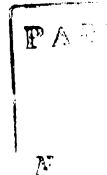


# COMMITTEE OF PRIVILEGES SECOND REPORT

(SECOND LOK SABHA)

(Laid on the Table on the 24th April, 1958)



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**LOK SABHA SECRETARIAT  
NEW DELHI**

**April, 1958**

**Price : 20 n.P.**



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**PERSONNEL OF THE COMMITTEE OF PRIVILEGES**

- |   |   |                 |
|---|---|-----------------|
| 1. Sardar Hukam Singh— <i>Chairman.</i> - | } | <i>Members.</i> |
| 2. Shri Satya Narayan Sinha -             |   |                 |
| 3. Shri Asoke K. Sen                      |   |                 |
| 4. Pandit Munishwar Dutt Uppadhyay -      |   |                 |
| 5. Dr. P. Subbarayan                      |   |                 |
| 6. Shri Nemi Chandra Kasliwal             |   |                 |
| 7. Shrimati Jayaben Vajubhai Shah         |   |                 |
| 8. Shri N. M. Wadiwa                      |   |                 |
| 9. Shri Sarangadhara Sinha                |   |                 |
| 10. Shri Shivram Rango Rane               |   |                 |
| 11. Shri Hirendra Nath Mukerjee           |   |                 |
| 12. Shri Indulal Kanaiyalal Yajnik        |   |                 |
| 13. Shri Bimal Comar Ghose                |   |                 |
| 14. Shri Shraddhakar Supakar              |   |                 |
| 15. Shri Hoover Hynniewta                 |   |                 |

**SECRETARIAT**

1. Shri S. L. Shakhder—*Joint Secretary.*
2. Shri Avtar Singh Rikhy—*Deputy Secretary.*

# SECOND REPORT\* OF THE COMMITTEE OF PRIVILEGES

(SECOND LOK SABHA)

## I—Introduction

I, the Chairman of the Committee of Privileges, submit this Report to the Speaker in the following case, which was referred, under rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifth Edition), to the Committee by the Speaker on the 14th April, 1958 :

The Election Tribunal, Calcutta, in its letter† No. 27 (IVExtra) E/T, dated the 10th April, 1958, addressed to the Speaker, requested the House to accord permission for production, before the Election Tribunal, “by a competent person of the file containing the correspondence with the Indo-German Trade Centre, Behala, Calcutta, regarding the installation of the automatic vote recording system in the Lok Sabha during 1956-57”.

The Election Tribunal, as an alternative, requested that:

“If the course suggested by me does not commend itself to the House, I request that the House may be pleased to accord its permission for production of the relevant papers before the Commissioner to be appointed by me afresh. And the Commissioner will report himself for duty at New Delhi on such date as may be found convenient”.

The tentative time and date fixed by the Election Tribunal for the production of the relevant file before it in Calcutta was at 12.30 hours on the 25th April, 1958. The Election Tribunal was, however, informed that :

“The matter has been referred by the Speaker to the Committee of Privileges in accordance with the procedure laid down in the First Report of the Committee of Privileges, which was adopted by the Lok Sabha on the

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\*Adopted by Lok Sabha on the 25th April, 1958.

†See Appendix.

13th September, 1957. The Committee will consider the matter shortly and submit its report to the House. The decision of the Lok Sabha in the matter will be intimated to you in due course."

2. The relevant file is required to be produced before the Election Tribunal in connection with Election Petition No. 439 of 1957 in which Shri Biren Roy, Member, Lok Sabha, is the Respondent. According to the Election Tribunal, the production of the file is relevant for the purpose of deciding the following two issues:

- (i) "Whether the respondent, Shri Biren Roy, is disqualified under section 7(d) of the Act\* for being chosen as a member of the Lok Sabha for his connection, if any, with a firm under the name and style 'Indo-German Trade Centre'—a firm which is alleged to have entered into a contract with the 'appropriate Government' for installation of automatic vote recording device in the Rajya Sabha and the Lok Sabha".
- (ii) "Is the answering respondent Biren Roy disqualified for being chosen as a member of the Lok Sabha because of his connection with firm under the name and style 'Indo-German Trade Centre.'?"

