

# COMMITTEE OF PRIVILEGES

## (FIFTH LOK SABHA)

### NINETEENTH REPORT

*(Presented on the 31st August, 1976)*



**LOK SABHA SECRETARIAT  
NEW DELHI**

*August, 1976/Bhadra 1898 (Saka)*

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Corrigenda to the Nineteenth Report of  
Committee of Privileges (Fifth Lok Sabha)

Page	Line	For	Read
1	12	thereto	thereto
9	29	ask	asked
14	6	The endorsement in the red ink-Uchcha Shreni Ke Bandi M.P.--	The Custody Warrant indicates that he is an M.P. and is an upper
15	12	R.S.N. (II)	R.S.M. (II)
30	28	Jail staff	Jail, and
99	30	one is	He is
101	10	Still I read	Shall I read
103	35	report. Shri Bhubaneshwar Sharma, who was the Assistant Jailor,	Shri M.C.Daga: You say that the Superintendent gave the report, Shri Bhubaneshwar Sharma, who was the Assistant Jailor,
125	37	seas	seats
129	33	intervence	intervene
132	13	definite	define
136	28	Magistrate, Patna	District Magistrate, Patna.

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## PERSONNEL OF THE COMMITTEE OF PRIVILEGES (1976-77)

‘        Shri N. K. P. Salve—*Chairman*

### MEMBERS

2. Shri Chakleshwar Singh
3. Shri Somnath Chatterjee
4. Shri H. R. Gokhale
5. Shri Indrajit Gupta
6. Shri Vikram Mahajan
7. Shri Aravinda Bala Pajanor
8. Kumari Maniben Vallabhbhai Patel
9. Shri Natwarlal Patel
10. Shri K. Raghu Ramaiah
11. Shri Vayalar Ravi
12. Shrimati Maya Ray
13. Shri Arjun Sethi
14. Dr. H. P. Sharma
15. Shri R. P. Ulaganambi

### SECRETARIAT

‘        Shri J. R. Kapur—*Chief Legislative Committee Officer.*



# NINETEENTH REPORT OF THE COMMITTEE OF PRIVILEGES (FIFTH LOK SABHA)

## I. Introduction and procedure

1. The Chairman of the Committee of Privileges, having been authorised by the Committee to submit the report on their behalf, present this their Nineteenth Report to the House on the question of privilege regarding handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974, when he was taken from the Phulwari Sharif Jail, Patna, to the Magistrate's Court referred<sup>1</sup> to the Committee by the Speaker in the House on the 30th August, 1974.

2. The Committee held fifteen sittings. The relevant minutes of these sittings form part of the Report and are appended thereto.

3. At the first sitting held on the 30th September, 1974, the Committee decided to examine in person Shri Ishwar Chaudhry, M.P.

4. At the second sitting held on the 6th November, 1974, the Committee examined in person Shri Ishwar Chaudhry, M.P. The Committee also decided to examine in person the following two officials of the Government of Bihar :

- (i) Shri Bhuvaneshwar Sharma, who was Acting Jailor, Phulwari Sharif Jail, Patna, on the 5th August, 1974; and
- (ii) Shri Rajendra Singh, Havildar, Officer-in-charge of the Escort Party which escorted Shri Ishwar Chaudhry, M.P., from Phulwari Sharif Jail to the Court and back, on the 5th August, 1974.

The Committee also decided to call for information through the Ministry of Home Affairs regarding the alleged assault on Shri Ishwar Chaudhry, M.P., and other satyagrahis in the jail on the 2nd July, 1974.

The Committee also decided to seek<sup>2</sup> extension of time from the House for presentation of their Report upto the end of the Budget Session, 1975.

5. At the third sitting held on the 30th January, 1975, the Committee examined in person Shri Bhuvaneshwar Sharma, Acting

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<sup>1</sup> L.S. Deb. dt. 30-8-74, cc. 165-172.

<sup>2</sup> The motion was adopted by the House on the 4th December, 1974.

Jailor, Phulwari Sharif Jail, and Shri Rajendra Singh, Havildar, Officer-in-charge of the Escort Party which had escorted Shri Ishwar Chaudhry, M.P., from the jail to the Court and back on the day of the incident.

6. At the fourth sitting held on the 8th May, 1975, the Committee decided to seek<sup>1</sup> further extension of time from the House for presentation of their Report upto the end of the Fourteenth Session of Lok Sabha.

7. At the sixth sitting held on the 18th September, 1975, the Committee decided to examine in person Shri R. N. Dash, Secretary, Home Department, Government of Bihar.

8. At the seventh sitting held on the 15th November, 1975, the Committee examined in person Shri R. N. Dash, Secretary, Home Department, Government of Bihar.

9. At the eighth sitting held on the 27th December, 1975, the Committee decided to seek<sup>2</sup> further extension of time from the House for presentation of their Report upto the end of the Sixteenth Session of Lok Sabha.

10. At the ninth, tenth, eleventh and twelfth sittings held on the 16th February, 23rd March and 14th and 30th June, 1976, the Committee deliberated on the matter.

11. At the thirteenth and fourteenth sittings held on the 29th and 30th July, 1976, the Committee further deliberated on the matter and arrived at their conclusions.

12. At the fifteenth sitting held on the 30th August, 1976, the Committee considered their draft Report and adopted it.

## II. Facts of the case

13. On the 6th August, 1974, Shri Jagannathrao Joshi, M.P., complained<sup>3</sup> in Lok Sabha that according to a news report in the *Nav Bharat Times* dated the 6th August, 1974, Shri Ishwar Chaudhry, M.P., was handcuffed when he was taken from jail to the court on the 5th August, 1974.

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<sup>1</sup>. The motion was adopted by the House on the 9th May, 1975.

<sup>2</sup>. The motion was adopted by the House on the 27th January, 1976. Another motion seeking further extension of time was moved and adopted by the House on the 18th May, 1976, for presentation of the Report upto the end of the Seventeenth Session of the Lok Sabha.

<sup>3</sup>. L.S. Deb., dt. 6-8-1974, cc. 125-126.

14. Subsequently, on the 14th August, 1974, Shri Ishwar Chaudhry, M.P., himself raised<sup>6</sup> this matter in the House and stated<sup>7</sup> *inter alia* as follows :

"I was arrested along with some other *Satyagrahis* for demonstration in front of the Bihar Vidhan Sabha.....After remaining in jail for two months, for the first time, I, along with other *Satyagrahis*, was produced before the Magistrate in Bihar, in handcuffs, on the 5th August, 1974. The prisoners were tied with a rope. Perhaps, because there was not enough rope I was not tied with it. We were brought back from the Court in the evening in handcuffs, in the same condition in which we had gone there. While coming out of the jail I and the Jailor glanced at each other. At this the Jailor said that he lives in the Division, he should not be handcuffed. But the handcuffs continued to be there and he continued to stare helplessly. I feel, all this was done with malice to humiliate me. I feel that when a representative of the people is handcuffed its purpose is to insult him before the people. I was not a person to run away, nor had I gone to jail with that idea. I had gone to jail of my own volition. Kaul and Shukdher have stated in very clear words that only those prisoners should be handcuffed who are likely to run away. But since we had gone there of our own volition, there was no possibility of our running away. I feel, it is contemptuous not only of me but of all the elected representatives".

15. The Speaker, thereupon, observed<sup>8</sup>, *inter alia*, as follows:

"I am very sorry this has happened. As I see from the previous practice, Government had issued instructions not to handcuff MPs, and especially *satyagrahis* who go there voluntarily. They would not run away. The man is not a thief to run away. I am really surprised at this. Besides this handcuff, what matters is the humiliation it causes. In political life, many people have their own views. They may not agree with the party which is ruling. Even partymen sometimes do not agree amongst themselves and they offer *satyagraha*. Personally, I feel so much resentment at this....So I feel that now that we have our own Government, at least we should have

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<sup>6</sup> L.S. Deb., dt. 14-8-1974, cc. 203—208.

<sup>7</sup> *Ibid* (Original in Hindi).

<sup>8</sup> L.S. Deb., dt 14-8-1974, cc. 203—208.

some code to be followed. If a Member of Parliament is not handcuffed and he runs away, I do not think anybody will approve his conduct....So we must consider it....I will ask for the Home Minister's statement on it. Later on, we will sit together and see as to how to settle this affair."

16. On the 30th August, 1974, the Deputy Minister in the Ministry of Home Affairs (Shri F. H. Mohsin) made the following statement in the matter in the House :

"On August 6, 1974, a reference was made in the House to a news report published in the *Nav Bharat Times* about the alleged handcuffing of Shri Ishwar Chaudhry, M.P., when he was taken to a Court at Patna on August 5, 1974. The matter was again raised in the House on August 14, 1974. The facts, as reported by the State Government, are as follows :

Shri Chaudhry, along with 63 other *satyagrahis*, was arrested near the Bihar Legislative Assembly on June 10, 1974 for picketing and violation of prohibitory orders and they were remanded to custody in Phulwari Sharif Jail, Patna. A case was registered in this connection under Sections 143, 188 and 341 IPC and Section 7 of the Criminal Law Amendment Act, 1932.

On June 17, 1974, the *satyagrahis* in prison started a relay fast proclaiming their objective of eradicating corruption inside and outside the jail.

Shri Chaudhry gave a petition to the jail authorities pointing out that some prisoners had threatened a clash with the *satyagrahis*. According to the jail authorities, the other prisoners were angry with the *satyagrahis* because they were sitting on fast near the gate and had allegedly used undignified language towards some visitors to these prisoners. On July 2, 1974, there was a scuffle in the jail between two *satyagrahis* over some issue and this developed into a bigger clash involving other prisoners and also the jail staff. One of the *satyagrahis* by name Ashwini Kumar Chaubey received a burn injury, besides abrasions. A case under Sections 147/307/323, IPC, has been registered against the jailor and some warders in this connection on a statement made by Shri Chaubey and is under investigation.

Departmental action is also being taken against the concerned jail staff allegedly involved in the incident.

Shri Chaudhry had reported to the Inspector General of Prisons that two to three hours before the above incident the Assistant Jailor had given him some blows in his stomach. This allegation is being enquired into. Shri Chaudhry had also told the Inspector General of Prisons that at the time of the alleged assault by the warders he had gone inside his own ward and that he had not received any injury in the incident.

On August 5, 1974, when the prisoners were taken from the jail to go to the Court Shri Ishwar Chaudhry, along with other *satyagrahis* was handcuffed by the escorting party. This mistake occurred since the escorting party did not know the identity of Shri Chaudhry as an M.P. This mistake was detected at the jail gate itself and the escorting party was asked by the officiating Jailor to immediately remove the handcuffs from Shri Chaudhry. Shri Chaudhry, however, insisted on remaining in handcuffs on the ground that the other *satyagrahis* were also in handcuffs.

The State Government have further reported that Shri Ishwar Chaudhry was discharged and released from custody on August 8, 1974.

On February 21, 1968, the Government of India had issued detailed instructions to all State Governments regarding matters connected with service of summons on, and arrest of, Members of Parliament. These instructions *inter alia* referred to the general rule that prisoners should not be handcuffed as a matter of routine and that the use of handcuffs should be restricted to cases where there are reasonable grounds to believe that the prisoners may use violence or attempt to escape or where there are other similar reasons. It was stressed that this rule should be particularly observed in the case of Members of Parliament. These instructions were again referred to in another circular letter sent to all State Governments on February 4, 1974. It is most unfortunate that a mistake had occurred in the compliance of instructions in this case. The attention of all State Governments had once again been drawn to all the standing instructions issued in this regard and they have been advised strictly to avoid such mistake."

17. After some discussion<sup>9</sup> in the House, the Speaker, while referring the matter to the Committee of Privileges under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha observed<sup>10</sup> *inter alia* as follows:

“As far as Members of Parliament are concerned, I have given my indication on the very first day. I gave my views on that. I very much hope that the Privileges Committee will take all aspects of this question into consideration. My personal view is, those days have gone when hand-cuffs were used. About Members of Parliament, the position is very clear. You will examine this in all aspects, not only in regard to this particular case, so as also to lay down certain procedures for future guidance. As far as others are concerned, it is very much hoped that the views that are conveyed by you will be considered and some decision taken so that all respectable citizens who are voluntary *satyagrahis* or who occupy good positions in public life or who are good journalists, jurists, doctors, writers or educationists are treated well. Don't introduce your own meaning to it. I have given a broad outline. They will consider it.”

### III. Evidence before the Committee

18. The Committee examined in person the following witnesses :

- (i) Shri Ishwar Chaudhry, M.P.
- (ii) Shri Bhubaneshwar Sharma, Acting Jailor of Phulwari Sharif Jail (Bihar) where Shri Ishwar Chaudhry, M.P., was handcuffed on the 5th August, 1974.
- (iii) Shri Rajendra Singh, Havildar-in-charge of the escort party which handcuffed Shri Ishwar Chaudhry, M.P., on the 5th August, 1974.
- (iv) Shri R. N. Dash, Secretary, Home Department, Government of Bihar.

19. A summary of the evidence<sup>11</sup> given before the Committee is as follows:

#### (i) Evidence of Shri Ishwar Chaudhry, M.P.

“On the 10th June, 1974, I along with several other *Satyagrahis* had held a peaceful demonstration in front of the

<sup>9</sup>. L.S. Deb., dt. 30-8-1974, cc. 165—172.

<sup>10</sup>. *Ibid.*

<sup>11</sup>. Original partly in Hindi.

Bihar Legislative Assembly and had courted arrest. All of us were sent to Phulwari Sharif Camp jail. We had observed partial *satyagraha* and hunger strike in the jail also as a protest against the bungling in prisoners' ration and corrupt practices being adopted by the officials of the jail and had thus tried to draw the attention of Government machinery towards this state of affairs in the jail and wished that they should prevent it, but the officials won over the criminal prisoners already in the jail on this issue. On 1st July, when some prisoners pointed out that our actions were not justified and that all the *satyagrahis* were not behaving properly and that they were harassing the visitors coming to jail to see the prisoners, I told them that such a thing had never happened and it appeared that they were saying so at the instance of the officers. At this the prisoners threatened us that if we did not change our attitude they would do away with our lives without caring for the number of lives which it might take. At this, I informed the Jailor, Superintendent and I.G. on 1st July in writing about this and stated that a serious incident might occur in the jail and requested them to provide us protection. Next day on 2nd July, Government officials came into the jail in a planned manner. At that time I was standing at ward No. 4. Shri Vasudev Narain Singh, the then Jailor, and Shri Tej Pratap Narain Singh, Assistant Jailor, came to us along with some Constables and prisoners. They caught hold of me and thereafter the Jailor Shri Vasudev Narain Singh gave a fist-blow in my stomach and Shri Tej Pratap Narain Singh gave a fist-blow at my back. I freed myself and rushed into Ward. No. 4 and the Ward was locked. Thereafter, all of a sudden they caught hold of my neck and beat me up. Likewise Shri Ashwani Kumar Choube, who had locked his Division from inside, was also pulled out by the officials and was severely beaten by them, his body was put to fire and he was also lathi charged. All these facts will come to light if you refer to the Police Report or Medical Report. This had happened on 2nd. Before this incident had occurred, we had requested the authorities to present us before the court, but that was not done for about two months in spite of the dates given by the Court.

On 5th August, all the *satyagrahis* were handcuffed and tied with ropes and then taken to Court. It seems

all this was done under instructions from the Government. When I objected to this and pointed out to the constables that the *Satyagrahis* were not to be handcuffed and that they should consult the higher authorities regarding it, I was told by them that I was also to be handcuffed. Hearing this, I did not like to enter into a controversy over it and I was also handcuffed. When the *Satyagrahis* were handcuffed and put into the vans and reached at the gate of the jail, the Jailor was witnessing the entire scene. When we were ready to leave, the Jailor pointed out that we were in the Division and were not to be handcuffed. Even then we remained handcuffed, and I was taken to the Court in that very handcuffed position and other *Satyagrahis* too were kept handcuffed and thus all this scene was being witnessed by the Court authorities and the pressmen.

Mr. Chairman, it seems that this handcuffing was done in a pre-planned manner and because we had tried to draw the attention of administration towards mismanagement in the jail by resorting to *satyagraha* etc., and this was done with a view to insult us. The jail authorities had shown a great negligence in the matter because the I.G., the Superintendent and the Jailor knew about us. We were misbehaved and handcuffed deliberately..... All the officers knew that I was an M.P. I was put in Class A by virtue of my being an M.P..... All the persons in the prison addressed me as an M.P.

....the escort party was aware of it, since it is indicated in the list delivered to them that such and such person is an M.P. and such and such person is an MLA. But since a high official, I.G., gave them instructions to that effect, they did not act according to the orders. Here it may be stated that they are provided with a specific number of handcuffs and ropes according to the number of *satyagrahis* and are instructed that these *satyagrahis* are to be brought tied with so many ropes. The Major leading the escort party is given all this. Therefore, I have to say that they were aware that Ishwar Chaudhry was an M.P. but the official orders were that all were to be brought handcuffed. What could the Jailor do then?....When I came face to face with the Jailor he sarcastically or cutting a joke remarked that I was a man of the division, I should not be



handcuffed. I told him that it had already been done. I was also handcuffed along with others. They had already told that every one is to be handcuffed including me....The Jailor Shri Sharma was present there. Shri Sharma knew that I was an M.P. He came to see me in the jail also... when all the *satyagrahis* were being handcuffed, one or two of them addressed me as an M.P. and said that it was then my turn. Constables were also listening all this, and the Jailor was also noticing that I was being handcuffed but nobody prevented it.....I was a *satyagrahi*. I was also made to sit outside the gate along with other *satyagrahis*. I thought that Magistrate would call me, but he did not. At that time also I was in handcuffs. We could have gone before him only when called."

(ii) *Evidence of Shri Bhubaneshwar Sharma, Acting Jailor, Phulwari Sharif Jail*

"I am Assistant Jailor. I was the Acting Jailor, Phulwari Sharif Jail on the 5th August, 1974....Soon after the incident that took place on the 2nd I was posted to Phulwari from Patna.

I know Shri Ishwar Chaudhry since long. He belongs to our District i.e. Gaya. He was also in the Patna Jail.

I had not seen Shri Ishwar Chaudhry being handcuffed. Had I seen it, I would have prevented it at once. When I saw him in handcuffs, I rebuked the escort party. I said to the Guard that he (Shri Chaudhry) was a high class prisoner and an M.P. He should not be handcuffed. I ask the Guard as to why he had handcuffed Shri Chaudhry. Hearing this, the Guard tried to open the handcuffs and he took out the key but the Hon. Member Shri Chaudhry did not allow him to remove the handcuffs.

I was working in my office at that time. At the gate there were 67 *Satyagrahi* prisoners and Shri Chaudhry was also one of them. Names of all the *Satyagrahis* were read out at the gate and tallied with the warrant. We maintain a prisoners' register in which names of all prisoners are entered. The Incharge of the escort party read out that and appended his signature therein. This means that escort party knew it that Shri Ishwar Chaudhry was an M.P. The *Satyagrahis* who were being escorted included Shri Chaudhry, M.P. also. The

escort party was aware of it. I had already told that he was an M.P. and the clerk had also got him identified. The Police and the S.P. were informed that he was an M.P. and the guards must be sent keeping his status in view....He (Shri Rajendra Singh) is a senior Constable. He was acting as a Guard Incharge. He was discharging the responsibility of a Havildar. He is a Police Constable, but if the Havildar is not available, the senior-most of them takes the charge of the senior-most Constable-in-charge. He was the senior-most Constable.

It is for the Police to produce the person before the Court....I had written a letter to Superintendent of Police about the presence of an M.P. among *Satyagrahis*, on the 2nd August, 1974, which read as follows:

'In continuation of this Office letter No. 504 dated 27th July, 1974, on the above mentioned subject it is informed that at present there are 65 *Satyagrahi* prisoners in this jail. Shri Ishwar Chaudhry, M.P., is also among them. They are to be produced in local court on 5th August, 1974. They want that they should be produced before the court on the above date. They say that if they are not produced before the court on the above date they will create difficult situation in the jail. You are, therefore, requested to make necessary arrangements to produce these *Satyagrahis* in local court on 5th August, 1974.'

Sir, it is not my job to handcuff a prisoner. As I have already stated it is the job of the Police to handcuff prisoners. As soon as the prisoners were taken away, our Superintendent came to the office, I told him that the escorting party had handcuffed Shri Chaudhry and that on my asking the escorting party to remove the handcuffs, he did not let them do so.

I was asked and I submitted a report in writing on 7th August, 1974 to the Superintendent, Divisional Camp Jail, Phulwari Sharif, which is as follows :

'I have to bring it to your notice that *Satyagrahi* prisoners were to be produced before the Court on 5th August, 1974. Earlier they had threatened that if they are not produced before the Court on the said date, would create untoward situation in the jail. The matter was brought to the notice of the Superintendent Security,

Patna, with a request to depute escort party. Shri Ashok Kumar Singh, Clerk in the Jail Department was looking after the work of producing the prisoners concerned before the Court. The Escort Party arrived on 5th August, 1974. *Satyagrahi* prisoners were impatient to appear before the Court. They were raising slogans. The jail clerk handed them over to the escort party. A party of *Satyagrahis* was handed over by him to the escort party for being taken out. They were raising slogans and creating disturbance before the gate. I was working in my office as usual. I saw towards gate and found that Shri Ishwar Chaudhry was handcuffed and was ready to go to the Court. I at once went to the gate and told the escort party that he was an M.P. and was a high class prisoner; why he has been handcuffed. His handcuffs should be removed immediately. The Guard took out his key to remove the handcuffs and tried to open the lock of Shri Chaudhry's handcuffs. Shri Chaudhry said that since all of his colleagues were handcuffed, let him also remain handcuffed. I requested Shri Chaudhry to let the handcuffs be removed, but he did not allow the guard to do so saying that all of them were to be produced before the Court and as such he did not accede to my request. I did not consider it proper to remove the handcuffs forcibly. An unhealthy scene might have been created before the gate, had I tried to remove the handcuffs by force'."

(iii) *Evidence of Shri Rajendra Singh, Havildar-in-charge of the Escort Party.*

"I am a Havildar.....I studied upto fourth class. I do not read newspapers....We get the orders for escorting the prisoners to the Court on a particular day at 6 O'clock and have to go at 10 O'clock....Then we take these prisoners to the Court in a van duly handcuffed and tied with the rope.

