tangamani]

would like to know the various interlocutory orders and appeals to which a reference was made on the previous occasion. We were told on 3-1-1959....

Mr. Deputy-Speaker: Questions have been finished and the hon. Member is now making a speech.

An Hon. Member: He is putting another question.

Shri Tangamani: On 3-1-1959 the records were sent back to the tribunal. I would like to know whether any specific date has been fixed for finishing these tribunal matters.

My last question is, how many out of the 30 witnesses who are still remaining have been examined since the reply which was given in the House the other day?

Ch. Ranbir Singh (Rohtak): Is it not a fact that Sardar Pratap Singh Kairon was made a co-respondent in this case after three years?

Shri M. C. Jain (Kaithal): Sir, with your permission, I want to put two questions. The first is, is the Government prepared to set up an enquiry as to the cause of the delay in deciding this election petition.

Mr. Deputy-Speaker: Another tribunal to find out whether one tribunal has decided the case or not?

Mr. M. C. Jain: My second question is, is it not a fact that a notice for a serious charge of corruption has been served on Sardar Pratap Singh Kairon, Chief Minister of Punjab, as to why he should not be debarred from standing in elections and, if so, when was the notice served.

Shri Narasimhan (Krishnagiri): Why was not the power of the Election Commission under section 89 of the Representation of the People Act invoked to settle the case quickly? Secondly, why were not the other re-

commendatory provisions in the R.P.A. that election petitions should be finished within some fixed period attended to at least either by the Government in consultation with the Election Commission or by the Election Commission *suo moto*?

Sardar Iqbal Singh: One question, Sir.

Mr. Deputy-Speaker: No. The hon. Minister.

The Minister of Law (Shri A. K. Sen): Mr. Deputy-Speaker, Sir, may I give a chronological account of this matter so that all questions relating to the facts concerning this petition may be answered without adverting to each and every question individually? On the 1st of May, 1955, there was a by-election held in the Hoshiarpur constituency for filling up a vacancy caused there in an Assembly seat, when the vacancy was declared. The respondent, Amar Singh, was declared elected by a majority of about 5,000 votes. On the 15th July, 1955, an election petition was filed by one of the defeated candidates, namely, Balbir Singh, against Amar Singh, the other candidate. In the original petition neither Sardar Pratap Singh Kairon nor the other gentleman, Daljit Singh, who is a Member of Parliament, were mentioned. In fact, they could not have been mentioned.

Now, on the 3rd September, 1955, the Chairman was appointed to hear the election petition under the old Act, because the hon. Members will recollect that the Act suffered an amendment only in 1956, and that answers some of the queries put on this side, as to whether some of the provisions will apply to the petition which was filed before the amendment of 1956.

Shri Narasimhan: Are they not operative?

Shri A. K. Sen: No, because it is not given retrospective effect. On the 3rd September, 1955, the Chairman of the tribunal was appointed under the Act as it was before the amendment, with Shri Bakshi, the District and Sessions Judge of Hoshiarpur, as Chairman. He was the District Judge of the very constituency, naturally. He was appointed Chairman, pending the appointment of the other two members. At that time, the rule was that two members would have to be judicial officers and the other an advocate. It was a three-member tribunal.

On the 19th September, 1955, Shri Bakshi resigned. I think any District Judge would resign in those circumstances. It may be true or it may not be true, but that is a reminder of the fact that neither the public nor the Members of Parliament should be very free in hurling accusations against judicial members or judges whether they are true or not, unless they are absolutely true. Anyway, like a good judge, as soon as allegations were made, Shri Bakshi resigned from the chairmanship.

Shri D. C. Sharma (Gurdaspur): Shri Manohar Singh Bakshi is a man of integrity and ability.

Shri A. K. Sen: Yes; I would have expected it from any judge because I have very great faith in our judiciary. As soon as the allegations were made, the principle being that justice should not only be done, but should appear to be done, Shri Bakshi resigned, true to the traditions of the profession to which he belonged. That was on 19th September, 1955. In his place, Shri Kartar Singh Chadha, Additional District and Sessions Judge of Ludhiana was appointed as the Chairman of the Tribunal. On the 22nd November, 1955, the other two members were appointed, viz., the judicial member and the advocate member. They were Shri Maharaj Kishore, a retired District Judge and one Mohinder Singh Pannun, an advocate, I understand

an advocate of distinction in the Punjab, who is now the Assistant Advocate General.

On the 29th March, 1956, not very late, the preliminary issues were disposed of by the tribunal. In May, 1956, Shri Maharaj Kishore, the judicial member, resigned his membership, on his being appointed as Special Judicial Officer in the Ministry of Rehabilitation, Government of India. Hon. Members must remember that at that time Shri Pratap Singh Kairon was not anywhere in the picture. So, the insinuation that this man was drawn from his work as a member of the tribunal to some job simply just to help someone is not quite correct, because it was the Central Rehabilitation Ministry which drew him and we could not blame anybody for doing it, because the gentleman was getting a more permanent job.