## II—Facts of the Case

3. M/s. Indo-German Trade Centre are the agents of M/s. Telefonbau Und Normalzeit Frankfurt, West Germany—the German Manufacturers of the Automatic Vote Recording Equipment. They were responsible for the installation of the equipment in the Lok Sabha Chamber.

4. The contract for the supply and installation of the equipment was entered into by the Director General of Supplies and Disposals

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\*Section 7 (d) of the Representation of the People Act, 1951, reads as under:—

*"Disqualifications for membership of Parliament or of a State Legislature.—A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament) or of the Legislative Assembly or Legislative Council of a State—*

- |     |   |   |   |   |   |
|-----|---|---|---|---|---|
| (a) | * | * | * | * | * |
| (b) | * | * | * | * | * |
| (c) | * | * | * | * | * |

(d) If, whether by himself or by any person or body of persons in trust for him or for his benefit or on his account, he has any share or interest in a contract for the supply of goods to, or for the execution of any works or the performance of any services undertaken by, the appropriate Government."

and therefore it is that office which might have full particulars regarding the standing, proprietorship, etc. of M/s. Indo-German Trade Centre.

5. The brief history of the installation of this equipment is as follows :—

- (1) Formal requests made by Lok Sabha Secretariat to D.G.S. & D. for the installation of the equipment in—November, 1955.
- (2) Tender from M/s. Indo-German Trade Centre received by D.G.S. & D. in—January, 1956.
- (3) Tender of M/s. Indo-German Trade Centre accepted by D.G.S. & D. in—March, 1956.
- (4) German Engineer discussed preliminary details with D.G.S. & D. and Lok Sabha Secretariat in—July, 1956.
- (5) Equipment arrived in New Delhi in—January, 1957.
- (6) Installation of equipment completed in—April, 1957.

6. M/s. Indo-German Trade Centre started correspondence regarding the equipment in question with the Lok Sabha Secretariat as far back as October, 1952. After examining the merits, costs and various other aspects of this project, a formal requisition was placed on the D.G.S. & D. in November 1955. The tender for the supply of equipment was received by the D.G.S. & D. in January, 1956 from a number of firms including M/s. Indo-German Trade Centre.

7. It is not clear from the following sentence inserted in the formal summons sent by the Election Tribunal whether correspondence with the Indo-German Trade Centre is required only for the period 1956/57 or whether the correspondence leading to the installation of the automatic vote recording system in Lok Sabha during 1956/57 is required. The request of the Election Tribunal is therefore not very precise :—

“To produce by a competent person the file containing the correspondence with the Indo-German Trade Centre, Behala, Calcutta, regarding the installation of the automatic vote recording system in the Lok Sabha during 1956/57”.

All letters received from M/s. Indo-German Trade Centre by the Lok Sabha Secretariat may be divided under two broad heads:

- (i) those received before the receipt of their tender by D.G.S. & D., and
- (ii) those received after the receipt of their tender by D.G.S. & D. up-to-date.

8. It might also be stated that the replies sent by the Lok Sabha Secretariat to M/s. Indo-German Trade Centre in response to their letters appear to be of no material importance so far as the question of establishing facts in this particular case is concerned. The Lok Sabha Secretariat were at no time concerned with the question as to who were the partners of M/s. Indo-German Trade Centre as such details are primarily the concern of D.G.S. & D. who placed the order on M/s. Indo-German Trade Centre.