The names of the constables of the escort party were given and the rifles with bullets were provided. We did not get anything else but command. After taking rifles and handcuffs we went to the jail.

Prisoners are handed over after due counting. The 'writer' did this work. The 'writer' might be knowing

that Shri Ishwar Chaudhry was an M.P. It was not written in our command. It might have been recorded in the list. We do not read the custody warrant. We simply receive the prisoners after due counting. He (the 'writer') did not tell the name. The names are written in the register by the constable. At that time there were 8 constables and myself. No other officer was there. Later on when asked to remove the handcuffs, he did not allow it to be removed.

There were 32 persons at that time and if only one person were to handcuff all of them, we would not have been able to produce them before the court in time. There were 8 constables and 3 or 4 of them were engaged in handcuffing the prisoners. So it is not known, as to who had handcuffed him but when we came to know that he was an M.P., we requested him to allow us to remove the handcuffs but he declined to do so... Had anybody told me so I would never have handcuffed him. I became aware of this fact after he was handcuffed. These people remain in the office. The signatures of Jailor are not there. 'Writer' Clerk does the entire job. He hands over the prisoners. Sepoys write names. We get information only from them. We are not much educated.

They (the Satyagrahis) were raising slogans. They were not talking about MP. It was not written in our command.... I came to know it from the jailor that he was an MP.... I had never heard his name earlier than that.

(In regard to instructions by the Department about hand-cuffing) only our officers understand these things well. We do not. Had there been instructions written in Hindi we would not have handcuffed.... Except prisoners of First and Second Class, all others are handcuffed. Such prisoners as are suspected of trying to escape are also handcuffed.

We give command to the 'writer' and prisoners' mates bring them out from the jail. We remain at our places. When the accused are brought we take out the custody warrants from the *almirah*. We find out from the warrants how many are not to be sent to jail and how many are to be sent. Among the lot if some prisoner is not ready, his custody warrants are searched out. On their arrival, the accused are handcuffed or tied with ropes. Thereafter,

the custody warrants are made over to us after counting them.... Situation was like this. Another party had to go out. That party was already inside the gate. There were 35 persons in that party who were to be escorted and who were already inside the gate. That party was to go first. At that time the 'writer' was with that party. After that party was sent, we were told of the other accused. Then we started handcuffing or tying them with ropes. After that party had left, the custody warrants of this party were taken out. Thereafter, we signed the register and came out of the gate.

So far as Class I prisoners are concerned, a special guard and a separate small van is provided for them. We got only one van and all had to go by it. It was an open van."

(iv) *Evidence of Shri R. N. Dash, Secretary, Home Department, Government of Bihar*

"We got a preliminary inquiry done immediately when we learnt that there was an unfortunate incident of handcuffing of an hon. Member of Parliament and when we also learnt that it was, *prima facie*, not authorised by law. After a preliminary inquiry, it appears that handcuffing had been done and it was not authorised by law. The handcuffing was not intentional and it was a *bona fide* mistake on the part of the escort party.

It is the concerned Court or the District Magistrate who had got the concurrent powers to declare which of the prisoners will be deemed to be of superior class, and we have an instruction that a Member of Parliament or a Member of any of the State Legislatures will automatically be treated as of superior class. The *Satyagrahis* are not automatically classified under superior class. The basis of classification is their standard of living and the status enjoyed by them in the society.

The practice is that, unless a prisoner is classified as an upper division prisoner, the officer in charge of the escort party handcuffs him during escort... May I distinguish between the hon. M.P. and the other prisoners who belonged to that batch? So far as the hon. M.P. was concerned, as per the rules and practice, he would not have been handcuffed. So far as the other prisoners are concerned, as per rules and practice, they were to be handcuffed unless any of them belonged to the upper division.

We have not examined the officer in charge of the police party, but from the records it appears that the escort party knew that

there was this particular hon. Member of Parliament in that batch... My presumptions are based on the facts that the requisition letter which was sent by the jail authorities to the police authorities indicated this fact, and the very custody warrant that the officer-in-charge of the escorts party was carrying also mentioned this..... The endorsement in the red ink—*Uchcha Shreni ke Bandi M.P.*—division prisoner. It wants that they be produced on 24.6.1974.... The endorsement in the red ink—*Uchcha Shreni ke Bandi M.P.*—I cannot say whether this was written originally on 10-6-74 or at a subsequent stage.

May I submit that on receipt of the report of the District Magistrate accompanied by a report of the Superintendent of the concerned Jail, the State Government felt that it was a *bona fide* mistake due to the reason that the handcuffing was unintentional and without any *mala fide* motive.

We will probe the matter thoroughly and submit our report to the Committee."

#### **IV. Conclusions of the inquiry instituted by the Government of Bihar and views of the State Government thereon.**

20. As desired by the Committee, Government of Bihar, Home (Special) Department, instituted an inquiry<sup>12</sup> on the 1st December, 1975, into the incident leading to the handcuffing of Shri Ishwar Chaudhry, MP, on the 5th August, 1974. The State Government of Bihar furnished to the Committee a copy of that inquiry report<sup>13</sup> on the 20th February, 1976, which stated *inter alia* as follows:

"It was alleged that while he (Shri Ishwar Chaudhry, MP) was being taken out from the Phulwari Sharif Special District Jail on 5.8.74, he was handcuffed by the Escort Party contrary to rules and practices, because he, being an MP and an under-trial prisoner of superior class in the jail, was not to be handcuffed. This allegation, broadly, is the subject matter of this enquiry.....

On 2-8-74, the Superintendent, Camp District Jail, Phulwari Sharif, in his letter No. 531 dated 2-8-74 addressed to the Senior Superintendent of Police, Patna, said that at that time there were 65 Satyagrahi under-trial prisoners

<sup>12</sup>. The inquiry was conducted by Shri Mahakrishna Das, Deputy Secretary to Government, Home (Special) Department, Bihar.

<sup>13</sup>. See Appendix I.

in that jail, including Shri Ishwar Chaudhry, M.P., who were to be produced before the local Court on 5.8.74. The Superintendent in this letter requested the Senior S.P., Patna to make appropriate arrangement for production of those under-trial prisoners in Court on 5-8-74.

Shri G. Achari, the then Senior S.P., Patna, has stated that the aforesaid letter of the Superintendent Phulwari Sharif Jail reached him on 3-8-74. After going through the letter, he put in his initial in the margin on 3.8.74 and on his orders, it was endorsed by his reader to the Reserve Sergeant Major (II) on that very day, and the letter was sent to the office of R.S.N. (II).

Shri Kamla Prasad Singh, R.S.M. (II) has stated that he received the aforesaid letter along with the endorsement of the Senior S.P., Patna on 4.8.74. After going through the letter, he gave the following remarks thereon:

“सेशन जेल से सम्पर्क स्थापित कर गार्ड की व्यवस्था करें।”

Consequent upon the receipt of the aforesaid letter of the Phulwari Sharif Camp Jail, Shri Abdul Latif, Munshi attached to the office of R.S.M. (II), filled up and prepared two Command Certificates on 5-8-74, for deputation of two escort parties. In this report, Command Certificate No. 714984S will be mainly referred to, because it is this command certificate which was made over to Shri Rajendra Singh, Havildar incharge of the escort party which escorted 32 under-trial prisoners including Shri Ishwar Chaudhry, MP, from Phulwari Sharif Camp Jail on 5-8-74. However, this command certificate did not contain any mention of the name of Shri Ishwar Chaudhry, MP, rather it provided for escort of 65 Satyagrahi prisoners from Phulwari Sharif Jail. The escort party consisted of Shri Rajendra Singh, incharge of the party along with 8 constables, whose names were mentioned therein. As Shri Kamla Prasad Singh, R.S.M. (II) was not present in the office at that time, nor was R.S.M.(I) available there, the Munshi Shri Latif took that command certificate to Shri Dhanesh Upadhyaya, Reserve Sub-inspector for signature. Shri Upadhyaya signed it on the request of the Munshi. Thereafter, the Munshi made over the original command certificate to the drill passed constable No. 1196. Rajendra Singh, who was incharge of the escort party. No instructions were given by anybody to the officer-incharge of the escort party and it was not mentioned to him that one of the under-trial prisoners to be escorted was Shri Ishwar Chaudhry, MP.

After getting the command certificate, Shri Rajendra Singh, Officer-in-charge of the escort party, collected rifles, handcuffs, rope etc. from the magazine. He was given a 3-tonner Police van also from the new Police line. With these equipments he left for the Phulwari Sharif Jail with the impression that the party had to escort the under-trial prisoners of ordinary class only. This escort party reached Phulwari Sharif Camp Jail at about 11.45 A.M. on 5.8.74, according to the entry made in the jail register. The officer-in-charge of the escort party made over his command certificate to the jail clerk Shri Ashok Kumar Singh and remained stationed at a place, which is situated between the outer gate and the inner gate of the jail. On receiving the command, the jail clerk Shri Ashok Kumar Singh called the under-trial prisoners, who came to the place where the escort party was standing. Incidentally it may be mentioned that the other escort party with command certificate No. 714983S under the charge of Havildar Sheonath Rai had also reached there by that time. Altogether about 67 under-trial prisoners came near these two escort parties. The jail clerk Shri Ashok Kumar Singh divided them in two groups. The first batch of 35 prisoners was made over to the escort party headed by Havildar Sheonath Rai, who left the jail premises at about 12.15 P.M. The second group of 32 under-trial prisoners (including Shri Ishwar Chaudhry, MP) was made over to Shri Rajendra Singh, Officer-in-charge of the escort party, along with their custody warrants.... The members of the escort party started handcuffing the under-trial prisoners and consequently all the prisoners including Shri Ishwar Chaudhry, MP, were handcuffed. Thereafter, Shri Rajendra Singh, Officer-in-charge of the escort party, signed the jail gate register and came out of the jail at about 1 P.M. along with the under-trial prisoners and his escort party.... All the 32 under-trial prisoners and the members of the escort party were accommodated together in the 3-tonner Police van and they left for the Court. This escort party returned to the Phulwari Sharif Camp Jail from the Court at about 4.50 P.M. with the same set of 32 under-trial prisoners, who were all in handcuffs till then.

The above analysis would indicate the circumstances under which Shri Ishwar Chaudhry, MP, was handcuffed by the police escort party, without discussing some controversial points involved in the process.... However, the responsibility of the various officers in this connection may be briefly summarised as follows:

- (1) *Shri Abdul Latif, Munshi*—He should have mentioned the name of Shri Ishwar Chaudhry, MP, in the command certificate, even if no special escort was provided for the



MP, under Rule 558(a) of the Police Manual, because Shri Chaudhry being an MP was a notable State prisoner. He failed to discharge his duties properly in not mentioning the name of the MP in the command certificate to draw special attention of the escort party.

Secondly, considering the fact that R.S.M.(II) was absent from office on 5.8.74 and Shri Dhanesh Upadhyaya, S.I., did not meet the escort party, Shri Abdul Latif should have at least verbally mentioned to the escort party that one of the prisoners to be escorted was Shri Ishwar Chaudhry, MP, who should not be handcuffed. He did not do so.

- (2) *Shri Kamla Prasad Singh, R.S.M.(II)*—At the bottom of letter No. 531 dated 2-8-74 from the Superintendent, District Jail, Phulwari Sharif, he gave a note only regarding deputation of the escort party, but he gave no special instruction therein regarding Shri Ishwar Chaudhry, MP. On perusal of the letter, he must have been fully aware of the fact that one of the prisoners to be escorted was Shri Ishwar Chaudhry, MP, and, therefore, he should have given some specific note regarding the escort of the MP. He did not give the date below his initial which also cannot be appreciated.

Shri Kamla Prasad Singh should have ordered on the requisition letter that a special conveyance should be provided for escort of the M.P. as provided for in Rule 241(a) (iii) (e) of the Police Manual.

Thirdly, the whereabouts of Shri Kamla Prasad Singh on 5-8-74 requires further probe by his superior officers of the Police Department as he does not remember when, where and for what purpose he had gone out from the office on that date and when he returned back to office. Due to his absence from office, the escort party could not be properly briefed under Rule 537 of the Police Manual and the command certificate could not be signed by him.

- (3) *Shri Dhanesh Upadhyaya, S.I. of Police*—He did not compare the command certificate with the requisition letter received from the jail to ensure that the command certificate was properly and completely filled up. He did not care to see the requisition letter. Had he done so, he could have detected that the name of Shri Ishwar Chaudhry, MP was not mentioned in the command certificate.

Secondly, while signing the command certificate he performed the duties of R.S.M. (II) and hence it was also his responsibility to give proper instruction to the escort party under Rule 537 of the Police Manual. He failed to do so.

- (4) *Shri Rajendra Singh, Officer-in-charge of the Escort Party*—The custody warrant of Shri Ishwar Chaudhry, M.P., was actually read out to Shri Rajendra Singh by the jail clerk Shri Ashok Kumar Singh, who in this process uttered the words "Shri Ishwar Chaudhry, M.P.". This being the position, it goes against Shri Rajendra Singh that he did not take any notice of the custody warrant of Shri Ishwar Chaudhry, M.P., did not regard Shri Chaudhry as M.P. and consequently he did not refrain from getting the M.P. handcuffed.

Secondly, he knew on 5.8.74 that MPs/MLAs were not to be handcuffed during escort. This he knew in course of his service career. The custody warrant was read out to him, indicating that Shri Ishwar Chaudhry was an M.P. Hence the escort party headed by him should not have handcuffed the M.P.

Thirdly, he should have arranged for accommodation of the M.P. on the front seat of the police van by the side of the driver, if no special conveyance for the M.P. was provided. Atleast, by that time he was fully aware of the fact that Shri Ishwar Chaudhry was an M.P., and, therefore, Shri Rajendra Singh should not have accommodated the M.P. along with other prisoners in the back seat of the police van.

- (5) *Shri Ashok Kumar Singh, Jail Clerk*—He did not properly identify Shri Ishwar Chaudhry as an M.P. or a prisoner of superior class, while handing him over to the escort party and before the M.P. was handcuffed.

Secondly, he did not tell the escort party that Shri Ishwar Chaudhry was an M.P., who should not be handcuffed. He did not prevent the escort party from actually handcuffing the M.P., although he was present at the spot.

- (6) *Shri Bhuvaneshwar Sharma, Jailor*—He did not exercise supervision over Shri Ashok Kumar Singh, Jail Clerk, while Shri Ishwar Chaudhry, M.P., was being handed over to the escort party. He did not ensure that Shri Ishwar Chaudhry was properly identified and introduced to the escort party.

Secondly, Shri Bhuwaneshwar Sharma did not ascertain and ensure the fact that the escort party was told not to handcuff Shri Ishwar Chaudhry, M.P. He should have remained present on the spot and should have himself intimated to the escort party that Shri Ishwar Chaudhry, M.P., should not be handcuffed. He remained sitting in his office room till the handcuffing was completed. Shri Ishwar Chaudhry, M.P., has stated that Shri Sharma was witnessing the entire show. Shri Sharma did not intervene in the matter before the handcuffing was done."

21. The Government of Bihar, while forwarding the above-mentioned inquiry report to the Committee, stated *inter alia* as follows:

"The State Government have accepted the inquiry report of Shri M. K. Das on the subject....The State Government agree with the findings of the Enquiry Officer, and have ordered departmental action against the following 6 officers and staff for their alleged lapses resulting in such unfortunate incident:—

- (1) Shri Abdul Latif, Munshi in the District Police Line.
- (2) Shri Kamla Prasad Singh, Reserve Sergeant Major II of the District Police Line.
- (3) Shri Dhanesh Upadhyaya, Sub-Inspector of Police.
- (4) Shri Rajendra Singh, Head Constable Incharge of the Escort Party.
- (5) Shri Ashok Kumar Singh, Jail Clerk.
- (6) Shri Bhuwaneshwar Sharma, Jailor.

The rules and instructions of the State Government clearly provide that the Members of the Parliament, while under arrest, are to be treated as prisoners in the superior category or in Upper Division, as the case may be, and they are not to be handcuffed, as a matter of course. These instructions have been followed in the past and are being followed even now but for the single isolated incident relating to Shri Ishwar Chaudhry. Although, a large number of Legislators including Members of Parliament have been arrested in Bihar in the past few years, we have never had any complaint of this type in the past, and this particular incident of handcuffing of Shri Ishwar Chaudhry was rather unfortunate, for which the State

Government regret. Apparently, the handcuffing was not intentional, but mostly due to lack of alertness, and to some extent carelessness and negligence. The State Government have also issued another Circular to all concerned to exercise special care in future so that no such unfortunate incident happens again".

22. The Government of Bihar also forwarded to the Committee copies of the following documents:—

(i) Letter No. 5[B-2015/75H(I) 12899 dated 23.12.1975 from Secretary, Home (Special) Department, Government of Bihar, to Deputy Secretary to the Government of India, Ministry of Home Affairs, New Delhi (with enclosure), which contains—

(a) views of the State Government regarding handcuffing of "Political Prisoners" or "Satyagrahis" (Appendix-II); and

(b) latest instructions issued to the Police Officers of the State reiterating the principles already laid down regarding use of handcuffs (See enclosure to Appendix-II).

(ii) Letter No. 4237/C dated 8-8-1974 from the District Magistrate, Patna, to the Secretary, Home (Special) Department, Government of Bihar (with enclosure), which contains the report of the District Magistrate, Patna, dated the 8th August, 1974, on the incident leading to the handcuffing of Shri Ishwar Chaudhry, M.P. (See Appendix-III).

**V. Alleged assault on Satyagrahis in Jail prior to handcuffing incident of Shri Ishwar Chaudhry.**

23. The Committee, at their sitting held on the 6th November, 1974, had directed the Ministry of Home Affairs to obtain and furnish to the Committee information on the following matters:—

(i) Outcome of the case registered against the Jailor and some Warders under Sections 147/307/323, I.P.C., regarding injuries received by Shri Ashwini Kumar Chaubey and other *satyagrahis* on the 2nd July, 1974, during a scuffle in the Jail;

(ii) Departmental action taken against the concerned Jail Staff; and

(iii) Outcome of the inquiry into the complaint of Shri Ishwar Chaudhry, M.P., that the Assistant Jailor of the Jail had given him some blows in his stomach.

24. The Ministry of Home Affairs/Government of Bihar informed the Committee, from time to time, as follows:—

- (a) "Departmental proceedings against two Head-Warders and 16 Warders are likely to be concluded within two or three weeks. In this connection, displeasure has already been communicated to the concerned Jailor and Assistant Jailor by the Department....the Government of Bihar have informed that regarding the inquiry held into the production of Shri Ishwar Chaudhry, M.P., in handcuffs, 16 Warders have been reprimanded."
- (b) "It is reported that necessary action is being taken to expedite the case filed by Shri Ashwini Kumar Chaubey against Jailor Head Warder and others under Section 143, 307 and 323 I.P.C. A further report will be sent soon.... The State Government have also informed that the case filed by Shri Ashwini Kumar Chaubey is still under investigation and the police have been asked to expedite the submission of the final report."
- (c) "Regarding alleged assault of Shri Ishwar Chaudhry, report indicates that medical examination by doctor did not disclose any injury on his body. Displeasure communicated to acting Jailor and concerned Assistant Jailor of Phulwari Sharif Camp Jail for their inability to control situation firmly and tactfully and both of them have been transferred....the State Government is being requested to expedite their reply."
- (d) "Proceedings were conducted against 2 head warders and 16 warders. One Head Warder was accused of disobedience of order of Assistant Jailor not to enter inside the jail with lathi party in spite of the alarm. The charge was proved. Another Head Warder and 13 Warders were accused of 2 charges. The first charge is as above and was established against all except 2 warders. The second charge was disobedience of alleged orders of the Acting Jailor to fall in line after they had entered inside the jail. This was not proved. Three more warders were accused of 3 charges each. The first charge is the same stated above and this was established. The second charge is also the same as stated above. This charge was not proved. The third charge was of taking part in the assault on *Satyagrahi* prisoners. This charge was also not proved. In short, Head Warders and 14 Warders were held guilty only of

the first charge. They have been awarded the punishment of formal reprimand prescribed in jails manual."

## VI. Privilege vis-a-vis handcuffing

25. In regard to handcuffing, *Kaul and Shakdher* have stated the position as follows:—

"There is no privilege specifically exempting a Member of Parliament, who is under arrest on a criminal charge, from being handcuffed. The Government of India have, however, issued instructions to the police and other authorities concerned, through the State Governments and Administrations, to the effect that persons in police custody and prisoners, whether under trial or convicts, should not be handcuffed as a matter of routine and that the use of handcuffs should be restricted to cases where the prisoner is a desperate character or where there are reasonable grounds to believe that he will use violence or attempt to escape or where there are other similar reasons."

[*Kaul & Shakdher* 2nd Edn. pp. 217-18]

26. The Committee of Privileges (Second Lok Sabha) in their Fifth Report, laid on the Table of the House on the 27th September, 1958, observed *inter alia* as follows:—

"The Committee observe that the Police Rules/Manuals of the various States and the executive instructions issued by the State Governments, particularly circular letter No. F. 2/13/57-P. IV, dated the 26th July, 1957, issued by the Union Ministry of Home Affairs to all State Governments and Union Territories already provide that persons in police custody and prisoners, whether under trial or convicts, should not be handcuffed as a matter of routine and that the use of handcuffs should be restricted to cases where the prisoner is a desperate character or where there are reasonable grounds to believe that he will use violence or attempt to escape or where there are other similar reasons.

"The Committee recommend that the Ministry of Home Affairs may be requested to again bring the contents of their circular letter No. F. 2/13/57-P. IV, dated the 26th July, 1957, to the notice of the State Governments and to stress upon them the desirability of strictly complying with them, especially in the case of Members of Parliament, in view of their high status."