Shri Khushwaqt Rai (Kheri): Was this appointment made after consultation with the State Government?

Shri A. K. Sen: I do not know. The Central Rehabilitation Ministry do not usually make appointments after consulting the State Governments. In this case, no consultation was necessary because this gentleman was not an acting Judge; he had retired.

In his place, one Shri Badri Prasad Puri, Additional District and Sessions Judge, Ludhiana, was appointed by the Chief Election Commissioner. Hon. Members may be informed at this stage that Shri Puri was one of the Judges who had differed from the Chairman in finding that there was a *prima facie* case for corrupt practice and therefore show-cause notices should be issued to the two persons whose names find a place here. Shri Badri Prasad Puri was appointed in the place of Shri Maharaj Kishore.

It went on. In October, 1956, the other gentleman, Mohinder Singh Pannun, advocate Member, resigned the membership of the tribunal as he

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had been appointed Assistant Advocate General. I should have imagined that simply because an advocate is appointed as Assistant Advocate General, he is not disqualified from adjudicating upon a dispute in which even the highest man in the land may be accused. In my own limited experience, I know Advocates-General in the past were entrusted by consent of parties to adjudicate on disputes to which Government was a party and it is not infrequent in our own experience that Advocates-General have made awards against Government, of which they happen to be the Advocates-General. That is the best tradition of the bar.

Anyway, when this gentleman was appointed Assistant Advocate General, accusations were hurled that an Assistant Advocate General should not be in charge of this election petition. As soon as that accusation was hurled, the Chief Election Commissioner brought it to the notice of Shri Pannun and Shri Pannun, true to the traditions of the bar again, resigned, because as I said, justice should not only be done, but must appear to be done.

The Chief Election Commissioner was very cautious and he brought someone from outside Punjab. On the 9th November, 1956, in the place of Shri Pannun, one Shri D. D. Seth, an advocate from Allahabad, was appointed. That takes us up to November, 1956, with constant changes in the composition.

In October, 1957, the examination of witnesses started. Witnesses were examined in order to find out whether there was a *prima facie* case of charge of corrupt practice brought against the two gentlemen, Shri Pratap Singh Kairon, who was Development Minister at the time the election was held and at the time the election petition was filed and Shri Daljit Singh.

Shri M. C. Jain: Is it a fact that these charges were already there in the election petition?

Ch. Ranbir Singh: They were not respondents.

Shri A. K. Sen: If the hon. Member gives me a little time I can assure him that nothing will be withheld from the House. As I said in the beginning, in the election petition there were certain charges of corrupt practices. But the two gentlemen against whom the corrupt practices were pressed in the petition were not mentioned as respondents when these charges were pressed.

An Hon. Member: How is it necessary?

Shri A. K. Sen: No, I am not saying it is necessary. I am stating the facts. Without making any deviation, I was stating the facts as objectively as possible.

Shri Sadhan Gupta: They could not be mentioned as respondents.

Shri A. K. Sen: That was what I said, if he had heard me.—They were not sited as respondents, as they could not be—and you will find it from the transcript of the statement I have made in the beginning.

Then what happened? Many witnesses were examined and on the 26th of October 1957, by a majority of two to one the Tribunal found that there was *prima facie* case of corrupt practice and, therefore, notice should be issued against Shri Pratap Singh Kairon and Shri Daljit Singh. Here it is necessary to state the nature of the corrupt practices alleged, because when you mention the word "corrupt practices" it means sometimes, at least to the public, as if some culpable wrong or criminality attaches to the persons charged. In this case the corrupt practices urged were as follows. Shri Pratap Singh Kairon went to a Harijan village and said "I shall

develop this village, I shall put in tube wells" this, that and others.

An Hon. Member: That is not corrupt practice.

Shri A. K. Sen: I am not saying it is a corrupt practice if it is proved. I am only stating the facts again so that the public may not have any misgivings as to the nature of the corrupt practices alleged. Then, may I only give a few instances because, since the two gentlemen are not present here to defend themselves, in all fairness....

Shri D. C. Sharma: No, one gentleman is here.

Shri A. K. Sen: The House must know that one gentleman cannot defend himself. One corrupt practice alleged was "that at the instance of Shri Amar Singh a meeting to promote his case in village Bhaji was addressed by Shri Pratap Singh Kairon, then Development Minister, and it is alleged that during this speech Shri Pratap Singh Kairon offered gratification in the form of a promise to the voters by removal of restrictions imposed on the grazing of goats by the country *elakha*, provided they voted for Shri Amar Singh, a Congress candidate; "like these, other advantages were given and so on. Well, under our election law—which I claim to be one of the most models, and for which I share the pride which the entire country enjoys—and in our election machinery this nevertheless is a corrupt practice; though it does not mean any gratification personally, or any corrupt practice personally, yet it is a method which we frown upon, a practice which, according to our law and according to our traditions, does not ensure fair elections. Those are the traditions we are asked to maintain and we want to maintain. An that is why these charges were investigated.