### III—Recommendations of the Committee

9. The Committee in para 10 of their First Report, adopted by the House on the 13th September, 1957, had recommended that :

“When a request is received during sessions for producing in a Court of Law, a document connected with the proceedings of the House or Committees or which is in the custody of the Secretary of the House, the case may be referred by the Speaker to the Committee of Privileges. On a report from the Committee, a motion may be moved in the House by the Chairman or a member of the Committee to the effect that the House agrees with the report and further action should be taken in accordance with the decision of the House.”

10. The Committee recommend that in the present case the Speaker may authorise the Secretary to designate an officer of the Lok Sabha Secretariat to produce before the Election Tribunal, Calcutta, the correspondence with the Indo-German Trade Centre, Behala, Calcutta, regarding the installation of the automatic vote recording system in Lok Sabha during 1956-57.

NEW DELHI;  
The 24th April, 1958.

HUKAM SINGH,  
Chairman,  
Committee of Privileges.

## MINUTES

### I

### FIRST SITTING

*New Delhi, Wednesday, the 23rd April, 1958.*

The Committee met from 15.30 to 16.05 hours.

#### PRESENT

- |   |   |                 |
|---|---|-----------------|
| 1. Sardar Hukam Singh— <i>Chairman.</i> | } | <i>Members.</i> |
| 2. Shri Asoke K. Sen                    |   |                 |
| 3. Dr. P. Subbarayan                    |   |                 |
| 4. Shri Nemi Chandra Kasliwal           |   |                 |
| 5. Shri N. M. Wadiwa                    |   |                 |
| 6. Shri Shivram Rango Rane              |   |                 |
| 7. Shri Hirendra Nath Mukerjee          |   |                 |
| 8. Shri Indulal Kanaiyalal Yajnik       |   |                 |
| 9. Shri Bimal Comar Ghose               |   |                 |
| 10. Shri Shraddhakar Supakar            |   |                 |

#### SECRETARIAT

Shri Avtar Singh Rikhy—*Deputy Secretary.*

2. The Committee considered the request of the Election Tribunal, Calcutta, for the production before it of the file containing the correspondence with M/s. Indo-German Trade Centre, Calcutta, regarding the installation of the automatic vote recording system in the Lok Sabha during 1956/57.

3. The Committee noted that the correspondence between M/s. Indo-German Trade Centre and the Lok Sabha Secretariat was spread over several files and that it had been taken out from the files and arranged under two main heads :

- (i) correspondence before the receipt of the tender by D.G.S. & D.; and



(ii) correspondence after the receipt of the tender by  
D.G.S. & D. up-to-date.

4. The Committee then adjourned to meet again at 10.50 hours  
on Thursday, the 24th April, 1958, to consider the Draft Report.

## II

## SECOND SITTING

*New Delhi, Thursday, the 24th April, 1958.*

The Committee met from 10.50 to 10.55 hours.

## PRESENT

- |   |                  |
|---|------------------|
| 1. Sardar Hukam Singh, <i>Chairman.</i> |                  |
| 2. Shri Asoke K. Sen                    | } <i>Members</i> |
| 3. Dr. P. Subbarayan                    |                  |
| 4. Shri Nemi Chandra Kasliwal           |                  |
| 5. Shri N. M. Wadiwa                    |                  |
| 6. Shri Shivram Rango Rane              |                  |
| 7. Shri Indulal Kanaiyalal Yajnik       |                  |
| 8. Shri Shraddhakar Supakar             |                  |

## SECRETARIAT

Shri Avtar Singh Rikhy—*Deputy Secretary.*

2. The Committee considered the draft report and adopted it.

*The Committee then adjourned sine die.*

## APPENDIX

(See Para 1 of Report)

**ELECTION TRIBUNAL, CALCUTTA (WEST BENGAL), ALIPORE,  
24-PARGANAS.**

No. 27 (IV Extra) E/T

From

Shri Bijayesh Mukherji, M.A., LL.B.,  
Higher Judicial Service,  
Addl. District & Sessions Judge, 24-Parganas, and  
Election Tribunal, Calcutta (West Bengal), Alipore,  
Calcutta-27.