27. In pursuance of the above recommendations of the Committee of Privileges, the Ministry of Home Affairs issued the necessary instructions to all State Governments/Union Territories on the 24th January, 1959, for their guidance. Subsequently, those instructions were again reiterated to all concerned on the 21st February, 1968, in which the Ministry of Home Affairs stated *inter alia* as follows:—

“(i) The Fourth and Fifth combined Reports of the Committee of Privileges (Second Lok Sabha) laid on the Table of the House on the 27th September, 1958, recommended that the Ministry of Home Affairs may be requested to bring to the notice of the State Governments the instructions already issued by the Home Ministry and contained in Police Rules/Manuals and executive instructions of various State Governments that persons in Police custody and prisoners, whether under trial or convicts should not be handcuffed as a matter of routine and that the use of handcuffs should be restricted to cases where the prisoner is a desperate character or where there are reasonable grounds to believe that he will use violence or attempt to escape or where there are other similar reasons. The Committee recommended that the Home Ministry may stress the desirability of strictly complying with these instructions, ‘especially in the case of Members of Parliament, in view of their high status’. The Committee also suggested for the consideration of the Home Ministry whether in the interest of uniformity, the State Governments would like to make similar provisions in respect of members of State Legislatures.

“(ii) If a Member of Parliament is arrested and handcuffed, the matter is likely, indeed almost certain, to be raised in Parliament. This by itself should not influence the judgement of the police officer, but the fact that a person arrested is a Member of Parliament has to be borne in mind by the police and by other authorities who have to deal with the arrested Member.

“(iii) For any person arrested, handcuffs are used by the police if the person is violent, disorderly obstructive or is likely to attempt to escape or commit suicide, or is charged with certain non-bailable offences. Handcuffs are not used as a matter of routine. Discretion must rest with the police officer who is responsible for effecting the arrest and taking the person in custody to the lock-up.”

28. After the incident relating to the arrest and handcuffing of Shri Ishwar Chaudhry, M.P. the Ministry of Home Affairs issued a further circular<sup>13</sup> on the 8th November, 1974 to all the State Governments and Union Territories, which is reproduced below:

"I am directed to refer to this Ministry's letter No. 2/15/57-P. IV, dated July 26, 1957 (copy enclosed)<sup>14</sup> on the subject mentioned above and to say that though the handcuffs are normally to be used by the police only where the prisoners are violent, disorderly, obstructive or are likely to attempt escape or to commit suicide or are charged with certain serious non-bailable offences, in many cases handcuffing is done in a routine way. In some cases even political prisoners and satyagrahis were handcuffed in jails or while being escorted to the courts. Concern has been voiced on this issue in the Parliament and in the Legislative Assemblies. The indiscriminate handcuffing of prisoners is contrary to the modern concept of the treatment of the offenders. There should ordinarily be no occasion to handcuff prisoners such as Satyagrahis, persons occupying good positions in public life, and professionals like journalists, jurists, doctors, writers, educationists.

It is, therefore, suggested that the State Government may consider issuing necessary instructions to the concerned officers to restrict the use of handcuffs only to cases where the prisoner is of a desperate character or where there are reasonable grounds to believe that such prisoner would commit violence or attempt to escape or where there are other suitable reasons."

## VII. Findings and observations of the Committee

29. The Committee of Privileges (Second Lok Sabha), in their Fifth Report, laid on the Table of the House on the 27th September, 1958, had recommended that the Ministry of Home Affairs might be requested "to again bring the contents of their Circular letter<sup>15</sup> No. F. 2/13/57-P. IV, dated the 26th July, 1957, to the notice of the State Governments and to stress upon them the desirability of strictly complying with them, especially in the case of Members of Parlia-

13. *vide* Ministry of Home Affairs letter No. 8/70/74-GPA, I, dated the 8th November, 1974.

14. *See* Appendix IV.

15. *See* Appendix I.



ment in view of their high status." In pursuance of that recommendation, the Ministry of Home Affairs had issued necessary instructions to all State Governments/Union Territories on the 24th January, 1959, for their guidance. Subsequently, those instructions were again reiterated by the Ministry of Home Affairs to all concerned on the 21st February, 1968, urging the authorities concerned that while dealing with an arrested Member of Parliament, the fact that a person arrested is a Member of Parliament must be borne in mind by the police and by other authorities (See para 27 above). Recently, the Ministry of Home Affairs have issued a further Circular letter dated the 8th November, 1974, to all the State Governments and Union Territories pointing out to them that ordinarily there should be no occasion "to handcuff prisoners such as *Satyagrahis*, persons occupying good positions in public life and professionals like journalists, jurists, doctors, writers, educationists" (See para 28 above).

30. The Committee have been informed by the Government of Bihar *vide* their letter<sup>16</sup> dated the 23rd December, 1975, that the substance of the above instructions regarding handcuffing of prisoners, issued by the Ministry of Home Affairs from time to time, is also incorporated in the Bihar and Orissa Police Manual. The rules and principles of handcuffing by police are contained in rules 241, 242, 562 and 563 of the Bihar and Orissa Police Manual.<sup>17</sup> The underlined principle enunciated in those rules is that the restraint used in respect of prisoners under custody or under escort shall be the minimum and that prisoners classified as superior or of upper division shall be treated in a dignified way. In other words, the prisoners should not be subjected to more restraint than is necessary to prevent their escape. The Government of Bihar have also stated that "prominent persons including legislators, doctors, journalists, jurists, advocates, writers, educationists; etc. referred to by the Government of India are, in normal course, classified into superior or upper divisions, and hence, they accordingly belong to the exempted categories". Recently, the Government of Bihar have issued a circular letter<sup>18</sup> dated the 23rd December, 1975, to the authorities concerned reiterating "the principle already contained in the Police Manual that handcuffs should be used only under exceptional circumstances as indicated in the rules, and not as a matter of routine".

31. The Committee have noted the findings and conclusions of the inquiry instituted by the Government of Bihar on the 1st December,

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16. See enclosure to Appendix II.

17. See Appendix V.

18. See enclosure to Appendix II.

1975, into the incident leading to the handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974. The report of the inquiry officer has described the circumstances under which Shri Ishwar Chaudhry, M.P., was handcuffed by the Police escort party and has fixed responsibility on six officers of the Government of Bihar involved in the incident. The Committee note that the Government of Bihar have accepted the inquiry report on the subject and have ordered departmental action against the concerned six officers and staff for their alleged lapses resulting in the unfortunate incident of handcuffing of Shri Ishwar Chaudhry, M.P.

In this connection, the Government of Bihar, while forwarding the above inquiry report to the Committee, have *inter alia* stated: —

“The rules and instructions of the State Government clearly provide that the Members of Parliament, while under arrest, are to be treated as prisoners in the superior category or in upper division, as the case may be, and they are not to be handcuffed, as a matter of course. These instructions have been followed in the past and are being followed even now, but for the single isolated incident relating to Shri Ishwar Chaudhry. Although, large number of legislators including Members of Parliament have been arrested in Bihar in the past few years, we have never had any complaint of this type in the past, and this particular incident of handcuffing of Shri Ishwar Chaudhry was rather unfortunate, for which the State Government regret. Apparently, the handcuffing was not intentional but mostly due to lack of alertness and to some extent carelessness and negligence. The State Government have also issued another circular to all concerned to exercise special care in future so that no such unfortunate incident happens again”.

32. The Committee find that a thorough probe was made by the Government of Bihar into the facts and circumstances leading to the handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974, only after the Committee examined in person the Home Secretary of Government of Bihar and desired him to make a detailed inquiry into the matter. This inquiry, instituted by the Government of Bihar on the 1st December, 1975 at the instance of the Committee, has revealed carelessness, negligence and lapses committed by the concerned police and jail officials involved in this incident. The Committee regret that the thorough probe into this unfortunate incident was made by the Government of Bihar after a lapse of more

than 15 months since the question of privilege was first raised in Lok Sabha on the 6th August, 1974 and only after the Committee pursued the matter with that Government. The Committee feel that this thorough inquiry should have been instituted by the Government of Bihar immediately after the question of privilege was raised in the Lok Sabha, and the matter was brought to the notice of the Government of Bihar. If that had been done, it would have undoubtedly helped the Committee to arrive at their conclusions much earlier.

33. After careful consideration of the facts and circumstances of the case, the Committee are of the view that it is unnecessary, for purposes of this case, to go into the larger question whether handcuffing of a Member of Parliament as such constitutes a breach of privilege or contempt of the House.

34. The Committee find that the handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974, in the circumstances of the case, was in utter disregard and in defiance of the clearest instructions of the Ministry of Home Affairs as well as of the Government of Bihar, particularly those governing the Members of Parliament. As such, the action of the concerned officials in handcuffing Shri Ishwar Chaudhry, M.P., was highly improper and deplorable. The conduct of the officers involved in this incident, therefore, deserves to be severely censured. The Committee, however, note that necessary departmental action is being taken by the Government of Bihar against the six officers concerned. The Committee would like to be informed in due course of the action taken by the Government of Bihar against those concerned Officers.

The Committee also note that clear instructions about handcuffing of Members of Parliament have already been issued to the authorities concerned both by the Ministry of Home Affairs as well as by the Government of Bihar. The Committee, therefore, are of the opinion that no further action need be taken in the matter by the House.

35. The Committee hope that the instructions regarding handcuffing of prisoners, issued by the Union Ministry of Home Affairs from time to time, will be strictly and scrupulously followed by all the authorities concerned of the State Governments and Union Territory Administrations and there would ordinarily be no occasion to handcuff prisoners such as members of Parliament, members of State Legislatures, peaceful *satyagrahis*, persons occupying good

positions in public life and professionals like journalists, jurists, doctors, writers and educationists.

#### VIII. Recommendation of the Committee

36. The Committee recommend that no further action be taken by the House in the matter.

N. K. P. SALVE

*Chairman,*

*Committee of Privileges.*

NEW DELHI;

*The 30th August, 1976.*

## MINUTES

### I

#### First-Sitting

NEW DELHI, MONDAY, THE 30TH SEPTEMBER, 1974.

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The Committee sat from 11.00 to 13.30 hours.

#### PRESENT

Dr. Henry Austin—*Chairman*.

#### MEMBERS

2. Sardar Buta Singh
3. Shri Somnath Chatterjee
4. Shri M. C. Daga
5. Dr. Shankar Dayal Sharma

#### SECRETARIAT

Shri J. R. Kapur—*Under Secretary*.

\* \* \* \* \*

6. The Committee then took up consideration of the question of privilege regarding handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974, when he was taken from the Phulwari Sharif Jail, Patna, to the Magistrate's court. The Committee decided to hear Shri Ishwar Chaudhry, M.P., in the first instance.

\* \* \* \* \*

*The Committee then adjourned to meet again on the 1st October, 1974, at 11.00 hours.*

### II

#### Second Sitting

NEW DELHI, WEDNESDAY, THE 6TH NOVEMBER, 1974.

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The Committee sat from 11.00 to 13.30 hours.

#### PRESENT

Dr. Henry Austin—*Chairman*.

#### MEMBERS

2. Shri M. C. Daga

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\*Paras 2-5 and 7 relate to other cases and have accordingly been omitted.

3. Shri K. G. Deshmukh
4. Shri Chintamani Panigrahi
5. Shri Maddi Sudarsanam
6. Shri Atal Bihari Vajpayee
7. Shri G. Viswanathan.

#### SECRETARIAT

Shri J. R. Kapur—*Under Secretary.*

#### WITNESS

Shri Ishwar Chaudhry, M.P.

2. The Committee took up consideration of the question of privilege regarding handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974, when he was taken from Phulwari Sharif Jail to the Magistrate's court in Patna (Bihar).

3. Shri Ishwar Chaudhry, M.P., was called in and examined by the Committee.

*(Verbatim record was kept).*

*(The witness then withdrew).*

4. The Committee deliberated on the matter and directed that the concerned Jailor on duty on the day of the incident and the Officer-in-charge of the escort party, who took Shri Ishwar Chaudhry, M.P., to the Magistrate's Court on that day, might be directed to appear before the Committee for oral examination, on a date to be decided later.

The Committee also directed that the Ministry of Home Affairs might be asked to intimate the outcome of the case registered against the Jailor and some warders under Sections 147/307/323 I.P.C. regarding injuries received by Shri Ashwini Kumar Chaubey and other *satyagrahis* on the 2nd July, 1974, during a scuffle in the Jail staff. also the departmental action taken against the concerned Jail staff.

The Committee also directed that the outcome of the inquiry into the complaint of Shri Ishwar Chaudhry, M.P., that the Assistant Jailor of the Jail had given him some blows in his stomach might also be ascertained from the Ministry of Home Affairs.

5. The Committee felt that they would need much longer time to consider this matter, particularly, the general question of indiscri-

minate handcuffing of peaceful *satyagrahis*. The Committee, therefore, decided to ask for time for presentation of their Report upto the end of the Budget Session, 1975.

\* \* \* \* \*

*The Committee then adjourned.*

### III

#### Third Sitting

NEW DELHI, THURSDAY, THE 30TH JANUARY, 1975.

The Committee sat from 11.30 to 13.50 hours.

#### PRESENT

Dr. Henry Austin—*Chairman.*

#### MEMBERS

2. Shri M. C. Daga
3. Shri K. G. Deshmukh
4. Shri Popatlal M. Joshi
5. Shri Shyamanandan Mishra
6. Shri Chintamani Panigrahi
7. Shri Maddi Sudarsanam
8. Shri Atal Bihari Vajpayee.

#### SECRETARIAT

1. Shri Y. Sahai—*Chief Legislative Committee Officer.*
2. Shri J. R. Kapur—*Senior Legislative Committee Officer.*

#### WITNESSES

1. Shri Bhubaneshwar Sharma—*Acting Jailor, Phulwari Sharif Jail, Patna.*
2. Shri Rajendra Singh—*Havildar, Officer-in-charge of the Escort Party which escorted Shri Ishwar Chaudhry, M.P., from Phulwari Sharif Jail to the Court at Patna and back to jail on 5th August, 1974.*

2. The Committee took up further consideration of the question of privilege regarding handcuffing of Shri Ishwar Chaudhry, M.P.,

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\*Paras 6—8 relate to other cases and have accordingly been omitted.

on the 5th August, 1974, when he was taken from Phulwari Sharif Jail to the Magistrate's Court in Patna (Bihar).

3. Shri Bhubaneshwar Sharma, acting Jailor of Phulwari Sharif Jail, Patna, on the date of the incident, was called in and examined by the Committee on oath.

*(Verbatim record was kept).*

*(The witness then withdrew).*

4. Shri Rajendra Singh, Havildar, Incharge of the Escort Party which escorted Shri Ishwar Chaudhry, M.P. from Phulwari Sharif Jail to the Magistrate's Court, Patna, and back to Jail on the date of the incident was called in and examined by the Committee on oath.

*(Verbatim record was kept).*

*(The witness then withdrew).*

5. The Committee deliberated on the matter and noted that the following information called for by them earlier through the Ministry of Home Affairs was still awaited:—

- (i) Outcome of the case registered against the Jailor and some warders under Sections 147/347/323 IPC, regarding injuries received by certain *satyagrahis* in that Jail on the 2nd July, 1974.
- (ii) Departmental action taken against the concerned Jail staff in connection with the above case.
- (iii) Outcome of the enquiry into the complaint lodged by Shri Ishwar Chaudhry, MP, that the Assistant Jailor of the Jail had given him some blows in his stomach.

The Committee directed that the Ministry of Home Affairs be asked to obtain the above information from the Government of Bihar expeditiously.

6. The Committee also noted that the Ministry of Home Affairs had recently issued on the 8th November, 1974, fresh instructions to the State Governments etc. to restrict the use of handcuffs only to cases where the prisoner is of a desperate character or where there are reasonable grounds to believe that such prisoner would commit violence or attempt to escape or where there are other suitable reasons.

*The Committee then adjourned.*



## IV

## Fourth Sitting

NEW DELHI, THURSDAY, THE 8TH MAY, 1975.

The Committee sat from 16.00 to 17.15 hours.

## PRESENT

Dr. Henry Austin—*Chairman*.

## MEMBERS

2. Shri Somnath Chatterjee
3. Shri M. C. Daga
4. Shri K. G. Deshmukh
5. Shri Popatlal M. Joshi
6. Shri H. N. Mukerjee
7. Shri B. R. Shukla
8. Shri Maddi Sudarsanam

## SECRETARIAT

1. Shri Y. Sahai—*Chief Legislative Committee Officer*.
2. Shri J. R. Kapur—*Senior Legislative Committee Officer*.

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4. The Committee then took up further consideration of the question of privilege regarding hand-cuffing of Shri Ishwar Chaudhry, MP, on the 5th August, 1974, when he was taken from Phulwari Sharif Jail to the Magistrate's Court in Patna (Bihar).

The Committee noted that certain information called for from the Ministry of Home Affairs in this matter was still awaited. The Committee directed that the Ministry of Home Affairs might be asked to furnish the requisite information expeditiously.

The Committee also decided that as it was not possible for the Committee to present their Report to the House on this matter by the last day of the current session, a motion might be moved in the House by the Chairman seeking further extension of time for the presentation of the Report till the end of the next session.

\* \* \* \* \*

*The Committee then adjourned.*

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\* \* \* Paras 2-3 and 5-6 relate to other cases and have accordingly been omitted

**Fifth Sitting****NEW DELHI, TUESDAY, THE 8TH JULY, 1975.**

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The Committee sat from 10.30 to 11.45 hours.

**PRESENT**

Shri N. K. P. Salve—*Chairman*.

**MEMBERS**

2. Shri Chakleshwar Singh
3. Shri Somnath Chatterjee
4. Shri M. C. Daga
5. Shri K. G. Deshmukh
6. Shri Popatlal M. Joshi
7. Shri V. Mayavan
8. Shri Chintamani Panigrahi
9. Shri Erasmo de Sequeira
10. Shri B. R. Shukla.

**SECRETARIAT**

1. Shri B. K. Mukherjee—*Chief Legislative Committee Officer*.
2. Shri J. R. Kapur—*Senior Legislative Committee Officer*.

\* \* \* \* \*

5. The Committee then took up further consideration of the question of privilege regarding handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974, when he was taken from Phulwari Sharif Jail to the Magistrate's Court in Patna (Bihar).

The Committee noted that certain information called for from the Government of Bihar was still awaited. The Committee decided to postpone further consideration of the matter to their next sitting by which time they hoped that the information required by the Committee would be available.

\* \* \* \* \*

*The Committee then adjourned.*

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\*\*\*Paras 2-4 and 6-7 relate to other cases and have accordingly been omitted.

## VI

## Sixth Sitting

NEW DELHI, THURSDAY, THE 18TH SEPTEMBER, 1975.

The Committee sat from 10.00 to 12.35 hours.

## PRESENT

Shri N. K. P. Salve—*Chairman*.

## MEMBERS

2. Shri Chakleshwar Singh
3. Shri Popatlal M. Joshi
4. Shri V. Mayavan
5. Shri Erasmo de Sequeira
6. Shri Arjun Sethi
7. Shri B. R. Shukla.

## SECRETARIAT

Shri B. K. Mukherjee—*Chief Legislative Committee Officer*.

Shri J. R. Kapur—*Senior Legislative Committee Officer*.

\* \* \* \* \*

3. The Committee then took up further consideration of the question of privilege regarding handcuffing of Shri Ishwar Chaudhry, M.P. on the 5th August, 1974, when he was taken from Phulwari Sharif Jail to the Magistrate's Court in Patna (Bihar).

The Committee deliberated on the matter and noted that certain information which the Committee, at their sitting held on the 6th November, 1974, had desired to be obtained from the Government of Bihar, had not been received in full as yet. The Committee decided to examine the Home Secretary of the Government of Bihar in connection with the information desired by the Committee and other relevant facts of the case. Keeping in view the fact that the Administration of Government of Bihar would be fully busy at present with the flood situation in Bihar, the Committee decided to fix 7th\* November, 1975, for the evidence of the Home Secretary, Government of Bihar.

\* This date was subsequently changed to 15th November, 1975

Para 2 relates to other cases and has accordingly been omitted.

4. The Committee also desired that the following information might also be obtained from the Government of Bihar through the Ministry of Home Affairs:—

- (i) A note describing the procedure for production of under-trial prisoners in courts and the procedure actually followed in the case relating to the handcuffing of Shri Ishwar Chaudhry, M.P., and other Satyagrahis on the 5th August, 1974, when they were taken from Phulwari Sharif Jail to the Magistrate's Court in Patna.
- (ii) The authority/officer competent to issue orders for the handcuffing of under-trial prisoners and the name and designation of the concerned authority/officer who actually issued orders in this case.
- (iii) A copy each of the Police and Jail Manuals of the State of Bihar.

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*The Committee then adjourned.*

## VII

### Seventh Sitting

NEW DELHI, SATURDAY, THE 15TH NOVEMBER, 1975.

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The Committee sat from 10.30 to 12.05 hours.

### PRESENT

Shri N. K. P. Salve—*Chairman.*

### MEMBERS

2. Shri Chakleshwar Singh
3. Shri Somnath Chatterjee
4. Shri M. C. Daga
5. Shri K. G. Deshmukh
6. Shri Arjun Sethi
7. Shri B. R. Shukla

### SECRETARIAT

1. Shri B. K. Mukherjee—*Chief Legislative Committee Officer.*

Shri J. B. Kapur—*Senior Legislative Committee Officer.*

\*\*\*Para 5 relates to other case and has accordingly been omitted.

## WITNESS

Shri R. N. Dash—*Secretary, Home Department, Government of Bihar.*

2. The Committee took up further consideration of the question of privilege regarding handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974, when he was taken from Phulwari Sherif Jail to the Magistrate's Court in Patna (Bihar).

3. Shri R. N. Dash, Secretary, Home Department, Government of Bihar, was called in and examined by the Committee on oath.

*(verbatim record was kept).*

4. The witness undertook to have a thorough probe made into the matter and promised to send a report to the Committee within a month. The Committee gave him time upto the 31st December, 1975, for the purpose.

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*The Committee then adjourned to meet again on Saturday, the 27th December, 1975.*

## VIII

## Eighth Sitting

NEW DELHI, SATURDAY, THE 27TH DECEMBER, 1975

The Committee sat from 10.30 to 11.50 hours.

## PRESENT

Shri N. K. P. Salve—*Chairman.*

## MEMBERS

2. Shri Somnath Chatterjee
3. Shri M. C. Daga
4. Shri K. G. Deshmukh
5. Shri Popatlal M. Joshi
6. Shri Chintamani Panigrahi
7. Shri Erasmo de Sequeira
8. Shri Arjun Sethi
9. Shri B. R. Shukla

## SECRETARIAT

Shri B. K. Mukherjee—*Chief Legislative Committee Officer.*

Shri J. R. Kapur—*Senior Legislative Committee Officer.*

2. The Chairman apprised the Committee of the contents of the telex message dated the 24th December, 1975, received from Shri R. N. Dash, Secretary, Home Department, Government of Bihar, requesting *inter alia* extension of time by one month for submission to the Committee of the State Government's inquiry report on the incident leading to the hand-cuffing of Shri Ishwar Chaudhry, M.P. on the 5th August, 1974, at Patna. The Committee acceded to the request of Shri Dash and granted extension of time upto the 15th February, 1976, with the stipulation that no further extension of time would be given in this regard.