The Tribunal, by a majority of two to one found that there was a *prima facie* case. The Chairman found that

the evidence was incredible and that it could not be accepted.

Shri Tyagi (Dehra Dun): Will the Minister make it clear, if a candidate promises to his electorate that he will try to get them a tube well, will that also be a corrupt practice? If so, he can make no promise whatsoever of amenities to them.

Shri A. K. Sen: It will be. In fact, if such a thing is proved....

Shri Kamalnayan Bajaj: May I ask whether Shri Tyagi has promised anything?

Shri A. K. Sen: ...many, I think, in this State would be unseated, because unfortunately electors here, as in other countries, make certain genuine demands on their candidates.

Shri D. C. Sharma: Shri Tyagi is a in danger.

Shri Tyagi: I am.

Shri A. K. Sen: I have not the least doubt that he is not in danger.

This is the position. And when these show-cause notices were directed to be served by a majority of two to one, Shri Pratap Singh Kairon and Shri Daljit Singh took out an application under article 226 of the Constitution before the Punjab High Court. Well, it failed. It would have to, because it was only a show-cause notice. How can an application under article 226 of the Constitution filed against a mere direction by the court, and that too to show cause? Anyway, the court issued the rule. (*Interruptions*) Anyhow, this is not the first instance where parties are trying to take advantage of law's delays. But the question is that if the Punjab High Court had issued a rule, we had no grievance, because they must have thought there was a *prima facie* case for a rule. It is not that every rule succeeds. If it did then the law would have been different. Nobody would have gone to the courts. The odium does not attach to the other

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applicant whose application fails after the issue of the preliminary rule that I cited. Anyway, there was proper adjudication of the High Court. The High Court sent it back. The trial was proceeding.

May I give certain facts as to how far the trial has proceeded and what steps the Election Commission has taken in this matter? These are the facts about the actual progress of the litigation. I think about 60 witnesses have already been examined after the case came back which is not bad because after all the petition was only disposed of by the High Court on the 7th October, 1958. The records came back on the 3rd January, 1959. The hearing was resumed in March, 1959. Most of the witnesses have been examined excepting the re-examination which has been ordered by the Tribunal of four of the witnesses who had been examined earlier before the new Tribunal actually came into existence. It is going on.

The Chief Election Commissioner has from time to time written letters in as strong and firm a language as is consistent with the dignity of the high office which he holds and as is required by the duties which he has to perform. It is not necessary for the House to be bothered with the letters which he had sent. But he had sent a large number of letters reminding the Tribunal from time to time and the Tribunal has adverted to it saying what steps were taken to deal with the matter.

As I said, the case naturally has excited passion and strong feelings either in favour or against the petitioner. It is absolutely necessary in the midst of this heat and passion which any such matter generates in the Punjab that not the slightest doubt should be left by the Tribunal in adjudicating upon the issues which might either create the impression on the petitioner or on the respondents or on the persons proceeded against on charges of corrupt practices that

the trial has not been a fair one. That is why I think the Tribunal has taken immense pains in examining each and every witness however large their number may have been without trying to curtail or pool witnesses or their examination. All sorts of charges may be made against the Tribunal, as you know, either they are favouring one of the parties or they are acting to the prejudice of the other parties. That is the position.

May I assure the House that the Chief Election Commissioner is alive to the defects in our procedure which have been manifest as a result of the proceedings in this election petition? In fact, these defects were apparent even earlier than this. That is why the Representation of the People Act was amended by Parliament in 1956 providing for one member tribunals and for such contingencies as delay and other things in which case the Chief Election Commissioner is not clothed with the power of withdrawing a case from the Tribunal and putting it in the hands of another Tribunal.

I strongly refute any suggestion that anything has been done by the Chief Election Commissioner either to favour or to prejudice any of the parties concerned. The least duty that we can do from the floor of this House is to pay our tribute to the very model election machinery which the Parliament and our country have helped to build.... (*Interruption*).

Shri M. C. Jain: Nobody has charged the Election Commission of partiality.

Shri A. K. Sen: If I have understood it wrongly, I am very sorry. But I thought the question of appointment of members and various other things were put in such a way as if the Election Commission was sleeping over attempts at delay being made by others. As I said, the country and Parliament truly feel

proud of the efficiency, honesty and integrity of our election machinery and the least that this Parliament can do is to reiterate its faith in the great traditions which have been built up by the Election Commission which have been demonstrated only the other day in Kerala where, in spite of the heat and passion which that election generated, not one word has been said against the Election Commission.

Shri D. C. Sharma: Our Election Commission is very good, but will you amend the Representation of the People Act?

Shri A. K. Sen: I am very glad that Parliament is, as it should be,

vigilant over such matters. This matter, naturally, has received the attention of the House and the public, and through Parliament the voice of the people has really been expressed frowning upon the delay which this case has exhibited. But, as I said, after hearing the facts, I have no doubt the House is convinced that nothing more could be done in this unfortunate case by the Election Commission.

17.37 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Monday the 14th March, 1960/Phalguna 24, 1881 (Saka).