To

The Speaker, Lok Sabha,  
Parliament House,  
New Delhi-1.

Dated Alipore, the 10th April, 1958.

In re Election Petition No. 439 of 1957.

Shri Kalipada Banerjee & another—*Petitioners*,  
*Vs.*

Shri Biren Ray, M.P.

—*Respondent*.

Sir,

I have the honour to enclose a copy of the observations\* I have made as Election Tribunal in Serial No. 30, dated April 9, 1958. The said observations may kindly be read as part of this letter.

2. With reference to the telegram from the Lok Sabha Secretariat cited in the second paragraph of the aforesaid observations, I

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\*See Enclosure 'A'

make this formal request to the House through you for according permission for production of the necessary documents listed in the summons\* sent herewith on the Secretary, Lok Sabha. The details of purpose of and relevancy to the election petition I have been called upon to try will be found recorded in sub-paragraph (ii) of paragraph 5 of the aforesaid observations.

3. In the circumstances, I request that the House may be pleased to accord the permission I seek and to send a competent officer before this Tribunal with the relevant papers. If the course suggested by me does not commend itself to the House, I request that the House may be pleased to accord its permission for production of the relevant papers before the Commissioner to be appointed by me afresh. And the Commissioner will report himself for duty at New Delhi on such date as may be found convenient. All I request is that an early date may be found convenient so that I can carry out Parliament's mandate in expediting the hearing of the instant election petition.

4. It only remains for me to add that the telegram referred to above advises me to make a formal request to the House. I know no other method of approaching the House than through you, Sir.

Yours faithfully,  
Sd/- Election Tribunal,  
Calcutta,  
(West Bengal).

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\*See Enclosure 'B'.

## ENCLOSURE 'A' TO APPENDIX

ELECTION PETITION No. 439/57

Shri Kalipada Banerjee & another—*Petitioners**Vs.*

Shri Biren Ray, M.P.

—*Respondent.*

The way in which this election petition has been dragging its slow length in spite of my endeavour to have an expeditious trial makes me unhappy. Published in the *Gazette of India Extraordinary* dated June 4, 1957, its trial was to be concluded within six months therefrom, that is to say, inside of December 4, 1957, as is the requirement of sub-section (6) of section 90 of the Representation of the People Act, 1951, hereinafter referred to as 'the Act'. We are now in the early part of April 1958, and I have not yet been able, for one reason or other beyond my control, to fix a firm date for peremptory hearing. My unhappiness is all the greater because Shri Acharyya appearing for the respondent, Shri Biren Roy, informed me in course of his address on April 7, 1958, that Shri Roy who had planned a tour abroad is to leave India by the latter part of the first week of May next returning in July following. I shall be very sorry indeed to record any order which will force the respondent to abandon his tour abroad. At the same time, I must regret my inability to postpone the hearing of the instant election petition to a date late in July or early in August next as Shri Acharyya wants me to do. I am confident, given the co-operation of all concerned, it will still be possible for me to bring the hearing to an end by the first week of May, 1958. Should I fail in that—I hope I shall not,—the respondent must get ready for examination *de bene esse* under Order 18 rule 16 of the Code of Civil Procedure, read with section 92(d) of the Act. If the respondent leaves the jurisdiction of this Tribunal without applying for and availing himself of such examination, he does so at his peril. That will be no ground for allowing postponement.

2. Be that as it may, the latest development on which I have got struck up is this. By virtue of a writ of commission issued by me on April 3, 1958 (*vide* order No. 26 dated 2nd April 1958, 5th paragraph), the Commissioner, Shri A. K. Sen, Advocate, was about to proceed to New Delhi on April 4, 1958, to examine three witnesses set out

below on a matter which arises out of the pleadings and on which the third issue has been fixed.