The Committee directed that the communications received from the Government of Bihar regarding the procedure for hand-cuffing of prisoners, might be circulated to the Committee.

The Committee also decided that as it would not be possible for the Committee to present their Report to the House on this matter by the end of the ensuing Session (January, 1976), a motion might be moved in the House by the Chairman seeking further extension of time for the presentation of the Report till the last day of the next Session (Budget Session).

\* \* \*

*The Committee then adjourned.*

## IX

### Ninth Sitting

NEW DELHI, MONDAY, THE 16TH FEBRUARY, 1976

The Committee sat from 10.30 to 11.45 hours.

#### PRESENT

Shri N. K. P. Salve—*Chairman*.

#### MEMBERS

2. Shri Chakleshwar Singh
3. Shri M. C. Daga
4. Shri K. G. Deshmukh
5. Shri Indrajit Gupta
6. Shri Popatlal M. Joshi
7. Shri V. Mayavan
8. Shri Erasmo de Sequeira
9. Shri Arjun Sethi

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\*\*\*Paras 3-6 relate to another case and have accordingly been omitted.

**SECRETARIAT**

**Shri B. K. Mukherjee—Chief Legislative Committee Officer.**

**WITNESS**

**Shri S. L. Khurana, Secretary, Ministry of Home Affairs.**

2. The Chairman apprised the Committee about the receipt of the letter dated the 12th February, 1976, from Shri R. N. Dash, Secretary, Home Department, Government of Bihar, forwarding a copy of report of Shri N. K. Das, Deputy Secretary, Home Department, Government of Bihar, who enquired into the incident leading to the handcuffing of Shri Ishwar Chaudhry, M.P. on the 5th August, 1974, at Patna and stating that the report was being examined by the State Government and their comments thereon would follow shortly.

The Committee directed that copies of the enquiry report might be circulated to the Committee. The Committee further directed that the comments of the Government of Bihar on the said enquiry report, when received, might also be circulated to the Committee.

\* \* \* \* \*

*The Committee then adjourned.*

**X****Tenth Sitting**

**NEW DELHI, TUESDAY, THE 23RD MARCH, 1976**

The Committee sat from 10.00 to 10.55 hours.

**PRESENT**

**Shri N. K. P. Salve—Chairman.**

**MEMBERS**

2. Shri Chakleshwar Singh
3. Shri M. C. Daga
4. Shri Indrajit Gupta
5. Shri B. R. Shukla.

**SECRETARIAT**

**Shri B. K. Mukherjee—Chief Legislative Committee Officer.**

**Shri J. R. Kapur—Senior Legislative Committee Officer.**

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\*\*\*Para 3 relates to another case and has accordingly been omitted.

2. The Committee deliberated on the question of privilege regarding handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974, when he was taken from Phulwari Sharif Jail to the Magistrate's Court in Patna (Bihar).

The Committee decided to defer further consideration of the matter to their next sitting.

*The Committee then adjourned.*

## XI

### Eleventh Sitting

NEW DELHI, MONDAY, THE 14TH JUNE, 1976

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The Committee sat from 15.00 to 15.50 hours.

#### PRESENT

Shri N. K. P. Salve—*Chairman*.

#### MEMBERS

2. Shri Chak'eshwar Singh
3. Shri Vikram Mahajan
4. Kumari Maniben Vallabhbhai Patel
5. Shri Natwarlal Patel
6. Shri Vayalar Ravi
7. Shrimati Maya Ray
8. Shri Arjun Sethi.

#### SECRETARIAT

Shri B. K. Mukherjee—*Chief Legislative Committee Officer*.

Shri J. R. Kapur—*Senior Legislative Committee Officer*.

2. The Committee deliberated on the question of privilege regarding handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974, when he was taken from Phulwari Sharif Jail to the Magistrate's Court in Patna (Bihar).

The Committee directed that the following papers/documents might be circulated to the Committee:—

- (i) Record of verbatim proceedings (English version) of the oral evidence given before the Committee by the witnesses examined so far by the Committee in the case; and



- (ii) The detailed enquiry report of the Enquiry Officer appointed by the Government of Bihar, who enquired into the incident leading to the handcuffing of Shri Ishwar Chaudhry, M.P., on 5th August, 1974.

\* \* \* \* \*

*The Committee then adjourned.*

## XII

### Twelfth Sitting

NEW DELHI, WEDNESDAY, THE 30TH JUNE, 1976

The Committee sat from 15.00 to 15.45 hours.

#### PRESENT

Shri N. K. P. Salve—*Chairman.*

#### MEMBERS

2. Shri Chakleshwar Singh
3. Shri Aravinda Bala Pajanor
4. Kumari Maniben Vallabhphai Patel
5. Shri Natwarlal Patel
6. Shrimati Maya Ray
7. Dr. H. P. Sharma
8. Shri R. P. Ulaganambi

#### SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

Shri H. L. Malhotra—*Senior Legislative Committee Officer.*

2. The Committee deliberated on the question of privilege regarding handcuffing of Shri Ishwar Chaudhry, M.P. on the 5th August, 1974, when he was being taken from Phulwari Sharif Jail to the Magistrate's Court in Patna (Bihar). The Committee felt that the evidence already taken by the Committee in the matter and the report of the enquiry conducted by the Government of Bihar were quite comprehensive to enable the Committee to arrive at their conclusions, and that, therefore, there was no need to take any further evidence in the matter. The Committee decided to continue their deliberations at subsequent sittings.

\* \* \* \* \*

*The Committee then adjourned.*

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\*\*\*Paras 3 and 4 relate to another case and have accordingly been omitted.

**XIII****Thirteenth Sitting****NEW DELHI, THURSDAY, THE 29TH JULY, 1976**


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The Committee sat from 15.00 to 16.15 hours.

**PRESENT**

Shri N. K. P. Salve—*Chairman*.

**MEMBERS**

2. Shri Chakleshwar Singh
3. Shri Somnath Chatterjee
4. Shri Vikram Mahajan
5. Kumari Maniben Vallabhbhai Patel
6. Shri Natwarlal Patel
7. Shri Vayalar Ravi
8. Shri Arjun Sethi
9. Dr. H. P. Sharma

**SECRETARIAT**

Shri J. R. Kapur—*Chief Legislative Committee Officer*.

Shri H. L. Malhotra—*Senior Legislative Committee Officer*.

2. The Committee deliberated on the question of privilege regarding handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974, when he was taken from Phulwari Sharif Jail to the Magistrate's Court in Patna (Bihar). The deliberations were not concluded.

3. The Committee decided to meet again on the 30th July, 1976, at 15.30 hours to continue their deliberations on the matter.

*The Committee then adjourned.*

**XIV****Fourteenth Sitting****NEW DELHI, FRIDAY, THE 30TH JULY, 1976**


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The Committee sat from 15.30 to 16.30 hours.

**PRESENT**

Shri N. K. P. Salve—*Chairman*.

**MEMBERS**

2. Shri Chakleshwar Singh
3. Shri Somnath Chatterjee

4. Shri H. R. Gokhale
5. Shri Vikram Mahajan
6. Kumari Maniben Vallabhbhai Patel
7. Shri Vayalar Ravi
8. Shri Arjun Sethi

#### SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

Shri H. L. Malhotra—*Senior Legislative Committee Officer*

2. The Committee further deliberated on the question of privilege regarding handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974 when he was taken from Phulwari Sharif Jail to the Magistrate's Court in Patna (Bihar).

3. The Committee observed that the Committee of Privileges (Second Lok Sabha) in their Fifth Report, laid on the Table of the House on the 27th September, 1958, had recommended that the Ministry of Home Affairs might be requested "to again bring the contents of their circular letter No. F. 2/13/57-P. IV, dated the 26th July, 1957, to the notice of the State Governments and to stress upon them the desirability of strictly complying with them, specially in the case of Members of Parliament in view of their high status". In pursuance of that recommendation, the Ministry of Home Affairs had issued necessary instructions to all State Governments/Union Territories on the 24th January, 1959 for their guidance. Subsequently, those instructions were again reiterated by the Ministry of Home Affairs to all concerned on the 21st February, 1968.

The Committee further observed that clear instructions in this regard had also been issued by the Government of Bihar to appropriate authorities concerned. The Committee also noted that the Government of Bihar had ordered departmental action against six officers and staff concerned for their alleged lapses resulting in the handcuffing of Shri Ishwar Chaudhry, M.P., on 5th August, 1974.

4. The Committee were of the view that it was unnecessary, for purposes of this case, to go into the larger question whether handcuffing of a Member of Parliament as such constituted a breach of privilege or contempt of the House. The Committee found that the handcuffing of Shri Ishwar Chaudhry, M.P., on the 5th August, 1974, in the circumstances of the case, was in utter disregard and in defiance of the clearest instructions of the Ministry of Home Affairs as well as the Government of Bihar particularly those governing the Members of Parliament. As such the action of the concerned officials in handcuffing was highly improper and deplorable. The con-

duct of the officers involved in this incident, therefore, deserved to be severely censured.

The Committee, however, noted that the necessary departmental action was being taken by the Government of Bihar against the six officers concerned. The Committee also noted that clear instructions about handcuffing of Members of Parliament had already been issued to the authorities concerned both by the Ministry of Home Affairs as well as by the Government of Bihar. The Committee, therefore, decided to recommend to the House that no further action be taken in the matter.

\* \* \*

*The Committee then adjourned.*

## XV

### Fifteenth Sitting

NEW DELHI, MONDAY, THE 30TH AUGUST, 1976

The Committee sat from 10.15 to 1.00 hours.

#### PRESENT

Shri N. K. P. Salve—*Chairman.*

#### MEMBERS

2. Shri Chakleshwar Singh
3. Shri Natwarlal Patel
4. Shrimati Maya Ray
5. Shri Arjun Sethi
6. Dr. H. P. Sharma

#### SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

2. The Committee considered their draft Nineteenth Report on the question of privilege regarding handcuffing of Shri Ishwar Chaudhry, M.P. on the 5th August, 1974, when he was taken from Phulwari Sharif Jail, Patna, to the Magistrate's Court, and adopted it.

The Committee authorised the Chairman and, in his absence, Shrimati Maya Ray and Dr. H. P. Sharma to present the Report to the House on the 31st August, 1976.

\* \* \* \* \*

*The Committee then adjourned.*

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Para 5 and 6 relate to another case and has accordingly been omitted.

\*\*\*Para 3 relates to another case and has accordingly been omitted.

MINUTES OF EVIDENCE TAKEN BEFORE THE COMMITTEE  
OF PRIVILEGES

Wednesday, the 16th November, 1974

PRESENT

Dr. Henry Austin—*Chairman*.

MEMBERS

2. Shri M. C. Daga
3. Shri K. G. Deshmukh
4. Shri Chintamani Panigrahi
5. Shri Maddi Sudarsanam
6. Shri Atal Bihari Vajpayee
7. Shri G. Viswanathan

SECRETARIAT

Shri J. R. Kapur—*Under Secretary*.

WITNESS

Shri Ishwar Chaudhry, M. P.

*(The Committee met at 11.00 hours)*

*Evidence of Shri Ishwar Chaudhry, M.P.*

**Mr. Chairman:** Mr. Chaudhry, as you are an M.P., I am advised it is not at all necessary for you to take an oath. I leave it upto you to take an oath or even without an affirmatory oath you can go ahead.

**श्री ईश्वर चौधरी :** मैं जो भी कहूंगा सच-सच कहूंगा ।

**श्री मूल जज डागा :** आप की बात पर विश्वास किया जायेगा, इसलिये आपको जो कुछ कहना है कहिये ।

**श्री ईश्वर चौधरी :** माननीय सभापति जी, मैंने श्रीर हमारे साथ में अपने सत्याग्रहियों ने 10 जून, 1974 को बिहार विधान सभा के सामने शांतिपूर्ण प्रदर्शन किया था और स्त्रेष्ठा से अपने को जेल में जाने के लिए समर्पित किया था । हम सभी सत्याग्रही फुलवारी शरीफ कैम्प जेल भेज दिये गये । वहाँ के अधिकारियों द्वारा कैदियों के राशन की चोरी करने तथा उन के भ्रष्टाचार

के विरोध में हम लोगों ने वहाँ भी आंशिक रूप से सत्याग्रह और भूख-हड़ताल आदि के द्वारा सरकारी मशीनरी को यह बताने की कोशिश की थी आप के द्वारा काफी भ्रष्टाचार फैल रहा है और जेल में आप इसे रोकें किन्तु इसी बात को लेकर अधिकारियों ने जो पूर्व के क्रिमिनल कैदी थे उनको अपनी तरफ कर लिया। 1 जुलाई को कुछ कैदियों द्वारा यह कहे जाने पर कि आप लोगों की कार्यवाही ठीक नहीं है और सभी सत्याग्रही ठीक ठाक नहीं रहते हैं और हम लोगों में से जो महानुभाव मिलने के लिए आते हैं उन से आप लोग छेड़छाड़ करते हैं, मैंने यह कहा कि ऐसी बात आज तक नहीं हुई है और ऐसा लगता है कि अधिकारी ऐसा कहने के लिए आप को कहते हैं। इस पर कैदियों ने कहा कि इस तरह का अगर आप का रवैया रहा, तो आप को जान से मार देंगे, चाहे जितनी जानें जायें, इसकी चिन्ता नहीं है। इस पर ठीक 1 जुलाई को मैंने लिखित रूप में जेलर साहब, सुपरिन्टेंडेंट साहब और आई०जी० साहब को यह दिया कि ऐसा लगता है कि भयंकर दुर्घटना जेल में होगी और आप सत्याग्रहियों को संरक्षण दीजिये। इसी के दूसरे दिन 2 जुलाई को योजनाबद्ध तरीके से सरकारी अधिकारी जेल के अन्दर आए। उस समय मैं वार्ड नं० 4 पर खड़ा था। उस समय के जेलर श्री वासुदेव नारायण सिंह और श्री तेज प्रताप नारायण सिंह, असिस्टेंट जेलर हमारे पास आए और उनके साथ कुछ सिपाही और कुछ कैदी भी थे। उन्होंने मुझे पकड़ लिया और जेलर वासुदेव नारायण सिंह ने मेरे पेट में धूँसा मारा और श्री तेजप्रताप नारायण सिंह ने पोछ में धूँसा मारा। मैं झटक कर वार्ड नं० 4 में चला गया और वार्ड को लोक कर दिया गया। इसके बाद अनायास गला खींच कर पीटा और डिवीजन में बन्द होने वाले श्री अश्वनी कुमार चौबे, जिन्होंने अन्दर से अपने डिवीजन को लोक कर लिया था और किबाड़ लगा लिये थे, को भी अधिकारियों ने अन्दर से खींच कर काफी पीटा और उन के बदन को जलाया गया और लाठी से प्रहार किया। अगर आप पुलिस रिपोर्ट को देखें या मेडिकल रिपोर्ट देखें, तो काफी सत्यता आप के सामने आ जायेगी। यह बात 2 तारीख की थी। उसके पूर्व हमने कहा था कि हम लोगों को कोर्ट में हाजिर किया जाए लेकिन करीब दो महीने इसी तरह गुजार दिये और कोर्ट में हाजिर नहीं होने दिया जबकि तारीखें लगती थीं।

5 अगस्त को कोर्ट में ले जाने के तलसिले में सभी सत्याग्रहियों को हथकड़ी और कमर में रस्सा बांध कर लाया गया। ऐसा अनुमान लगता है कि सब सरकारी आदेश से हुआ। हम ने जब वहाँ के सिपाहियों से कहा कि इन सत्याग्रहियों को हथकड़ी नहीं लगनी है और इस के बारे में आप उच्च अधिकारियों से पूछ लीजिए, तो यह कहा कि आप को भी लगनी है। यह बात सुन कर मैंने विवाद करना पसन्द नहीं किया और मुझे भी हथकड़ी लगा दी। जब हथकड़ी लगा कर सत्याग्रहियों को गाड़ी में बैठाया गया और जेल के फाटक पर हम पहुँचे तो सारा दृश्य जेलर साहब देख रहे थे। जब हम जाने लगे तो इतने शब्द उन्होंने कहे कि ये तो डिवीजन में हैं, इनको हथकड़ी नहीं लगनी चाहिए? फिर भी हमारे हथकड़ी लगी रही और मैं कोर्ट के अन्दर उसी हथकड़ी लगे रूप में आया और सत्याग्रहियों के भी हथकड़ी लगी रही और यह सारा दृश्य कोर्ट के सारे अधिकारी और प्रेस वाले देख रहे थे।

सभापति जी, ऐसा लगता है कि यह हथकड़ी लगाने की सारी बात सुनियोजित ढंग से की गई थी क्योंकि जेल की कुव्ववस्था के खिलाफ हम सत्याग्रहियों ने सत्याग्रह आदि कर के प्रशासन का ध्यान खींचने का प्रयास किया था और हम लोगों का अपमान करने की दृष्टि से यह सब किया गया था। जेल के अधिकारियों ने इस में काफी साम्प्रवाही बर्ती है क्योंकि हम को आई० जी०

भी जानते थे, सुपरिंटेंडेंट भी जानते थे और जेलर भी जानते थे। हमारे साथ दुर्व्यवहार किया गया और हथकड़ी लगाने का मामला जानबूझ कर किया गया है।

इस में आई० जी०, सुपरिंटेंडेंट और जेलर सभी बोधी हैं। मैं आप से कहना चाहता हूँ कि इस सम्बन्ध में जो हमारे द्वारा कही गई बात है वह सच है और अधिकारियों को इस बारे में उचित दण्ड दिया जाये।

श्री मूल चन्द डागा : 10 जून 1974 को आप ने स्वेच्छा से सत्याग्रह किया था और उस दिन आप ने बता दिया था कि आप ईश्वर चौधरी, संसद सदस्य, लोक सभा हैं ?

श्री ईश्वर चौधरी : जी हां। उन्होंने लिखित में इस बात की जानकारी रखी थी।

श्री मूल चन्द डागा : फूलवारी जेल में भी आप ने दर्ज करवा दिया था कि आप संसद सदस्य हैं ?

श्री ईश्वर चौधरी : जी हां।

श्री मूल चन्द डागा : और आप को जेल में सब संसद सदस्य के नाते पुकारते थे ?

श्री ईश्वर चौधरी : जी हां।

श्री मूल चन्द डागा : आपने जो शिकायत की थी राशन बोरी और भ्रष्टाचार की यह आप ने आई०जी०पी० और तीन सज्जनों के पास भेजी थी। क्या उस की प्रतिलिपि आप के पास है ?

श्री ईश्वर चौधरी : जो हम सत्याग्रह कर रहे थे वह जेल की कुव्ववस्था के सम्बन्ध में था। लेकिन जब सरकारी अधिकारियों ने कुछ क्रिमिनल्स को अपने पक्ष में भिला लिया तो कुछ कैदियों ने हम से और कुछ और सत्याग्रहियों से कहा कि आप लोगों को हम बहुत मारेंगे, और जान भी चली गई तो कोई चिन्ता नहीं है। मैंने लिखित दिया था और एक प्रतिलिपि पर रीसीव लिखवा लिया था। हम ने जेलर को दिया और जेलर ने क्लर्क को कहा कि इस को ले लीजिए। क्लर्क ने स्वीकृति लिख कर के मुझे दे दी और मैंने अपने पास रख ली। उसकी चर्चा अपने स्टेटमेंट में मन्त्री जी ने पार्लियामेंट में भी की है। उस की प्रतिलिपि अभी मेरे पास उपलब्ध नहीं है, लेकिन वैसे मेरे पास रखी हुई है।

श्री मूल चन्द डागा : उस प्रतिलिपि में आप ने 'संसद सदस्य' लिखा होगा ?

श्री ईश्वर चौधरी : मैंने लिखा था ईश्वर चौधरी, एम०पी०।

श्री मूल चन्द डागा : उस दस्तावेज के देने के कितने रोज बाद में आप मैजिस्ट्रेट के सामने पेश किये गये ?

श्री ईश्वर चौधरी : 1 जुलाई को लिखित रूप में हम ने शिकायत की थी लेकिन उस के ठीक एक महीने और चार दिन बाद 5 अगस्त को मैजिस्ट्रेट के सामने हथकड़ी लगा कर लाया गया।

श्री मूल चन्द डागा : मैजिस्ट्रेट ने आप को हथकड़ी में देखा था ?

श्री ईश्वर चौधरी : मैजिस्ट्रेट की कोर्ट में सभी सत्याग्रहियों के लिए स्थान नहीं था, इसलिए उन्होंने बाहर बैठने का आदेश दिया लेकिन मैजिस्ट्रेट को इसका आभास हो गया था कि सब सत्याग्रही हथकड़ी पहने हुए हैं। कुछ सत्याग्रही दरवाजे पर खड़े थे और हम भी बीच में आ गये थे। इसलिए ऐसा लगता है कि सभी सत्याग्रहियों को मैजिस्ट्रेट ने देखा था मगर एम०पी० के रूप में मुझे देखा हथकड़ी पहने यह मैं नहीं कह सकता। पत्रकारों ने और सभी अधिकारियों ने देखा था।

श्री मूल चन्द डागा : आप ने उस समय मैजिस्ट्रेट के सामने यह शिकायत की थी या नहीं ?

श्री ईश्वर चौधरी : नहीं। मैजिस्ट्रेट के सामने भीड़ बहुत काफी थी और स्थान छोटा था, इसलिए शिकायत नहीं की। हमारे हथकड़ी शुरू से अन्त तक लगी रही।

श्री मूल चन्द डागा : कोर्ट प्रेमीसिज में भी हथकड़ी लगी रही ?

श्री ईश्वर चौधरी : जी, हां। कोर्ट में हाजिर नहीं किया गया लेकिन हथकड़ी लगी रही।

श्री अटल बिहारी वाजपेयी : कोर्ट में पेश नहीं हुए ?

श्री ईश्वर चौधरी : बाहर रहे।

श्री मूल चन्द डागा : कमर में रस्सा बांधा था ?

श्री ईश्वर चौधरी : जी हां। रस्सा 5 सत्याग्रहियों के बांधा था लेकिन हथकड़ी शब्द कहने से 'कमर में रस्सा' भी आ जाता है।

श्री अटल बिहारी वाजपेयी : लेकिन आप ने कहा है कि रस्सा नहीं बांधा क्योंकि वह छोटा पड़ गया था ?

श्री ईश्वर चौधरी : एक रस्से में पांच सत्याग्रहियों को बांधा गया था लेकिन रस्सा बांधने के बाद यह इतना छोटा रह गया था कि सिपाहियों को पकड़ने में दिक्कत होती है। इसलिए मेरा कहना यह है कि रस्सा तो सभी सत्याग्रहियों को लगा रहा।

श्री मूल चन्द डागा : क्या यह बात किसी अखबार में निकली थी ?

श्री ईश्वर चौधरी : 5 अगस्त के दूसरे दिन छपी थी और 6 अगस्त को लोक सभा में माननीय जगन्नाथ राव जोशी जी ने इस बात को उठाया था कि अखबारों में देखने को मिला है कि श्री ईश्वर चौधरी, संसद सदस्य को हथकड़ी लगी है और सदन का ध्यान इस तरफ आकृष्ट किया था।



श्री मूल बन्ध डांगा : आप के खिलाफ कौन सी दफा लगाई गई थी ?

श्री ईश्वर चौधरी : 147, 188 और क्रिमिनल एमेंडमेंट एक्ट, 1932 की दफा 7 लगाई गई थी ।

श्री अटल बिहारी वाजपेयी : आप ने अपने काण्ड के बारे में श्री मोहसिन ने जो वक्तव्य लोक सभा में दिया है, उस को देखा है ?

श्री ईश्वर चौधरी : जी हां, देखा है ।

श्री अटल बिहारी वाजपेयी : इस में यह कहा गया है कि जेल में जो पुराने कैदी थे उन्होंने सत्याग्रहियों को घमकी दी थी ?

श्री ईश्वर चौधरी : जी हां ।

श्री अटल बिहारी वाजपेयी : लेकिन जेल अधिकारियों का कहना यह है कि कैदी सत्याग्रहियों से इसलिए नाराज थे क्योंकि सत्याग्रही जेल के दरवाजे पर बैठे थे और कैदियों से मिलने के लिए जो लोग आते थे उन को बे गालियां दिया करते थे । इसके बारे में आप को क्या कहना है ?

श्री ईश्वर चौधरी : इस सम्बन्ध में मुझे कहना है कि जब सत्याग्रही भूख-हड़ताल करते थे तो अधिकारियों को चोरी करने और लोगों से पैसे लेने का मौका नहीं मिलता था । इसलिए अधिकारियों ने, पुराने क्रिमिनल कैदियों को उभारा और ये बातें कहने के लिए मजबूर किया । मुझे तो यह जानकारी मिली है कि जब हम लोग बन्द हो गये तो कैदी लोगों से लिखित रूप में यह लेना शुरू किया कि हम से जो लोग मिलने के लिए आते हैं उनसे सत्याग्रही छेड़ छाड़ करते हैं और इस तरह का एक दस्तावेज तैयार करने की योजना उन्होंने बनाई थी और इस का कुछ कैदियों ने विरोध किया था कि हम लिख कर नहीं देंगे ।

श्री अटल बिहारी वाजपेयी : तो यह जो जेल अधिकारियों का कहना है यह गलत है ?

श्री ईश्वर चौधरी : अधिकारियों द्वारा हमारे खिलाफ कही गई यह बात गलत है । हम लोगों ने कभी गली-गलौज नहीं किया और जो लोग मिलने के लिए आते थे उनको नहीं रोका, हां, पुलिस को जो रुपया मिलता था वह मिलने नहीं दिया ।

श्री मूल बन्ध डांगा : बयान में यह भी कहा गया है कि जेल में दो सत्याग्रहियों के बीच में किसी मामले पर झगड़ा हुआ और वह झगड़ा बढ़ गया जिसमें और कैदी तथा जेल के अधिकारी भी कूद पड़े ।

श्री ईश्वर चौधरी : इस सम्बन्ध में इतना ही कहना है कि योजनाबद्ध तरीके से यह सब कार्यवाही चल रही थी । सत्याग्रही आपस में लड़ाई करने के लिए जेल के अन्दर थोड़े ही जायेंगे । जेल अधिकारियों के खिलाफ इन लोगों ने सत्याग्रह और भूख-हड़ताल की, इसलिए पुराने क्रिमिनल कैदियों को सत्याग्रहियों के खिलाफ उकसाया और इसी बुझावना से श्री अश्वनी कुमार चौबे को

पेट श्रीरपीठ में मारा श्रीर श्री पूरण चन्द, एक्स-एम० एल० ए० के लाख निवेदन करने पर भी सिपाहियों श्रीर कैदियों ने श्री अश्वनी कुमार चौबे को जान से मार डाला . . . ।

**श्री अटल बिहारी वाजपेयी :** इसका मतलब है बहुत ज्यादा मारा ।

**श्री ईश्वर चौधरी :** जी हां। वे अस्पताल में काफी इंजरीज में रहे लेकिन बच गए । श्री जयप्रकाश नारायण श्रीर जेलर वगैरह सब लोग उनको देखने गए थे । उस समय भी सारी बात की जानकारी अधिकारियों को दी गई थी ।

**Shri G. Viswanathan:** While making a statement in the Lok Sabha the Minister stated that along with other satyagrahis Mr. Chaudhry was handcuffed by the escorting party. He says that escorting party did not identify you. Who were in the escorting parties? Did you see them before?

**श्री ईश्वर चौधरी :** इसमें मुझे यह कहना है कि इस्कोर्ट पार्टी को यह जानकारी थी क्याकि जो लिस्ट उनको मिलती है, उसमें यह लिखा रहता है कि कौन आदमी एम० पी० है श्रीर कौन एम० एल० ए० । लेकिन उन्होंने उन आदेशों का पालन इसलिए नहीं किया क्योंकि उच्चाधिकारी आई० जी० साहब ने उनको बता दिया था । मैं आप को बता दूँ कि उनको हथकड़ी श्रीर रस्से भी गिन कर दिये जाते हैं कि इतने सत्याग्रही हैं श्रीर इनको इतने रस्सों से आप बांध कर लाइए । जो इस्कोर्ट का मेजर होता है, उसको यह सब दे दिया जाता है । इसलिए मेरा कहना है कि ईश्वर चौधरी, एम० पी० हैं, इसकी जानकारी उन लोगों को थी लेकिन सरकारी आदेश ऐसे थे कि सभी को हथकड़ी में लाया जाये । तब जेलर क्या कर सकता है ? जब हम लोग हथकड़ी पहने जा रहे थे तो जेलर बैठे हुए थे श्रीर उन्होंने हमें हथकड़ी लगी देखा श्रीर जब आंख में आंख लगी, तब उन्होंने ये शब्द कहे कि इन्हें हथकड़ी नहीं लगनी चाहिए थी, यह तो डिबीजन में हैं । तो जेलर को भी यह पता था ।

**Shri G. Viswanathan:** According to the Minister's statement, when they found out that you were an M.P. they wanted the handcuffs to be removed at the gate, but you insisted that the handcuffs should not be removed as the other Satyagrahis were hand-cuffed.

**श्री ईश्वर चौधरी :** नहीं । लगता ऐसा है कि मुझे हथकड़ी लगाने की योजना पहले ही से थी । यह सरकारी आदेश था । जेलर सामने बैठे थे । वह भी देख रहे थे । हथकड़ी लगाकर मुझे भी ले जाया गया । जब मेरी निगाह जेलर पर पड़ी तो उसने चुस्की लेने के ब्याल से या मजाक करने के ब्याल से कहा कि यह डिबीजन का आदमी था, इसको हथकड़ी न लगाओ । मैंने कहा अब तो लग ही गई है । सबके साथ मुझे भी लगा दी गई थी । पहने ही उन्होंने कह दिया था कि सबको लगेगी, इनको भी लगेगी ।

**Shri G. Viswanathan:** Were you taken in a bus or a lorry or you were asked to walk from the jail to the court?

**श्री ईश्वर चौधरी :** गाड़ी में हथकड़ी लगा करके ।

**Shri G. Viswanathan:** When you were taken before the Magistrate, were you in hand-cuffs at that time?

**Shri M. C. Daga:** He has said already that as the number of Satyagrahis was great, they were not taken inside.

**Shri G. Viswanathan:** Did the Magistrate see you?

**श्री ईश्वर चौधरी :** मेरे क्वाल से नहीं देखा । बाकी लोगों ने देखा ।

**Shri G. Viswanathan:** Till you returned to the jail, you remained in hand-cuffs.

**श्री ईश्वर चौधरी :** जी हाँ ।

**श्री के० जी० बेशमुख :** आपने कहा है कि जेलर ने मजाक से कहा कि ये डिबीजन के आदमी हैं इनको हथकड़ी नहीं लगनी । लेकिन एस्कॉर्ट पार्टी का जो प्रमुख था उसने भी कुछ कहा कि हमारी गलती हो गई है, इसको निष्कलना चाहते हैं ।

**श्री ईश्वर चौधरी :** एस्कॉर्ट पार्टी के नेता ने बोला होता तो हम समझ गए होते । लेकिन बोला नहीं ।

**श्री के० जी० बेशमुख :** आपको मैजिस्ट्रेट के सामने हथकड़ी लगा कर के ले जाया गया । उनके सामने आपने क्यों कम्प्लेन नहीं किया कि कानून के खिलाफ जाकर आपको हैंडकफ करके लाए हैं ?

**श्री ईश्वर चौधरी :** हम सत्याग्रही थे । दूसरे सत्याग्रहियों के साथ मुझे भी बाहर दरवाजे पर बिठाया गया । मैंने सोचा कि मैजिस्ट्रेट बुलाएंगे लेकिन उन्होंने बुलाया नहीं । हथकड़ी उस समय भी लगी थी । बुलाये के बाद ही हम उनके सामने जा सकते थे ।

**Mr. Chairman:** When you were admitted into the jail, did anybody check your body or question you?

**श्री ईश्वर चौधरी :** पानेट चँका नहीं हुआ ।

**Mr. Chairman:** On the day you were arrested and taken to the jail, had you any papers, diary or purse with you?

**श्री ईश्वर चौधरी :** नहीं ।

**Mr. Chairman:** Did anybody search you?

**श्री ईश्वर चौधरी :** सब नहीं किया ।

**Mr. Chairman:** Who was the first person who met you in the jail.

**श्री ईश्वर चौधरी :** जेल के भीतर हमारा परिचय हुआ ।

**Mr. Chairman:** The jailor knew that you were an M.P.

**श्री ईश्वर चौधरी :** वह जान गए कि ईश्वर चौधरी है। एम पी है। एक वायरलेस भी लोकसभा स्पीकर को उन्होंने भेजा।

**Mr. Chairman:** Did you have your identity card with you?

**श्री ईश्वर चौधरी :** नहीं था।

**Mr. Chairman:** Can I take it that you made him understand that you were an M.P.?

**श्री ईश्वर चौधरी :** शुरू से आखिर तक कहा कि एम पी हूँ।

**Mr. Chairman:** Did you see the warrants of arrest?

**श्री ईश्वर चौधरी :** वारंट में भी लिखा था कि एम पी है।

**Mr. Chairman:** How was it written?

**श्री ईश्वर चौधरी :** यह लिखा था कि एम पी हूँ।

**Mr. Chairman:** You say that the warrants in which your name was written, your designation, i.e. M.P. was also mentioned there. How many days were you in the jail?

**श्री ईश्वर चौधरी :** साठ दिन।

**Mr. Chairman:** Did the jailor or the officers of the jail behave with you as an M.P.?

**श्री ईश्वर चौधरी :** जी हाँ।

**Mr. Chairman:** Did you ask for any special treatment other than what was accorded to others by virtue of the fact that you are an M.P.?

**श्री ईश्वर चौधरी :** सीसा में रखने को आये एम पी और एम एल ए को डिविजन में रखा जाता है, क्लास 1 में रखा जाता है। मैं भी वहाँ था। सभी अधिकारी मुझे एम० पी० के रूप में जानते थे।

**Mr. Chairman:** Were you put in Class A by virtue of the fact that you are an M.P.

**श्री ईश्वर चौधरी :** जी हाँ।

**Mr. Chairman:** Did you receive treatment from the jailor commensurate with your status?

**श्री ईश्वर चौधरी :** जी हाँ।

**Mr. Chairman:** Were you satisfied with their treatment during your two months stay there?

**श्री ईश्वर चौधरी :** जी हाँ।

**Mr. Chairman:** Apart from that consideration, you feel that you were well taken care of?

**श्री ईश्वर चौधरी :** जब हमने जेल में कुव्ववस्था देखी तो हमने लिखित रूप से एप्ली-केशन दीं। 2 जून को वहां लाठी प्रहार हुआ, 5 जून को मेरे हाथों में हथकड़ी लगाई गई। मेरा ऐसा विश्वास था कि दुर्भावना की दृष्टि से हम लोगों के साथ ऐसा व्यवहार हुआ।

**Mr. Chairman:** I take it that you were treated as an A Class person and that everything was all right?

**श्री ईश्वर चौधरी :** मैंने निवेदन किया कि हम लोगों के साथ दुर्व्यवहार किया गया है।

**Mr. Chairman:** Have you anything else to add?

**Shri M. C. Daga:** He says he was given a beating in jail by two persons.

**Mr. Chairman:** He has said that now?

**Shri M. C. Daga:** No, in the beginning.

**Mr. Chairman:** At the time you were taken to the court by the escorting party, who was the responsible jail authority who was there?

**श्री ईश्वर चौधरी :** इसमें जेल आई० जी०।

**Mr. Chairman:** Let us be brief. When the escorting party came to the jail, was the jail, I. G. there?

**श्री ईश्वर चौधरी :** वहां उपस्थित नहीं था।

**Mr. Chairman:** What is his name?

**श्री ईश्वर चौधरी :** वहां शर्मा नाम के जेलर उपस्थित थे। जिस समय हथकड़ी लगाई गई उस समय श्री शर्मा जेलर के रूप में मौजूद थे।

**Mr. Chairman:** When the escorting party came to take you from the jail to the Magistrate's court or whatever place it was, who was the responsible officer of the jail who took you out of that place? And when you were handcuffed, who was there?

**श्री ईश्वर चौधरी :** मैंने बतलाया है कि शर्मा नाम के जेलर उपस्थित थे।

**Mr. Chairman:** Forget about that. Was there any responsible officer besides Mr. Sharma?

**श्री अटल बिहारी वाजपेयी :** चेयरमैन साहब जानना चाहते हैं—जब आपको बैरक से फाटक पर लाया गया और हथकड़ी लगाई गई उस समय कौन आफिसर मौजूद था?

**श्री ईश्वर चौधरी :** उस समय श्री शर्मा जेलर मौजूद थे।

श्री मटल बिहारी बाजपेयी : आपने पहल किसो वासुदेव सिंह का नाम लिया था ।

श्री ईश्वर चौधरी : वे लाठी चार्ज में थे ।

श्री मटल बिहारी बाजपेयी : इनके भलावा कोई और था ।

श्री ईश्वर चौधरी : इनके भलावा बलक थे । कुछ वार्डर भी थे ।

Mr. Chairman: You don't know the name of the clerk?

श्री ईश्वर चौधरी : शर्मा जानते थे कि हम एम० पी० हैं । वे हमसे जेल में भी मिलने आए थे ।

Mr. Chairman: Now, according to you, Mr. Sharma knew that you were an M.P.

श्री ईश्वर चौधरी : वे जानते थे ।

Mr. Chairman: As an M.P., were you in the knowledge of the circular issued by the Home Department that MPs should not be handcuffed? Did you have any occasion to know that?

श्री ईश्वर चौधरी : हम नहीं जानते थे । लेकिन हमें इतना अवश्य मालूम था कि एम० पी० या एम० एल० ए० जो स्वेच्छा से जेल जाने हैं उनको हथकड़ी नहीं लगाई जाती ।

Mr. Chairman: At the time you were about to be handcuffed in the presence of the jailor, did you or did you not know that there was a circular by the Home Department that MPs should not be handcuffed?

श्री ईश्वर चौधरी : मुझे साधारण तौर पर मालूम था कि हथकड़ी नहीं लगाई जाती ।

Mr. Chairman: So, on the basis of your general knowledge, did you protest in the presence of the jailor that you should not be handcuffed under law? Did you make any protest or general statement to that effect?

श्री ईश्वर चौधरी : जिस समय सभी सत्याग्रहियों को हथकड़ी लगाई जा रही थी तो एक दो सत्याग्रहियों ने कहा कि एम० पी० चाहें, अब आपकी बारी है । इस बात को सिपाही भी सुन रहे थे और जेलर भी देख रहे थे कि हथकड़ी लगाई जा रही थी, लेकिन किसी ने मना नहीं किया ।

Mr. Chairman: That is a different thing—that nobody prevented you from being handcuffed. But did you not exercise your knowledge that you should not be handcuffed and say that you are getting handcuffed under protest?

श्री ईश्वर चौधरी : हमने ऐसा नहीं कहा ।

Mr. Chairman: That one sentence is enough. So, you did not say anything. Now, did you make any similar statement to the

Police officers who came to arrest you that you, as an M.P. cannot be taken to the Magistrate Court or any other court?

**श्री ईश्वर चौधरी:** जब हमारे मित्रों ने, जिनको हथकड़ी लगाई जा रही थी, कहा कि एम० पी० साहब, अब आप आगे आइये, आपकी बारी है, तब हमने कुछ नहीं कहा।

**Shri M. C. Daga:** Why should he say so? He can't say anything when he is a prisoner.

**Shri Chintamani Panigrahi:** He has made clear about these things. He says that they were trying to cut joke at his cost and they were casting aspersions on him.

**Mr. Chairman:** They might have said all those things. But what I am saying is that Mr. Ishwar Chaudhry had not protested to the jailor for this kind of treatment. He had not at all told the Police Officer that he was an M.P. I am sure any MP would simply assert his rights.

**Shri M. C. Daga:** Why should he speak about himself?

**Mr. Chairman:** You did not say anything even when some jailor pointed out that you should not be hand-cuffed?

**श्री ईश्वर चौधरी :** वह कह रहे थे कि एम० पी० है। मैंने समझा हंसी में कह रहे हैं।

**Mr. Chairman:** You are subjective, that is all right. First you have mentioned only 'jailor' but now you say 'officiating jailor'. Was it Mr. Sharma?

**श्री ईश्वर चौधरी :** पहले आफिसिएटिंग जेलर थे। बाद में उन्होंने चार्ज लिया।

**Mr. Chairman:** It has been stated that you have been at last handcuffed or the escorting party hand-cuffed you. It is because they did not know your identity. What have you to say for that?

**श्री ईश्वर चौधरी :** सब जानते थे कि एम० पी० हूँ।

**Mr. Chairman:** When did you know that there was a circular that an M.P. should not be handcuffed and all that?

**श्री ईश्वर चौधरी :** जगन्नाथ राव जोशी जी का भाषण पार्लियामेंट में हुआ। उसको पता तो लगा कि हथकड़ी नहीं लगनी चाहिए।

**Mr. Chairman:** Why is it that you have raised a question of privilege? Were you obstructed while proceeding to attend Parliament session? Did you think that you were obstructed? Did you go to offer 'satyagraha' knowing fully well that you were to go to

jail? Was your Parliament work obstructed by your going to jail or being handcuffed by the Police?

श्री ईश्वर चौधरी : पार्लिमेंट वाला कुछ नहीं किया गया ।

**Mr. Chairman:** Did you feel that you were humiliated as an MP and also there was humiliation to the elected representatives of the people as a whole?

श्री ईश्वर चौधरी : शुरू से अन्त तक यही बात है । सारे एम० पी० का अपमान करने की दृष्टि से यह किया गया है ।

**Mr. Chairman:** Do you remember the head or the Chief Officer of the escorting party?

श्री ईश्वर चौधरी : पता नहीं है ।

**Mr. Chairman:** Thank you very much Mr. Ishwar Chaudhry. We have had to ask you all these things because you have come here as a witness.

*(Shri Ishwar Chaudhry then withdrew).*

*Thursday, the 30th January, 1975.*

#### PRESENT

Dr. Henry Austin—*Chairman*

#### MEMBERS

2. Shri M. C. Daga
3. Shri K. G. Deshmukh
4. Shri Popatlal M. Joshi
5. Shri Shyamnandan Mishra
6. Shri Chintamani Panigrahi
7. Shri Maddi Sudarsanam
8. Shri Atal Bihari Vajpayee

#### SECRETARIAT

1. Shri Y. Sahai—*Chief Legislative Committee Officer.*
2. Shri J. R. Kapur—*Senior Legislative Committee Officer.*

#### WITNESSES

1. Shri Bhubaneswar Sharma—*Acting Jailor, Phulwari Sharif Jail Patna (Bihar).*



2. Shri Rajendra Singh—*Havilder, Incharge Escort Party (which escorted Shri Ishwar Chaudhry, M.P., from Jail to Court and back.)*

*(The Committee met at 11.30 hours)*

(i) Evidence of Shri Bhubaneshwar Sharma, Acting Jailor, Phulwari Sharif Jail, Patna (Bihar).

**Mr. Chairman:** Mr. Sharma, you may take the oath. The form has been given to you.

**Shri Bhubaneshwar Sharma:** I, B, Sharma, swear in the name of God that the evidence which I shall give in this case shall be true, that I will conceal nothing and that no part of my evidence shall be false.

**Mr. Chairman:** Are you the Jailor or the Acting Jailor? What is your designation?

**Shri Bhubaneshwar Sharma:** My name is B. Sharma, Assistant Jailor.

**Mr. Chairman:** How long have you been as Assistant Jailor of Phulwari Sharif Jail, Patna?

श्री भुवनेश्वर शर्मा : 7 जुलाई, 1974 से चार्ज लिया ।

**Mr. Chairman:** On 5th August, 1974, were you on duty in that particular jail?

श्री भुवनेश्वर शर्मा : जी हाँ, मैं उस समय ऐक्टिंग जेलर था ।

**Mr. Chairman:** I think you were the acting Jailor.

**Shri Bhubaneshwar Sharma:** I was acting as Jailor because there was no Jailor.

श्री मूल चन्ध डागा : श्री ईश्वर चौधरी के हथकड़ी लगी हुई थी ?