- (1) Secretary, Rajya Sabha;
- (2) Secretary, Lok Sabha; and
- (3) Director-General of Supplies and Disposals, New Delhi.

The Commissioner had given by telegrams prior intimations to the witnesses, and very rightly too. At 11 P.M., on April 3, 1958, the Commissioner received a telegram from the Rajya Sabha. At 2 A.M., on April 4, 1958, he received another telegram from the Lok Sabha. The extracts of the said two telegrams material for the present purpose are reproduced below:

*From the Rajya Sabha Secretariat*

“Regarding production of file relating to automatic vote-recording system, Chairman, Rajya Sabha, absent from India. His orders necessary for production of papers. Regret inability to comply with your request without such orders.”

*From the Lok Sabha Secretariat*

“Under Parliamentary privilege, formal request by Tribunal addressed to the House giving details of purpose and relevancy to case required for production of any Parliamentary paper or document including files of Secretariat, Paper can be produced only after the House has accorded permission.”

The third witness, the Director-General of Supplies and Disposals, did not address any telegram to the Commissioner.

3. In this state of affairs, when the Commissioner sought my instructions in my residence on April 4, which was a holiday, I held the writ in abeyance. I saw no point in continuing the writ at not an inconsiderable expense, knowing full well that the two-thirds of it would prove barren.

4. Now the question is: What is to be done to secure a speedy trial of this election petition? One way is to re-issue the writ observing all the formalities laid down in the second telegram. Going by the newspaper reports, the Chairman, Rajya Sabha, is

likely to return to India by April 12 next or thereabouts. And his order for the production of the necessary papers may perhaps be available. But here, again, I see possibility of delay—great delay. Supposing any one of the witnesses claims privilege about a document or documents, the Commissioner will not be able to decide it. The matter has to be referred to this Tribunal. This sort of battle-dore and shuttle-cock will mean harassment for all. More, it is likely to make the hearing of this election petition interminable.

5. So, another way of securing a speedy trial commends itself to me. The 'Explanation' to section 92 of the Act confers a privilege on witnesses living beyond the local limits of the jurisdiction of this Tribunal. The local limits are the limits of the State of West Bengal. The privilege is that this Tribunal cannot enforce their attendance, as it can regarding the witnesses living within the local limits of its jurisdiction. But this privilege like any other privilege can be waived. I, therefore, in all humility suggest that the witnesses do waive their privilege and do take the trouble of sending competent persons to this Tribunal. So I do for the following reasons:

- (i) This is not an ordinary litigation, but an important election petition I have been called upon to try. Parliament's mandate, as embodied in sub-section (6) of section 90 of the Act, is that I shall do all I can to bring the trial to an expeditious end. I have already, for reasons beyond my control, exceeded the time-limit prescribed by the sub-section just quoted. All I seek now is Parliament's co-operation to carry out Parliament's mandate. I seek the co-operation of the Director-General of Supplies and Disposals too.
- (ii) In view of the pleadings, one of the important points I shall have to decide is whether the respondent, Shri Biren Ray, is disqualified under section 7(d) of the Act for being chosen as a member of the Lok Sabha for his connection, if any, with a firm under the name and style "Indo-German Trade Centre"—a firm which is alleged to have entered into a contract with the "appropriate Government" for installation of automatic vote-recording device in the Rajya Sabha and the Lok Sabha. The third issue, in so far as it is material for present purpose runs :
- (iii) Is the answering respondent Biren Ray disqualified for being chosen as a member of the Lok Sabha because of his connection with firm under the name and style "Indo-German Trade Centre"....?

So the Papers called for by the Petitioners appear to be essential for a just decision of the case. This in short is the purpose and relevancy of the Paper called for. Let it not be understood that I suggest for a moment the very production of the papers called for will prove the petitioners' case. Far from it. In view of the pleadings, the position is this. The petitioners think that the said papers will help them. The respondent thinks just the other way about. In the circumstances, my duty is clear: to have the papers here and allow them to speak for themselves.