श्री भुवनेश्वर शर्मा : जी हाँ ।

श्री मूल चन्ध डागा : तो आपने उस समय क्या किया ? आपने कुछ कहा ? आप ईश्वर चौधरी को जानते थे कि यह एम० पी० हैं ? और कितने साल से जानते थे ?

श्री भुवनेश्वर शर्मा : जी हाँ, मैं चौधरी साहब को तीन, चार साल से जानता हूँ ।

श्री मूल चन्ध डागा : श्री ईश्वर चौधरी ने कोई शिकायत की थी जेल में घाने के बाद अधिकारियों के खिलाफ कि यहाँ रिश्वत चलती है और कर्मचारी जेल के पैसे लेते हैं ।

श्री भुवनेश्वर शर्मा : उस समय मैं नहीं था । हमारी नोटिस में नहीं हुई ।

**श्री एम० सी० डागा :** क्या यह बात सही है कि आपकी पुलिस के कर्मचारी जब लोग कैदियों से मिलने आते हैं, तो आपकी बिना नोटिस के पैसे लेते हैं ?

**श्री भुवनेश्वर शर्मा :** नहीं, ऐसी बात नहीं है ।

**श्री एम० सी० डागा :** आप तो हर वक्त मौजूद नहीं रहते हैं ?

**श्री भुवनेश्वर शर्मा :** मैं ड्यूटी आवर्स में मौजूद रहता हूँ । चौबीसों घंटे नहीं रहता हूँ ।

**श्री एम० सी० डागा :** आपकी गैर-मौजूदगी में अगर पुलिस वाले पैसा ले लेते हैं, तो उसका आप को क्या पता ?

**श्री भुवनेश्वर शर्मा :** जो पैसा देगा, तो रिपोर्ट करेगा । जब रिपोर्ट होगी तो हमें मालूम हो जाएगा ।

**श्री एम० सी० डागा :** क्या यह सच बात है कि आपने वह रिपोर्ट देखी है जिसमें श्री ईश्वर चौधरी ने आप की जेल में अव्यवस्था की शिकायत की है और वह रिपोर्ट उन्होंने आई० जी० पी० को पेश की है ।

**श्री भुवनेश्वर शर्मा :** श्रीमान् जी, मैं उस समय, जबकि यह दुर्वटना घटी, जेल अधिकारी नहीं था वहाँ पर ।

**श्री एम० सी० डागा :** जब आप एक्टिंग जेलर थे, उस समय आपके नोटिस में यह बात आई और आपने ऐसे कागजात देखे थे कि श्री ईश्वर चौधरी और दूसरे सत्याग्रहियों ने जेल की अव्यवस्था, भ्रष्टाचार और आपा-धापी की घटनाओं की शिकायत की थी ?

**श्री भुवनेश्वर शर्मा :** मैंने ऐसे कागजात नहीं देखे ।

**श्री एम० सी० डागा :** आपने सुना था ?

**श्री भुवनेश्वर शर्मा :** घटना के बारे में सुना था ।

**श्री एम० सी० डागा :** जिस दिन यह घटना हुई वह 5 अगस्त का दिन था । जब उन को हथकड़ी डाले हुए जा रहे थे तो आपने श्री ईश्वर चौधरी से बात की थी ।

**श्री भुवनेश्वर शर्मा :** जी, हाँ । मैंने देखा कि उनको हथकड़ी लगी हुई है । मैं अपने कार्यालय में काम कर रहा था । गेट में 67 सत्याग्रही बन्दी थे और उनमें श्री चौधरी भी थे । शर्मा का नाम गेट पर पढ़ा गया और वारन्ट को मिलाया गया । हमारे यहाँ एक कैदी गेट रजिस्टर होता है, जिसमें सब का नाम लिखा जाता है । एस्कोर्ट पार्टी के इन्चार्ज ने उसको पढ़ कर हस्ताक्षर कर दिया । इसका मतलब है कि एस्कोर्ट पार्टी को जानकारी थी कि वह एम० पी० हैं । जो बन्दी जा रहे थे, उसमें एम० पी० साहब भी जा रहे थे और इसका पता एस्कोर्ट पार्टी को था ।

**श्री एम० सी० डागा :** जब आपने देखा कि एम० पी० साहब को हथकड़ी लग रही है तो आप के मुँह से क्या शब्द उस समय निकले ।

श्री भुवनेश्वर शर्मा : मैंने उन्हें हथकड़ी लगते नहीं देखा । अंगर में देख लेता, तो मैं तुरन्त मना कर देता ।

श्री एम० सी० डागा : आपकी श्रीर श्री चौधरी की आंखें चार हुई ।

श्री भुवनेश्वर शर्मा : जब मैंने उन्हें देखा कि हथकड़ी लगी है, तो मैंने एस्कोर्ट पार्टी को डांटा ।

श्री एम० सी० डागा : वे शब्द क्या थे ?

श्री भुवनेश्वर शर्मा : उनको श्री ईश्वर चौधरी ने अपने बयान में दिया है ।

श्री एम० सी० डागा : आपने जो कहा वह बताइए ।

श्री भुवनेश्वर शर्मा : मैंने गार्ड्स से कहा था कि यह उच्चवर्गीय बन्दी हैं श्रीर एम० पी० हैं, इनको हथकड़ी मत लगाओ । आपने हथकड़ी इन को क्यों लगा दी । इस पर गार्ड ने हथकड़ी खोलनी चाही और अपनी चाबी निकाली लेकिन भाननीय सदस्य श्री चौधरी साहब ने खोलने नहीं दिया ।

श्री एम० सी० डागा : मैं आपको याद दिलाना चाहता हूँ कि आप के ये शब्द नहीं थे । 5 मगस्त को आपने ये शब्द बोले थे : “अजी साहब, यह हमारी डिबीजन के हैं, इनको हथकड़ी मत लगाइए ।”

श्री भुवनेश्वर शर्मा : ऐसा मैं ने नहीं कहा था । मैंने कहा कि यह उच्चवर्गीय बन्दी हैं श्रीर एम० पी० हैं और उन्हें हथकड़ी न लगाओ ।

श्री एम० सी० डागा : अच्छा, यह बताइए कि श्री मोहेसिन, जबकि डिप्टी होम मिनिस्टर थे, ने जो स्टेटमेंट पार्लियामेंट में दिया था, वह आप को मालूम है ।

श्री भुवनेश्वर शर्मा : जी, ऐसा रूल है ।

श्री एम० सी० डागा : मालूम है या नहीं ।

श्री भुवनेश्वर शर्मा : मालूम है ।

श्री एम० सी० डागा : तो पार्लियामेंट में जो डिप्टी होम मिनिस्टर साहब ने बयान दिया था, उस स्टेटमेंट को देने से पहले क्या आप से श्री ईश्वर चौधरी की हैंडरॉफिंग की बाबत कोई जानकारी हासिल की थी या नहीं ?

श्री भुवनेश्वर शर्मा : जी हां, पूछा गया था ।

श्री एम० सी० डागा : क्या आप ने कोई लिखित जवाब दिया था ?

श्री भुवनेश्वर शर्मा : जी हां । मैं ने लिख कर दिया था ।

श्री एम० सी० डागा : वह प्रतिलिपि आप पेश कर सकते हैं ?

श्री भुवनेश्वर शर्मा : जी हां ।

I think we must have a copy, because he has sent a written statement to the Home Ministry.

श्री भुवनेश्वर शर्मा : मैं ने अधीक्षक, शिविर मण्डल कारा, फुलवारी शरीफ को रिपोर्ट दी थी जो कि इस प्रकार है :

सेवा में,

अधीक्षक,

शिविर मण्डल कारा, फुलवारी शरीफ ।

महाशय,

मुझे सूचित करना है कि दिनांक 5-8-74 को सत्याग्रही बन्दियों की न्यायालय में उपस्थापन तिथि थी । उन लोगों ने पूर्व में धमकी दी थी कि यदि वे उक्त तिथि को न्यायालय में नहीं भेजे जायेंगे, तो कारा में विषम स्थिति उत्पन्न कर देंगे । इसकी सूचना आरक्षी अधीक्षक, पटना को दी गई तथा मार्ग रक्षक दल भेजने का अनुरोध किया गया । विचाराधीन बन्दियों को न्यायालय में उपस्थापन का कार्य कारा के लिपिक श्री अशोक कुमार सिंह किया करते थे । दिनांक 5-8-74 को आरक्षी दल आया । सत्याग्रही बन्दी जाने के लिए काफी उतावले थे । वे नारेबाजी कर रहे थे । कारा लिपिक सबों को आरक्षी दल को दे रहे थे । एक दल को बाहर जाने के लिए आरक्षी दल को उन्होंने दिया । गेट में वे काफी शोरगुल तथा नारेबाजी कर रहे थे । मैं अपने कार्यालय में पूर्व की भांति कार्य कर रहा था । मैं ने गेट की तरफ देखा कि श्री ईश्वर चौधरी न्यायालय जाने के लिए गेट में हथकड़ी पहन कर तैयार थे । मैं झट से गेट में गया और आरक्षी दल से कहा कि ये एम० पी० हैं तथा उच्चवर्गीय बन्दी हैं, इनको हथकड़ी आपने क्यों लगा दी । इन्हें अभी खोल दें । गार्ड ने हथकड़ी खोलने के लिए अपनी चाबी निकाली तथा श्री चौधरी की हथकड़ी खोलनी चाही । श्री चौधरी ने कहा कि सबों को हथकड़ी लगी है और सब मेरे साथी हैं । इसलिये मुझे भी हथकड़ी रहने दीजिए मैं ने श्री चौधरी से हथकड़ी खुलवा लेने का अनुरोध किया पर उन्होंने नहीं खुलवाया क्योंकि सबों को न्यायालय जाना आवश्यक था और उन्होंने बात नहीं मानी । मैं ने जबर्दस्ती करना अच्छा नहीं समझा । जबर्दस्ती करने से कारा फाटक पर एक अजीब दृश्य उत्पन्न हो जाता ।

आपका विश्वासी,

भुवनेश्वर शर्मा,

7-8-74

सहायक कारापाल,

प्रभारी कारापाल,

फुलवारी शिविर मण्डल, कारा

श्री एम० सी० डागा : यह कौन सी तारीख को आप ने लिखा ?

श्री भुवनेश्वर शर्मा : 7-8-74 को ।

श्री एम० सी० डागा : यह 5 अगस्त की घटना थी और आपने श्री ईश्वर चौधरी से उस दिन बात की, तो उसी दिन आप ने अपने सुपरिण्टेंडेंट को या दूसरे बड़े अधिकारी को

इसकी सूचना क्यों नहीं दी कि इस तरह से हथकड़ी लगनी नहीं चाहिये थी लेकिन यह घटना हो गई है ।

श्री भुवनेश्वर शर्मा : श्रीमान जी, हथकड़ी लगाने का कार्य मेरा नहीं है । जैसाकि मैंने पहले कहा है कि हथकड़ी लगाने का कार्य पुलिस का है । जैसे ही बन्दी लोग गये, हमारे सुपरिण्डेंट साहब आफिस में आए और मैंने उनको कहा कि ऐसी बात हुई है और एस्कोर्ट पार्टी ने हथकड़ी लगाई और मैंने उन से हथकड़ी खोलने को कहा लेकिन उन्होंने खालने नहीं दिया ।

श्री एम० सी० डागा : सत्याग्रहियों में कुछ पत्रकार थे, साहित्यकार भी थे और कुछ पढ़े लिखे सज्जन भी थे या नहीं ?

श्री भुवनेश्वर शर्मा : जहां तक मेरी जानकारी है, पत्रकार और साहित्यकार नहीं थे, लेकिन छात्र थे ।

श्री एम० सी० डागा : बी० ए० पढ़े लिखे थे ?

श्री भुवनेश्वर शर्मा : जरूर होंगे ।

श्री एम० सी० डागा : कृपा करके बताइये कि उनकी क्या क्वालिफिकेशन्स थी ?

श्री भुवनेश्वर शर्मा : हमारे पास सब की लिस्ट नहीं है ।

श्री एम० सी० डागा : आप कहते हैं कि इनमें से कुछ छात्र थे ?

श्री भुवनेश्वर शर्मा : हमारे जितने भी बन्दी थे वे आर्टिज़नी बन्दी थे लेकिन उनमें सिर्फ एम० पी० साहब उच्च-वर्गीय बन्दी थे ।

श्री एम० सी० डागा : जब श्री ईश्वर चौधरी जेल में आए, उस समय भी उन के हथकड़ी लगी हुई थी ?

श्री भुवनेश्वर शर्मा : मैंने नहीं देखा क्योंकि मेरी पोस्टिंग जेल में बाद में हुई थी ।

श्री मूल चन्द डागा : आपके सामने कभी कैदियों में मुठभेड़ हुई ?

श्री भुवनेश्वर शर्मा : जी नहीं । दो तारीख को जो घटना हुई उसके बाद तुरन्त हमारी पोस्टिंग फुलवाड़ी हो गई थी ।

श्री मूल चन्द डागा : अश्विनी कुमार चौबे को जेल में जो चीट आई उसको आपने देखा था ?

श्री भुवनेश्वर शर्मा : देखा नहीं, सुना था ।

श्री मूल चन्द डागा : इंजरी रिपोर्ट देखी ?

श्री भुवनेश्वर शर्मा : जी नहीं ।

श्री के० जी० बेशमुख : कुल कितने लोग थे एम० पी० के साथ ?

श्री भुवनेश्वर शर्मा : 65 आदमी थे ।

श्री के० जी० बेशमुख : सत्याग्रह के सिलसिले में सभी होंगे ?

श्री भुवनेश्वर शर्मा : जे० पी० आन्दोलन के सिलसिले में पकड़े गए थे ?

श्री के० जी० बेशमुख : ज्यादातर विद्यार्थी होंगे ?

श्री भुवनेश्वर शर्मा : जी हां ।

श्री के० जी० बेशमुख : जब इनको लाया गया उस वक्त इनके हाथ में हथकड़ी थी ।

श्री भुवनेश्वर शर्मा : मैंने नहीं देखा । मैं उस समय वहां का इंचार्ज नहीं था । मैं पटना जेल में था । वह फुवलाड़ी से छः सात मील दूर है । 2 तारीख की जो घटना घटी उसके सिलसिले में तुरन्त बदली हुई और हम वहां गए ।

श्री के० जी० बेशमुख : आप दो महीने वहां रहे तब तक इनको कभी पेश नहीं किया गया ? दो महीने के बाद ही इनकी पेशी हुई, पहले नहीं ?

श्री भुवनेश्वर शर्मा : पेशी करने का काम पुलिस का है ।

श्री के० जी० बेशमुख : उसके पहले पेशी हो सकती थी ?

श्री भुवनेश्वर शर्मा : मैंने लिखा था । गारद नहीं आई । उसके आने के बाद ही हो सकती थी । पुलिस एस्कोर्ट के साथ ही की जा सकती थी ।

श्री के० जी० बेशमुख : जब लाए गए उस वक्त सब को हथकड़ी पहनाई गई थी ?

श्री भुवनेश्वर शर्मा : सब के हाथ में लगी थी । इनके हाथ में भी लगी थी ।

श्री के० जी० बेशमुख : आप कहते हैं कि फाटक के पास जब ये थे तब आपने देखा । आप फाटक के पास ही रहते हैं, अन्दर कमरे में नहीं रहते हैं ?

श्री भुवनेश्वर शर्मा : दोनों फाटकों के बीच में ही बंदी भीतर से आते हैं बाहर जाने के लिए बंदियों का आदान प्रदान वहीं किया जाता है । दोनों फाटकों के बीच में ही गेट पर वारंट को पढ़ करके एस्कोर्ट पार्टी को दिया जाता है और एस्कोर्ट पार्टी सब कुछ देख करके जैसे चाहें उनको ले जाती है ।

श्री के० जी० बेशमुख : मेन फाटक तक कैदी कैसे ही आते हैं और यहां आपके सामने उनको हथकड़ी लगाई गई ?

श्री भुवनेश्वर शर्मा : जी नहीं, ये लोग जेल में शोरगूल कर रहे थे, नारेबाजी कर रहे थे । मैं अपने कार्यालय से आया और इनको शान्त होने के लिए मैंने कहा । इस बीच उन लोगों को गारद को दे दिया गया, हूँक भोवर कर दिया गया । जब ये लोग कार्यालय फाटक से पास कर रहे थे तो मैंने देखा कि इनके हाथ में भी हथकड़ी लगी हुई है । इस पर मैंने आबजैकशन किया और कहा कि ये एम० पी० साहब हैं, उनको नहीं लगनी चाहिये ।

श्री के० जी० देशमुख : क्या बिहार गर्वनमेंट का ऐसा कोई सर्क्युलर है कि एम० पी० लोगो को नहीं लगनी चाहिये ?

श्री भुवनेश्वर शर्मा : जेल मेनुअल में भी है, पुलिस मेनुअल में भी है। सर्क्युलर भी है। पुलिस मेनुअल में यह रूल है :

Handcuffs will be supplied by the Police Department also removable leg shackles but riveted fetters and getters will be supplied by the Jail Department. Leg irons and getters should be kept in stock ready for use.

जेल मेनुअल में यह है :

Prisoners of Divisions 1 and 2 shall not be handcuffed or fettered unless there is reason to suspect that they may attempt to escape.

श्री के० जी० देशमुख : गर्वनमेंट ने भी कोई इस्ट्रक्शन दी है कि किस को लगनी चाहिये और किस को नहीं।

श्री भुवनेश्वर शर्मा : जेल मेनुअल रूल 805 के अनुसार :

Prisoners of Divisions 1 and 2 shall not be handcuffed or fettered unless there is reason to suspect that they may attempt to escape.

ऐसा पुलिस मेनुअल में भी है। एम० पी० साहब को एक में लिया गया है।

श्री के० जी० देशमुख : बाकियों को किस में लिया गया है।

श्री भुवनेश्वर शर्मा : वे तीन में थे।

श्री के० जी० देशमुख : दो में कोई नहीं था ?

श्री भुवनेश्वर शर्मा : जी नहीं। सरकार का आदेश है कि एम० पी०, एम० एल० ए०, एम० एल० सी० उच्च श्रेणी के बन्दी है, इनको श्रेणी दी जाएगी।

श्री के० जी० देशमुख : आप हथकड़ी हटवाने के लिए उनके पास गए ?

श्री भुवनेश्वर शर्मा : जी हां।

श्री के० जी० देशमुख : एम० पी० साहब ने तो उल्टी बात कही है कि मजाक के तौर पर आपने ऐसा कहा।

श्री भुवनेश्वर शर्मा : ऐसी बात नहीं है। मेरे कहने के बाद एस्कोर्ट पार्टी ने चाबी निकाली और हथकड़ी को खोलना चाहा। एम० पी० साहब ने कहा कि चूंकि सभी सत्याग्रहियों को हथकड़ी लगी हुई है इस वास्ते हम भी उनके साथ है और हमें भी लगी रहनी चाहिये। उनका सात तारीख का जो बयान है वह ओरिजिनल मेरे पास है और उसको मैं पढ़ देना चाहता हूँ :

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दिनांक 5-8-74 को हम सत्याग्रही बंदियों का कोर्ट डेट था। एस्कोर्ट गाड़ी आई, हम लोगों के बारंट को पढ़ा गया, इसके बाद सब एकघाटी में हो गए।

एस्कोर्ट अधिकारी सरकारी आदेश से ही सभी बन्दियों को हथकड़ी और रस्से लगाने लगे । हमारी बारी आयी, पर मैंने एस्कोर्ट से कहा कि अपने अधिकारी से यह पूछे कि किन को हथकड़ी नहीं लगाना है । इस बात को मैंने तीन बार दुहराया किन्तु एस्कोर्ट ने कहा कि आप लगा लीजिये । मैंने आदेश का पालन किया । एस्कोर्ट की गाड़ी पर बैठने के दरम्यान में उपस्थित कारापाल महोदय, हथकड़ी देख कर एस्कोर्ट से कहने लगे कि यह डिविजन में हैं, इन्हें हथकड़ी नहीं लगेगी । किन्तु हमारे बहुत सत्याग्रही बन्धु एस्कोर्ट की गाड़ी पर बैठ चुके थे और हमारी हथकड़ी पूर्ववत् रही । एक बात कहना मैं आवश्यक समझता हूँ कि मैंने स्वयं अपने को एम०पी० नहीं कहा लेकिन उपस्थित हमारे सत्याग्रही बन्धु एक स्वर से कह रहे थे कि एम०पी० साहब का भी हथकड़ी लग रही है । हमारे क्लर्क ने भी एस्कोर्ट पार्टी को बता दिया था । रजिस्टर में सब के नाम अंकित हैं । उन के नाम के सामने "एम० पी०" लिखा हुआ है । गाडं इन-चार्ज ने इसको सही किया है । इससे प्रकट है कि उनको जानकारी दे दी गई थी ।

**Shri Chintamani Panigrahi:** Who was the officer leading the escort party?

**Shri Bhubaneshwar Sharma:** Rajendra Sings was in-charge of that party.

**Shri Chintamani Panigrahi:** Who brings prisoners from their wards to the gate?

**Shri Bhubaneshwar Sharma:** My jail staff brings them to the gate and make them over to the escort party.

**Shri Chintamani Panigrahi:** Who was the person below you who took Shri Ishwar Chaudhry from the ward to the gate?

**Shri Bhubaneshwar Sharma:** Ashok Kumar Singh in-charge of the section.

**Shri Chintamani Panigrahi:** He was fully aware that Shri Ishwar Chaudhry is an MP?

**Shri Bhubaneshwar Sharma:** Yes.

**Shri Chintamani Panigrahi:** He took Shri Ishwar Chaudhry to the gate and the prisoner was handed over to the escort party.

**Shri Bhubaneshwar Sharma:** Yes.

**Shri Chintamani Panigrahi:** Rajendra Singh was in charge of the escort party.

**Shri Bhubaneshwar Sharma:** Yes.



**Shri Chintamani Panigrahi:** Ashok Singh must have told Rajendra Singh that Ishwar Chaudry is an M.P.

**Shri Bhubaneshwar Sharma:** Certainly.

**Shri Chintamani Panigrahi:** After hearing Ashok Singh, the officer of the escort party handcuffed him.

**Shri Bhubaneshwar Sharma:** Yes.

The warrant was also made over to the escort party. On the body of the warrant, it was noted.

**Shri Chintamani Panigrahi:** You have added one thing. Even Ashok Singh told the officer of the escort party that he is an M.P. Again in the warrant also it was written that he is an M.P. Knowing these two things, the escort party officer handcuffed Chaudhry.

**Shri Bhubaneshwar Sharma:** Yes.

I may be permitted to read the statement of the clerk, Ashok Kumar Singh:

“सेवा मे

श्रीमान् अधीक्षक महोदय,

शिविर, मण्डल कारा, फुलवारी शरीफ,

पटना ।

महाशय,

सूचित करना है कि तिथि 5-8-74 को सत्याग्रही बन्दियों को न्यायालय में ले जाने के लिए पुलिस दस्ता आया । मैंने सभी सत्याग्रही बन्दियों को सुबह में ही कोर्ट जाने की सूचना दे दी थी, जिस से कि वे समय पर खा-पी कर तैयार रहें । वे लोग कोर्ट जाने के लिए काफी इच्छुक थे । सूचना मिलते ही सब के सब गेट के पास तथा कुछ गेट के भीतर आ गये और कोर्ट जाने की खुशी में नारेबाजी करने लगे । मैंने गार्ड इनचार्ज को बता दिया कि इन में एक एम०पी० श्री ईश्वर चौधरी हैं । मैंने गार्ड को पहचान भी करा दिया । गार्ड ने सब और क्यों हथकड़ी लगा दी, मैंने नहीं देखा, क्योंकि मैं सबों के नाम गेट में लिखवाने तथा गिनती मिलाने में व्यस्त था । मैंने देखा कि गेट में श्री ईश्वर चौधरी हथकड़ी पहन कर पंक्तिबद्ध थे । मैंने गार्ड को कहा कि आप ने हथकड़ी एम०पी० साहब को क्यों पहना दी । इस पर एम०पी० साहब ने कहा कि ना, ना, कोई हानि नहीं है । इतने ही में मैंने देखा कि कारापाल जी भी अपने कार्यालय से गेट में आये और गार्ड से बोले कि आप ने हथकड़ी एम०पी० साहब को क्यों लगा दी, यह उच्च वर्ग

के बन्दी हैं, इन्हें आप तुरन्त हथकड़ी खोल दें। गाँड़ खोलने के लिए झटपट करने लगा, पर श्री चौधरी ने हथकड़ी नहीं खोलने दी।

7-8-74

आपका विश्वास-भाजन,  
अशोक कुमार सिंह, लिपिक।'

**Shri Chintamani Panigrahi:** That should be available to us.

श्री अटल बिहारी वाजपेयी : यह फुलवारी जेल एक कैम्प जेल है ?

श्री भुवनेश्वर शर्मा : जी हाँ।

श्री अटल बिहारी वाजपेयी : इस में कितने बन्दियों को रखने का स्थान है ?

श्री भुवनेश्वर शर्मा : करीब 423 की क्षमता है।

श्री अटल बिहारी वाजपेयी : आज-काल वहाँ कितने बन्दी हैं।

श्री भुवनेश्वर शर्मा : करीब 100 होंगे।

श्री अटल बिहारी वाजपेयी : जब आपने चार्ज सम्भाला, तब वहाँ कितने बन्दी थे ?

श्री भुवनेश्वर शर्मा : करीब 370 बन्दी थे।

श्री अटल बिहारी वाजपेयी : आप वहाँ 7 जुलाई को आये। उस से पहले वहाँ जेलर कौन थे ?

श्री भुवनेश्वर शर्मा : श्री वासुदेव नारायण सिंह एसिस्टेंट जेलर थे।

श्री अटल बिहारी वाजपेयी : क्या वहाँ कोई तेजप्रताप सिंह नाम के व्यक्ति भी थे ?

श्री भुवनेश्वर शर्मा : (श्री वासुदेव नारायण सिंह) वह भी एसिस्टेंट जेलर थे और वह जेलर इन चार्ज का काम कर रहे थे।

श्री अटल बिहारी वाजपेयी : श्री वासुदेव नारायण सिंह और श्री तेजप्रताप सिंह वहाँ से क्यों हटाये गये ?

श्री भुवनेश्वर शर्मा : 2-7-74 को वहाँ एक घटना घटी थी, मारपीट हुई थी, और सत्याग्रही बन्दियों और साधारण बन्दियों में मूठझेड़ हो गई, और सिपाहियों ने लाठी-चार्ज किया। इसीलिये उन की बदली की गई और मुझे पटना से बुलाया गया।

श्री अटल बिहारी वाजपेयी : जब आप 7 जुलाई को वहाँ पहुँचे तो क्या आपने जेल का वातावरण कुछ तनावपूर्ण पाया ?

श्री भुवनेश्वर शर्मा : नहीं। वह बिल्कुल शान्त था।

श्री अटल बिहारी वाजपेयी : क्या 2 जुलाई की घटनाओं का कोई असर नहीं था ?

श्री भुवनेश्वर शर्मा : वह समाप्त हो चुका था। एनक्वायरी हो चुकी थी। जितने सिपाही उस से सम्बन्धित थे, वे सस्पेंड हो चुके थे।

श्री अटल बिहारी वाजपेयी : एनक्वायरी किस ने की थी ?

श्री भुवनेश्वर शर्मा : सुपरिन्टेंडेंट, पटना जेल, श्री पी० के० गांगुली, डी०एम० साहब और आई०जी० ने एनक्वायरी की थी। उसी सिलसिले में 18 जेल कांस्टेबल सस्पेंड किये गये और दोनों अफसरों की बदली की गई।

श्री अटल बिहारी वाजपेयी : क्या उनकी बदली पटना जेल कर दी गई ?

श्री भुवनेश्वर शर्मा : वह पटना जेल से अटैच कर दिये गये।

श्री अटल बिहारी वाजपेयी : जब आप 7 जुलाई को वहां पहुंचे, तो क्या जांच पूर्ण हो चुकी थी या चल रही थी ?

श्री भुवनेश्वर शर्मा : जांच पूरी हो गई थी। अधीक्षक साहब आते थे और बन्दियों से पूछ-ताछ करते थे।

श्री अटल बिहारी वाजपेयी : क्या आपने पता लगाने की कोशिश की कि 2 जुलाई का झगड़ा क्यों हुआ था ?

श्री भुवनेश्वर शर्मा : मैंने ऐसा नहीं किया।

श्री अटल बिहारी वाजपेयी : वे कागज भी आपने नहीं देखे ?

श्री भुवनेश्वर शर्मा : नहीं। अधीक्षक महोदय एनक्वायरी करते थे। वह पटना, फुलवारी और बक्सर जेलों के सुपरिन्टेंडेंट इनचार्ज थे। वह जो कागजात लिखते थे, उन को साथ ले जाते थे।

श्री अटल बिहारी वाजपेयी : आपने 7 तारीख से जेल का चार्ज सम्भाला। भविष्य में जेल का प्रबन्ध आप को करना था। क्या आपने यह जरूरी नहीं समझा कि आप पता लगाइें कि 2 तारीख को क्या घटना हुई थी, ताकि भविष्य में ऐसी घटना की पुनरावृत्ति न हो।

श्री भुवनेश्वर शर्मा : मैं सब लोगों से मिला। वहां कोई तनावपूर्ण स्थिति नहीं थी। जिन बन्दियों ने मारपीट में भाग लिया था, उन सभी की बदली पटना जेल में कर दी गई थी। जेल पूर्णतया शान्त था।

श्री अटल बिहारी वाजपेयी : कितने बन्दियों का तबादला कर दिया गया।

श्री भुवनेश्वर शर्मा : करीब 20, 25 बन्दियों की बदली की गई।

श्री अटल बिहारी वाजपेयी : क्या उन पर यह आरोप था कि उन्होंने सत्याग्रहियों को पीटा ?

श्री भुवनेश्वर शर्मा : उन्होंने मारपीट में भाग लिया था—और पीटा।

**श्री अटल बिहारी वाजपेयी :** यह बात भी आपके कान में आई होगी कि यह मार-पीट कैसे शुरू हुई ? आपने सुना होगा, कागज देखें होंगे ?

**श्री भुवनेश्वर शर्मा :** मैंने देखा नहीं। मैंने सुना। सत्याग्रही बन्दी गेट पर रहते थे। इससे बन्दियों को मिलने-जुलने में कुछ बाधा पड़ती थी, क्योंकि मुलाकाती गेट पर रहते थे। इसलिए तनावपूर्ण स्थिति हो गई थी।

**श्री अटल बिहारी वाजपेयी :** यह आरोप आपके ध्यान में आया कि जो बन्दी थे उन्होंने सत्याग्रहियों पर यह आरोप लगाया कि जो औरतें मिलने के लिए आती हैं उन औरतों को बे छेड़ते हैं ?

**श्री भुवनेश्वर शर्मा :** यह हम को मालूम नहीं।

**श्री अटल बिहारी वाजपेयी :** तो बन्दियों से झगड़ा क्यों हुआ ?

**श्री भुवनेश्वर शर्मा :** मैंने कहा कि मैं उस समय नहीं था।

**श्री अटल बिहारी वाजपेयी :** आपने 7 तारीख को चार्ज सम्भाला। आप एक जिम्मेदार अफसर हैं, आपने यह जरूरी नहीं समझा कि इस की जांच कर लें ?

**श्री भुवनेश्वर शर्मा :** मैंने सुना कि जो सत्याग्रही बन्दी काफी मात्रा में थे वे अधिकांश गेट में खड़े रहते थे मिलने जुलने के लिए तो नेचुरली जो आम बन्दी थे उन के साक्षात्कार के लिए जो आते थे उनसे मिलने में उन को दिक्कत होती थी इस माने में कि उन को स्थान नहीं मिलता था और एक चीज और होती थी कि सत्याग्रही बन्दियों को काफी स्पेशल डायट मिलती थी। मेडिकल डायट रिजिल रजर्न साहब उन को दिया करते थे जो कि आम बन्दियों को नहीं मिलती थी तो शायद कुछ जलन भी हो सकती है। ऐसा मैंने सुना कि इस तरह की कोई बात थी और उनमें आपस में कुछ जलन थी। मुलाकात में इन लोगों को कुछ दिक्कत भी होती थी, इसलिए कि ये लोग बराबर गेट में रहते थे।

**श्री अटल बिहारी वाजपेयी :** केन्द्रीय सरकार के गृह उप मन्त्री श्री मोहसिन ने फुलवारी जेल की घटना के सम्बन्ध में लोक सभा में एक बयान दिया था, क्या वह पूरा बयान आप की नज़र से गुजरा है ?

**श्री भुवनेश्वर शर्मा :** जी हां, देखा है मैंने।

**श्री अटल बिहारी वाजपेयी :** क्या उस बयान में आपने यह देखा कि 17 जून को सत्याग्रहियों ने एक भूख हड़ताल की थी और रिले फास्ट भी शुरू किया था ?

**श्री भुवनेश्वर शर्मा :** जी हां। किया भी था। ऐसा सुना मैंने कि लोगो ने किया था

**श्री अटल बिहारी वाजपेयी :** 2 जुलाई की घटना 17 जून के बाद हुई ?

**श्री भुवनेश्वर शर्मा :** जी हां।

**श्री अटल बिहारी वाजपेयी :** तो क्या यह सच है कि जो उस समय के जेल अधिकारी थे वे सत्याग्रहियों से 17 जून की भूख हड़ताल की वजह से नाराज थे और उन के इशारे पर बन्दियों ने सत्याग्रहियों के साथ झगड़ा किया ?

**श्री भुवनेश्वर शर्मा :** श्रीमान्, यह मैं नहीं कह सकता ।

**श्री अटल बिहारी वाजपेयी :** आप ने यह कहा कि आप ने गार्ड से कहा कि श्री ईश्वर चौधरी को हथकड़ी न लगाएं लेकिन आपने यह भी कहा कि हथकड़ी लगाना या न लगाना गार्ड का काम है ?

**श्री भुवनेश्वर शर्मा :** गार्ड को बतला दिया गया कि ये एम०पी० हैं, हथकड़ी नहीं लगानी है ।

**श्री अटल बिहारी वाजपेयी :** गार्ड आपके आदेश से चलता है या अपने मन से काम करता है ?

**श्री भुवनेश्वर शर्मा :** गार्ड पुलिस के आदेश से चलता है । लेकिन रूस अगर न मालूम हो तो बताना मेरा काम है ।

**श्री अटल बिहारी वाजपेयी :** आपने इससे पहले कहा कि गार्ड को पता था कि ये एम०पी० हैं । रजिस्टर में गार्ड ने देखा कि इन के नाम के आगे एम०पी० लिखा हुआ है ।

**श्री भुवनेश्वर शर्मा :** सत्याग्रहियों में एम० पी० के होने के बारे में मैंने एस०पी० को भी चिट्ठी लिखी थी, आप की अनुमति से मैं उसे पढ़ देना चाहता हूं ।

प्रेषक

अधीक्षक,

शिविर मंडल कारा, फुलवारी शरीफ,

पटना ।

सेवा में,

बरीय आरक्षी अधीक्षक, पटना ।

फुलवारी शरीफ, दिनांक 2 अगस्त, 1974 ।

**विषय :—**सत्याग्रही बन्धियों को स्थानीय न्यायालय में उपस्थापन के सम्बन्ध में ।

महाशय,

उपरोक्त विषय पर इस कार्यालय के पत्रांक 504 दिनांक 27वीं जुलाई, 1974 के क्रम में सूचित करना है कि इस कारा में सम्प्रति 65 सत्याग्रही बन्दी हैं, इनमें श्री ईश्वर चौधरी एम० पी० भी हैं, इन लोगों की स्थानीय न्यायालय में उपस्थापन तिथि 5-8-74 है । ये चाहते

हैं कि उक्त तिथि को न्यायालय में उपस्थापित किये जायें। ये कहते हैं कि यदि उक्त तिथि को न्यायालय में नहीं उपस्थित किए जाएंगे तो कारा के भीतर विषम स्थिति उत्पन्न कर देंगे। अतः आप से अनुरोध है कि इन लोगों को दिनांक 5-8-74 को स्थानीय न्यायालय में उपस्थापित करने की समुचित व्यवस्था करने की कृपा की जाय।

आप का विश्वासपात्र,

ह० अस्पष्ट

अधीक्षक कारा कुलवारी शरीफ ।

यह चिट्ठी मैंने एस० पी० साहब को लिखी 2-8-74 को अपने कार्यालय के आपन 531 के द्वारा और उसकी प्रति मैंने दी मुख्य न्यायिक दण्डाधिकारी, पटना को तथा इसकी प्रतिलिपि मैंने जिला पदाधिकारी पटना को भी भेजी। एक प्रतिलिपि मैंने इसकी कारा महानिरीक्षक बिहार, पटना की सेवा में सूचनायें एवं आवश्यक कार्यवाही हेतु प्रेषित की।

**श्री अटल बिहारी वाजपेयी :** यह चिट्ठी लिखना आपने क्यों जरूरी समझा ?

**श्री भुवनेश्वर शर्मा :** यह इसलिये जरूरी समझा कि गार्ड आने थे पुलिस के। यह काम पुलिस का है।

**श्री अटल बिहारी वाजपेयी :** वह तो हम समझ गये। लेकिन क्या यह सच नहीं है कि सत्याग्रही हम बात पर जोर दे रहे थे कि हमें अदालत में जरूर ले जाया जाय और उनकी इस भावना को समझ कर आपने चिट्ठी लिखी ?

**श्री भुवनेश्वर शर्मा :** उन लोगों ने कहा कि अगर हम लोग 5 तारीख को न्यायालय में नहीं ले जाये जायेंगे तो यहां हम हंगामा करेंगे। इसलिये मैंने यह उचित समझा। पुलिस मैग्जिस्ट्रेट में यह रूल है कि फोर्टनाइटली रिमांड किया जाय।

**श्री अटल बिहारी वाजपेयी :** इसका मतलब है कि इन्हें इतने दिनों से अदालत में पेश नहीं किया गया था इस बात को लेकर सत्याग्रहियों में असन्तोष था ?

**श्री भुवनेश्वर शर्मा :** रूल 849 जेल मैग्जिस्ट्रेट का इस प्रकार है।

“On the date entered in the original warrant, or on the date specified by any subsequent order, the trial prisoners shall be placed in the custody of the police to be taken into court.”

कोर्ट ले जाने के लिये हम लोग पुलिस को देते हैं।

**श्री अटल बिहारी वाजपेयी :** यह तो ठीक है लेकिन इसका उल्लंघन हो रहा था यह भी आप देख रहे थे ? 14 दिन में उनको रिमांड के लिए नहीं ले जाया जा रहा था।

**श्री भुवनेश्वर शर्मा :** जब गार्ड नहीं आते हैं तो हम लोग वारंट को न्यायालय में भेज देते हैं। जैसा कि उनके प्रोरिजिनल वारंट से प्रतीत होगा कि उनके वारंट पर बराबर डेट पड़ती गई है।

**श्री अटल बिहारी वाजपेयी :** सत्याग्रही को जाने की जरूरत नहीं है, खाली वारंट चला जाता है ?

**श्री भुवनेश्वर शर्मा :** गाड़ भाते नहीं पर्याप्त मात्रा में तो मैं क्या करता ? न्यायालय में वारंट भेज दिया ।

**श्री अटल बिहारी वाजपेयी :** न्यायालय में आदमी पेश होने के बजाय वारंट भेजने से काम चल सकता है ?

**श्री भुवनेश्वर शर्मा :** जी हां । इनके मूल वारंट को देखने से पता चलेगा कि वारंट पर डेट पड़ी है ।

**श्री अटल बिहारी वाजपेयी :** वारंट पर डेट डाल रहे थे, सत्याग्रहियों को नहीं ले जाया जा रहा था इसलिये सत्याग्रहियों में असन्तोष था और सत्याग्रही कुछ करने के लिए धमकी भी दे रहे थे ?

**श्री भुवनेश्वर शर्मा :** जी हां ।

**श्री अटल बिहारी वाजपेयी :** इसका मतलब है कि जेल में तनाव था ?

**श्री भुवनेश्वर शर्मा :** उनको शिकायत पुलिस से थी, न्यायालय में न जाये जाने की शिकायत थी, अपने न्याय के लिये शिकायत थी . . .

**श्री अटल बिहारी वाजपेयी :** शिकायत तो उनको सारी व्यवस्था से है लेकिन तनाव तो था जेल में ?

**श्री भुवनेश्वर शर्मा :** नहीं, हमारी जेल में तनाव नहीं था ।

**श्री अटल बिहारी वाजपेयी :** आपके खिलाफ नहीं होगा लेकिन जेल में तनाव था ?

**श्री भुवनेश्वर शर्मा :** जेल में तनाव हमारे अधिकारियों के खिलाफ होता तो हम देखते ।

**श्री अटल बिहारी वाजपेयी :** मैं यह कह रहा था कि जब हथकड़ी लगाना गाड़ का काम है और गाड़ ने यह जानते हुये कि श्री ईश्वर चौधरी एम० पी० हैं उनको हथकड़ी लगाई तो फिर आपको उससे कहने की क्या जरूरत थी ?

**श्री भुवनेश्वर शर्मा :** मैंने पहले ही कहा था कि वह एम० पी० हैं और हमारे क्लर्क ने पहचान भी करवा दी । पुलिस को बिट्ठी भी लिख दी गई थी, एम० पी० साहब को लिख दिया था कि ये एम० पी० हैं, आप ऐसे ही गाड़ भेजिये । जब मैंने देखा कि दस्तखत करने के बाद गाड़ ने उनको हथकड़ी लगा दी, तो मैंने कहा कि वे एम० पी० हैं, उनकी हथकड़ी खोल दीजिये । गाड़ मेरा आदेश मानने को तैयार हो गया ।

**श्री अटल बिहारी वाजपेयी :** क्या गाड़ आपके आदेश में चलता है ?

**श्री भुवनेश्वर शर्मा :** जी नहीं । लेकिन मैं जेल अफसर या और मैंने देखा कि ऐसा हुआ है, इसलिये कहा ।

श्री अटल बिहारी वाजपेयी : जब आपके आदेश में नहीं चलता है, तो आपने क्यों कहा ?

श्री भुवनेश्वर शर्मा : इसलिये कि वे एक माननीय संसद सदस्य हैं, उनकी मर्यादा को देखते हुए कहा ?

श्री अटल बिहारी वाजपेयी : क्या उसे पता नहीं था कि वे एक माननीय संसद सदस्य हैं, यदि उसे पता था तो फिर आपके कहने की क्या जरूरत थी ?

श्री भुवनेश्वर शर्मा : मैंने सोचा कि उसको समझा दूं।

श्री अटल बिहारी वाजपेयी : लेकिन वह समझा नहीं।

श्री भुवनेश्वर शर्मा : नहीं।

श्री अटल बिहारी वाजपेयी : आपने कहा कि उसने चाबी निकाली। लेकिन श्री ईश्वर चौधरी ने जो बयान जेल सुप्रीन्टेंडेंट के सामने दिया है और जो समिति के सामने पढ़ कर सुनाया गया है, उसमें ऐसा उल्लेख नहीं है।

श्री भुवनेश्वर शर्मा : जी हां, उसका उल्लेख नहीं है।

श्री अटल बिहारी वाजपेयी : तो क्या वे गलत कह रहे हैं।

श्री भुवनेश्वर शर्मा : मैं माननीय सदस्य को कैसे गलत कहूंगा।

श्री अटल बिहारी वाजपेयी : तो इसका मतलब है कि आप गलत कह रहे हैं ?

श्री भुवनेश्वर शर्मा : मैंने भी जो आंखों से देखा था वही कह रहा हूं। मैं ईश्वर चौधरी जी को बहुत दिनों से जानता हूं। हमारे गया जिले के हैं, पटना जेल में भी थे, इसलिये उनकी मर्यादा का पालन करता हूं।

श्री अटल बिहारी वाजपेयी : गार्ड ने चाबी निकाली, लेकिन उन्होंने मना कर दिया। जबकि चौधरी जी कहते हैं कि वे तो बाहर पुलिस की वान में जा कर बैठ गये थे।

श्री भुवनेश्वर शर्मा : मैंने कहा है कि चार्ज देने का काम दोनों गेट के अन्दर होता है, हम गेट के अन्दर हैण्ड-ओवर करते हैं और वान गेट के बाहर खड़ी होती है, वान में जाने के लिये गेट से बाहर निकलना पड़ता है।

श्री अटल बिहारी वाजपेयी : क्या सत्याग्रहियों को रस्सी से बांधा जाता है ?