(iii) I cannot anticipate what the witnesses will say. If their evidence be more than formal, I shall prize most their open and oral examination. If I send out my Commissioner, what he will collect and submit will be "the dead body of the evidence, without its spirit which is supplied, when given openly and orally, by the ear and eye of those who receive it"—to quote Sir John Coleridge.

6. Let me state at the risk of repetition that it is not at all necessary that distinguished persons like the Secretary, Rajya Sabha, the Secretary, Lok Sabha, and the Director-General of Supplies and Disposals should attend this Tribunal in person. It is enough if they are so good as to send a competent person each with the relevant file. I take the words "a competent person" from the list of witnesses filed by the petitioners before this Tribunal on March 29, 1958. I shall make that clear enough in the summonses I issue.

7. I shall "stagger" my cause-list and give top priority to the hearing of this election petition so that the witnesses who take the trouble of coming all the way from New Delhi may not be put to inconvenience and may not be detained a minute longer than is strictly necessary. And, of course, the witnesses will have all their expenses.

8. So, if the witnesses are good enough to waive the privilege and send competent persons with the necessary papers before this Tribunal on April 25, 1958, on which date I set down the instant election petition for peremptory hearing, so far so good. If they do not, I can only request and not order, there is no alternative but to go through the whole gamut of a writ of commission over again. I shall be grateful if I am told when my Commissioner can be received at the other end and where.



9. I am sending copies of this order with a letter of formal request and also a summons by registered post with acknowledgment due. The petitioners do furnish written up processes by 10-30 A.M. tomorrow.

10. In view of this development, I do not feel called upon to say anything now on the question of interrogatories-in-chief raised by Shri Acharyya. I shall say what I have got to say if I have to issue a writ of commission over again. If need be, I shall have the pleasure of re-hearing the learned Counsel on this matter.

11. About the petition filed on behalf of the respondent on April 7, 1958, Shri Acharyya does not press it in so far as it traverses the allegation of perjury and contempt. Contempt not of this Tribunal, but of the Lok Sabha, as Shri Acharyya was good enough to explain in answer to questions put by me. And about interrogatories-in-chief under Order 26 of the Code, as distinguished from interrogatories under Order 11, going by the verbal submissions made in amplification of the Petition, what I have stated in the preceding paragraph covers the matter.

12. So, to April 25, 1958, at 10-30 A.M. for peremptory hearing. If I receive any communication from New Delhi earlier upsetting the programme, I shall take care to post the learned Advocates with that immediately.

Dictated & corrected  
by me.

Sd/- B. M.,  
Tribunal.

Sd/- B. MUKHERJI,  
Tribunal.

ENCLOSURE 'B' TO APPENDIX  
HIGH COURT FORM NO. (P) 10  
SUMMONS TO WITNESS

(Order 16, Rules 1 and 5, Code of Civil Procedure)

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District  
In the Court of

Before the Election Tribunal  
(Shri Bijayesh Mukherji, Additional  
District Judge, Alipore).

Election Petition No. 439 of 1957

Kalipada Banerjee and another

*Petitioners  
Plaintiff,*

*versus*

Biren Ray and others  
of

*Opp. Parties.  
Defendant.*

To

The Secretary,  
Lok Sabha, New Delhi (Parliament House)

Whereas your attendance is required to give evidence and for proof on behalf of the petitioners.

in the above suit, you are hereby required (personally) to appear before this Court on the 25th day of April 1958, at 12.30 o'clock in the afternoon, and to bring with you (or to send to this Court)—To produce by a competent person the file containing the correspondence with the Indo-German Trade Centre, Behala, Calcutta, regarding the installation of the automatic vote recording system in the Lok Sabha during 1956-57.

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Given under my hand and the seal of the Court, this 10th day of April, 1958.

By Order  
Sd/- Sheristadar.

**Judge.**