श्री भुवनेश्वर शर्मा : अगर हथकड़ी पूरी नहीं होती है तो रस्सी से भी बांधते हैं। जहां तक मेरा ख्याल है, पुलिस विभाग ने काफ़ी हथकड़ियां दी थीं, सबके लिये लाये होंगे।

श्री अटल बिहारी वाजपेयी : हथकड़ियों की कमी नहीं है ?

श्री भुवनेश्वर शर्मा : यह तो पुलिस विभाग की चीज है, वे कितनों के लिये लाये होंगे, मैं कह नहीं सकता।



श्री अटल बिहारी वाजपेयी : लेकिन हथकड़ियों के साथ कुछ सत्याग्रहियों को रस्सी से भी बांधा गया था ?

श्री भुवनेश्वर शर्मा : यह मैंने नहीं देखा ।

श्री अटल बिहारी वाजपेयी : क्या आपकी जानकारी के अनुसार सत्याग्रहियों को रस्सी से बांधा जाता है ?

श्री भुवनेश्वर शर्मा : आर्डिनरली कोर्ट ले जाने के लिये जो सत्याग्रही होते हैं, मैंने देखा है कि पुलिस बगैर हैण्ड-कफ़ के नहीं ले जाती ।

श्री अटल बिहारी वाजपेयी : लेकिन रस्सी तो अलग चीज़ है ।

श्री भुवनेश्वर शर्मा : हैण्ड-कफ़ नहीं है तो रस्सी में ले जाते हैं ।

श्री अटल बिहारी वाजपेयी : रस्सी कमर में बांधते हैं ?

श्री भुवनेश्वर शर्मा : जी हां ।

श्री अटल बिहारी वाजपेयी : क्या यह व्यवहार सब सत्याग्रहियों के साथ होता है ।

श्री भुवनेश्वर शर्मा : जैनरली मैंने देखा है—कभी छोड़ भी देते हैं, कभी लगाते भी हैं—यह उनकी इच्छा पर होता है ।

श्री अटल बिहारी वाजपेयी : इसके बारे में जेल-मैनुअल में कुछ नहीं लिखा है ?

श्री भुवनेश्वर शर्मा : हमारे यहां सबको लगाने की बात है, सिर्फ़ डिबीजन की बात नहीं है ।

श्री अटल बिहारी वाजपेयी : क्या कारण है कि डिबीजन 2 में कोई सत्याग्रही नहीं था ।

श्री भुवनेश्वर शर्मा : जो ट्रायल होते हैं उनमें कोर्ट का आदेश होता है । उसमें अपर-क्लास ही होती है । क्लास 1 और 2 सप्तावार कैदी को दिया जाता है । कान्विक्ट्स को सप्ताहो जाती है । लेकिन जिन बन्दियों को श्रेणी बन्दी की संज्ञा दी जाती है, वह न्यायालय के द्वारा दी जाती है । जैसा मैंने कहा है—सरकार ने सर्कुलर दिया है, एम० एल० ए०, एम० एल० सी० और एम० पी० को उच्च श्रेणी की सुविधा दी जाती है । अगर कोर्ट का आदेश न भी हो, तो भी दी जाती है और हम उसी आदेश के अनुसार सुविधा देते हैं ।

श्री अटल बिहारी वाजपेयी : क्या सुविधा देते हैं ?

श्री भुवनेश्वर शर्मा : उनको अलग रखने की व्यवस्था की जाती है, तोसक, मसहरी दी जाती है, उनका अलग डाएट-स्केल होता है ।

श्री अटल बिहारी वाजपेयी : एक दिन में खाने का क्या खर्चा होता है ?

श्री भुवनेश्वर शर्मा : सामान देते हैं ।

श्री अटल बिहारी वाजपेयी : उसका स्केल होता है, लेकिन वह स्केल क्या है ?

श्री भुवनेश्वर शर्मा : फ़ाइन चावल या आटा . . .

श्री अटल बिहारी वाजपेयी : रुपयों में बतलाइए ।

श्री भुवनेश्वर शर्मा : जो सामान दिया जाता है, उसका मैंने मूल्य नहीं निकाला है ।

श्री श्यामनन्दन मिश्र : राजेन्द्र सिंह जी ने जो एस्कोर्ट पार्टी के मुख्य कर्मचारी थे, अफ़सर थे, उनका दर्जा क्या है ?

श्री भुवनेश्वर शर्मा : वह एक सीनियर सिपाही हैं, गार्ड इन्चार्ज के रूप में काम कर रहे थे, हवलदार का काम कर रहे थे । वे पुलिस के एक कांस्टेबल हैं, लेकिन अगर उनके यहां हवलदार नहीं होता है तो जो उनमें वरीयतम होते हैं, सीनियर-मोस्ट सिपाही इन्चार्ज का काम करते हैं । वे वरीयतम कांस्टेबल थे ।

श्री श्यामनन्दन मिश्र : यानी वे शिक्षित व्यक्ति थे ?

श्री भुवनेश्वर शर्मा : जी हां ।

श्री श्यामनन्दन मिश्र : उनकी शिक्षा किस दर्जे की थी ?

श्री भुवनेश्वर शर्मा : यह उन्हीं से मालूम हो सकता है ।

श्री श्यामनन्दन मिश्र : आपको उसकी जानकारी नहीं है ।

श्री भुवनेश्वर शर्मा : जी नहीं ।

श्री श्यामनन्दन मिश्र : जितने बन्दी जेल में जाते हैं, क्या उनके साथ-साथ हर एक केस में वारण्ट भी वहां पहुंच जाते हैं ?

श्री भुवनेश्वर शर्मा : हम बगैर वारण्ट के बन्दी नहीं लेते हैं ।

श्री श्यामनन्दन मिश्र : क्या ऐसा कोई मामला आपके सामने नहीं आया, जहां बगैर वारण्ट के बन्दी पहले पहुंच जाय और वारण्ट बाद में आये ?

श्री भुवनेश्वर शर्मा : जी नहीं ।

श्री श्यामनन्दन मिश्र : लेकिन मुझे कुछ लोगों ने बताया कि उनको वहां दाखिल कर दिया गया, वारण्ट बाद में आया—इसीलिये मैंने आप से पूछा ?

श्री भुवनेश्वर शर्मा : वहां ऐसा कभी नहीं हुआ ।

श्री श्यामनन्दन मिश्र : इस समय आपकी जेल में कितने अण्डर-ट्रायल प्रिजनर्स हैं ?

श्री भुवनेश्वर शर्मा : अभी हमारे यहां 70-72 अण्डर-ट्रायल प्रिजनर्स होंगे ।

श्री श्यामनन्धन मिश्र : वे कितने दिनों से वहाँ हैं ?

श्री भुवनेश्वर शर्मा : कुछ तो एक साल, डेढ़ साल, दो साल से हैं, कुछ नये भी आये हैं।

श्री श्यामनन्धन मिश्र : दो साल के अण्डर-ट्रायल भी हैं ?

श्री भुवनेश्वर शर्मा : जी हाँ।

श्री श्यामनन्धन मिश्र : आपने बाजपेयी जी के सवाल के जवाब में कहा कि जब कभी बन्दी कोर्ट में ले जाये जाते हैं तो या तो उनको हथकड़ी लगाई जाती है या उनको रस्सी से बांधा जाता है। मैं भी फ़ुलवाड़ी शरीफ जेल में 1942 में था और एक अण्डर-ट्रायल कैदी की हैसियत से कोर्ट में ले जाया गया था, लेकिन मुझे याद नहीं आता है कि उस समय मुझे हथकड़ी या रस्सी लगायी गई थी। लेकिन अब आप कहते हैं कि आमतौर पर हथकड़ी लगाई जाती है, ऐसा आप का अनुभव है या आप देखते हैं ?

श्री भुवनेश्वर शर्मा : जी हाँ, मैं ऐसा देखता हूँ।

श्री श्यामनन्धन मिश्र : लेकिन मुझे याद नहीं आता है कि ऐसा पहले होता था। आप ने जब एस्कोर्ट पार्टी से कहा कि ये संसद सदस्य हैं, इन्हें हथकड़ी नहीं लगानी चाहिए, तो उस पर किन शब्दों में उन लोगों ने जवाब दिया ? क्या राजेन्द्र सिंह ने कोई जवाब दिया, उन के क्या शब्द थे ?

श्री भुवनेश्वर शर्मा : उन्होंने कोई जवाब नहीं दिया।

श्री श्यामनन्धन मिश्र : आपने कहा और उन्होंने फौरन चाबी निकाली, उन को खोलना चाहा ? उन्होंने फौरन किया या एक-दो बार इशारा करना पड़ा ?

श्री भुवनेश्वर शर्मा : उन्होंने तुरन्त किया।

श्री श्यामनन्धन मिश्र : मगर कुछ शब्द तो उन्होंने कहे होंगे। आपने यह तो जरूर कहा होगा कि इनको क्यों लगाते हो, इस पर उनका कोई जवाब आना चाहिये ?

श्री भुवनेश्वर शर्मा : इस पर कोई जवाब उन्होंने नहीं दिया।

श्री श्यामनन्धन मिश्र : एस्कोर्ट दस्ते को बन्दियों को सुपुर्द करने का अधिकार जेल में किस व्यक्ति को है ?

श्री भुवनेश्वर शर्मा : वहाँ कार्य बंटा हुआ होता है। सुपुर्द करने का काम एक सहायक एसिस्टेंट का है, उनका नाम है अशोक कुमार सिंह।

श्री श्यामनन्धन मिश्र : क्या वह व्यक्ति एसिस्टेंट जेलर कहा जाता है ?

श्री भुवनेश्वर शर्मा : नहीं। वह क्लर्क है, उन का काम अण्डर-ट्रायल प्रिजन्स को खाने का, कपड़े भेजने का और रिलीज करने का होता है। उस दुर्घटना के बाद वहाँ पर

दो ही आदमी स्टाफ में थे। एक मैं और एक क्लर्क जिसके जिम्मे कोर्ट में बन्दियों को प्रोड्यूस करना है और अन्य कार्य मैं स्वयं करता था।

श्री श्यामनन्दन मिश्र : मगर उसका हुकम तो दिया जाता होगा ऊंचे कर्मचारी द्वारा तभी तो लिपिक बन्दियों को सुपुर्द करता होगा। यह बड़ी जिम्मेदारी का काम है।

श्री भुवनेश्वर शर्मा : यह तो स्टोन वर्क है। कोर्ट बुलाता है।

श्री श्यामनन्दन मिश्र : सहायक ही कर देगा या आपका आर्डर होगा ?

श्री भुवनेश्वर शर्मा : सब के वारण्ट पर तिथि निश्चित रहती है और उसके अनुसार बन्दियों को बता दिया जाता है, सिपाही ही बता देता है और उनको खाना पीना खिलाकर तैयार कर दिया जाता है नियमानुसार। यह उनका रोज का काम है, बन्दियों को रिसीव करना और उन्हें न्यायालय भेजना।

श्री श्यामनन्दन मिश्र : चार, पांच महीने में कभी राजेन्द्र सिंह आप को जेल में तशरीफ ले गये ? आपसे कभी उनसे बातचीत हुई ?

श्री भुवनेश्वर शर्मा : जी नहीं।

श्री श्यामनन्दन मिश्र : किसी उच्च कर्मचारी ने आप से इस के सम्बन्ध में बात की कि यह मामला पार्लियामेंट में उठाया गया है ?

श्री भुवनेश्वर शर्मा : हमारे यहां चिट्ठी गई।

श्री श्यामनन्दन मिश्र : किसी उच्च अधिकारी ने इस के सम्बन्ध में बात की ?

श्री भुवनेश्वर शर्मा : यहां से आदेश गया कि पार्लियामेंट में मामला उठा है इसलिए आप को जाने का आदेश दिया जाता है।

श्री श्यामनन्दन मिश्र : यह खत ही मिला आपको। और किसी उच्च अधिकारी ने आपको कुछ नहीं कहा ?

श्री भुवनेश्वर शर्मा : जी नहीं, मुझ से किसी उच्च कर्मचारी ने कुछ नहीं कहा।

श्री श्यामनन्दन मिश्र : इन्स्पेक्टर जनरल आफ प्रिजनर्स को इसकी कोई जानकारी नहीं है ?

श्री भुवनेश्वर शर्मा : उन्हीं के यहां से हमको चिट्ठी मिली। दो पत्र मिले, एक जिलाधीश की तरफ से जिसका नम्बर है 7933 दिनांक 20-12-74, प्रतिलिपि सूचनार्थ अधीक्षक कारागार, फुलबारी शरीफ, पटना, और दूसरा पत्र आई० जी० प्रिजनर्स के यहां से आया पत्र संख्या 11888, दिनांक 28-12-74। जिसमें लिखा है कि श्री भुवनेश्वर शर्मा को आदेश दें कि 30-1-75 को लोक सभा की विशेषाधिकार समिति के समक्ष उपस्थित होना है। और इस पत्र की प्राप्ति की सूचना भी मांगी गई। यह पत्र भी अधीक्षक कारागार को आया था।

श्री श्यामनन्दन मिश्र : दो जुलाई को जो वहां घटना हुई उसके सम्बन्ध में जो जांच पड़ताल चल रही थी क्या वह पूरी हो गई ? और उस का परिणाम सब को मालूम हुआ ?

श्री भुवनेश्वर शर्मा : जी हां । जो दो पदाधिकारी थे, कारापाल और सहायक कारापाल, इन दोनों के प्रति सरकार ने अपना डिसप्लेजर शो किया और 18 सिपाही सस्पेंड हैं और अभी तक इनक्वायरी चल रही है ।

श्री श्यामनन्दन मिश्र : माननीय सदस्य श्री ईश्वर चौधरी ने जो इल्जाम लगाये हैं उन के बारे में भी तो उस जांच पड़ताल के कुछ परिणाम आये होंगे ?

श्री भुवनेश्वर शर्मा : वह तो अभी इनक्वायरी में है वार्डर के सम्बन्ध में । वह सस्पेंड है और अभी इनक्वायरी चल रही है और जांच पड़ताल अभी पूरी नहीं हुई ।

श्री श्यामनन्दन मिश्र : एस्कोर्ट पार्टी का कोई अफसर इस बीच में जेल में आया था ?

श्री भुवनेश्वर शर्मा : कोई नहीं आये थे ।

श्री श्यामनन्दन मिश्र : मगर इस मामले के बारे में अगर उनको कुछ यहां कहना हो तो उसकी पूरी जानकारी लेकर आनी चाहिये थी । कुछ पूछा होगा कि कैसे-कैसे क्या बातें हुई ?

श्री भुवनेश्वर शर्मा : हमारे यहां नहीं आये । अपने विभाग से पूछा हो तो मैं नहीं कह सकता ।

श्री श्यामनन्दन मिश्र : हथकड़ी लगाने का काम जेल में ही सम्पन्न हुआ था ?

श्री भुवनेश्वर शर्मा : जेल में चार्ज देने के बाद हुआ । बन्दीयों को भी गेट पर रिसीव किया जाता है और जो हैण्ड ओवर भी किया जायेगा तो गेट पर ही पुलिस को दिया जायगा ।

श्री श्यामनन्दन मिश्र : तो उस घटना स्थल पर कोई नहीं आये ?

श्री भुवनेश्वर शर्मा : जी नहीं, कोई नहीं आये ।

श्री श्यामनन्दन मिश्र : अभी जो राजेन्द्र सिंह जी आ रहे हैं इस कमेटी के सामने तो उन्होंने आपसे कोई बातें नहीं कीं ?

श्री भुवनेश्वर शर्मा : बाहर ही उनसे भेंट हुई है ।

श्री श्यामनन्दन मिश्र : क्या यह स्वाभाविक मालूम होता है कि बातें न हुई हों ।

श्री भुवनेश्वर शर्मा : मैं तो पास बनवा कर चला आया हूं । मुझ से उनकी बात नहीं हुई ।

श्री मूलचन्द बागा : आए तो एक ही डिब्बे में होंगे ?

श्री भुवनेश्वर शर्मा : जी नहीं, मैं 27 तारीख को चला और 28 तारीख को गोहाटी मेल से यहां पहुंच गया हूं ।

श्री प्रदल बिहारी बाजपेयी : एस्कोर्ट पार्टी में कितने आदमी थे ?

श्री भुवनेश्वर शर्मा : एक और 8 की पार्टी थी ।

श्री अटल बिहारी वाजपेयी : हवलदार अफसर हुआ। हथकड़ी लगाने का काम हवलदार करता है या कांस्टेबल करता है ?

श्री भुवनेश्वर शर्मा : हवलदार जिस को कहते हैं वही करता है, या कांस्टेबल करता है। हवलदार वहां मौजूद रहता है और सिपाही भी वहां मौजूद रहते हैं।

श्री अटल बिहारी वाजपेयी : माननीय सदस्य ईश्वर चौधरी को हथकड़ी सिपाही ने लगाई थी या हवलदार ने ?

श्री भुवनेश्वर शर्मा : मैंने नहीं देखा।

श्री अटल बिहारी वाजपेयी : चाभी हवलदार ने निकाली या सिपाही ने ?

श्री भुवनेश्वर शर्मा : याद नहीं पड़ता। लेकिन यह जरूर याद है कि चाभी निकाली गई।

(The witness then withdrew)

## (ii) Evidence of Shri Rajendra Singh, Havildar-in-charge, Escort Party.

सभापति महोदय : सब से पहले आप शपथ ले लीजिए।

श्री राजेन्द्र सिंह : मैं, 1191 राजेन्द्र सिंह, ईश्वर की शपथ लेता हूँ, सत्यनिष्ठा से प्रतिज्ञा करता हूँ कि मैं इस मामले में जो साक्ष्य दूंगा वह सच्चा होगा, मैं कुछ नहीं छिपाऊंगा और मेरे साक्ष्य का कोई अंश झूठा नहीं होगा।

श्री एम० सी० डागा : आप एस्कोर्ट पार्टी के अन्दर क्या हैं ?

श्री राजेन्द्र सिंह : मैं हवलदार हूँ।

श्री एम० सी० डागा : जिस दिन को जेल से कैदियों को कचहरी ले जाना पड़ता है, उस दिन आप को सूचना कब हो जाती है ?

श्री राजेन्द्र सिंह : 6 बजे होती है और 10 बजे जाना पड़ता है।

श्री एम० सी० डागा : आप को 5 अगस्त, 1974 को यह सूचना हो गई थी कि फुलवारा जेल से आप को कैदियों को ले जाना है।

श्री राजेन्द्र सिंह : जी, हां।

श्री एम सी० डागा : उस की सूची आ गई थी ?

श्री राजेन्द्र सिंह : सूची नहीं मिलती। सिपाहियों का नाम और राइफल गोली मिला। हमें एक कमांड मिला और दूसरी कोई चीज नहीं मिली।

श्री एम० सी० डागा : उस को ले कर आप गये।

श्री राजेन्द्र सिंह : राइफल ले ली थी और हथकड़ी ले ली थी और उस के बाद जेल गये थे।

श्री एम० सी० डागा : फिर आप को लिस्ट दे दी गई कि इन कैदियों को ले जाना है ?

श्री राजेन्द्र सिंह : गिन-गिन कर कैदी मिलते हैं ।

श्री एम० सी० डागा : यह काम किस ने किया ?

श्री राजेन्द्र सिंह : राइटर बाबू ने ।

श्री एम० सी० डागा : राइटर बाबू को मालूम होगा कि श्री ईश्वरी चौधरी एम० पी० हैं ।

श्री राजेन्द्र सिंह : यह हमारे कमीड पर नहीं लिखा था, लिस्ट पर लिखा होगा । जो कस्टडी वारेन्ट रहता है, वह नहीं पढ़ते हैं । हम तो गिन गिन कर कैदी लेते हैं ।

श्री एम० सी० डागा : राइटर बाबू ने श्री ईश्वर चौधरी का नाम बताया था ?

श्री राजेन्द्र सिंह : वह नहीं बताया था । रजिस्टर पर सिपाही नाम लिखते हैं । उस समय 8 सिपाही थे और हम ही थे । दूसरा कोई आफिसर नहीं था । बाद में हथकड़ी खोलने के लिए कहा तो हथकड़ी खोलने नहीं दिया ।

श्री एम० सी० डागा : आप गया के हैं ?

श्री राजेन्द्र सिंह : मैं शाहबाद का हूँ ।

श्री एम० सी० डागा : आपने श्री ईश्वर चौधरी का नाम सुना था ?

श्री राजेन्द्र सिंह : पहले नहीं सुना था ।

श्री एम० सी० डागा : आप इन्टरमीडिएट हैं ?

श्री राजेन्द्र सिंह : मैं चौथी क्लास तक पढ़ा हूँ ।

श्री एम० सी० डागा : आप अक्सर पढ़ते हैं ?

श्री राजेन्द्र सिंह : जी, नहीं ।

श्री एम० सी० डागा : जब आप को यह मालूम हो गया था कि यह ईश्वर चौधरी हैं, तो इनके हथकड़ी लगाने वाला आपके साथ कौन था ?

श्री राजेन्द्र सिंह : हमारे साथ 8 सिपाही थे ।

श्री एम० सी० डागा : मैं जो सवाल पूछ रहा हूँ उसका जवाब दीजिए । जिसने श्री ईश्वर चौधरी को हथकड़ी लगाई, वह शस्त्र कौन था ?

श्री राजेन्द्र सिंह : उस समय 32 आदमी थे और उनको अगर एक आदमी हथकड़ी पहनाता, तो कोर्ट का टाइम फेल हो जाता । आठ सिपाही थे और उनमें से तीन चार हथकड़ी लगा रहे थे । यह पता नहीं कि इनको किस ने हथकड़ी लगाई लेकिन जब यह मालूम हुआ कि ये एम० पी० हैं तो हमने इनसे हथकड़ी खोलने के लिए कहा लेकिन इन्होंने खुलवाने से इंकार कर दिया ।

श्री एम० सी० डाणा : आपने हमारे सवाल का जवाब नहीं दिया । आपने कहा कि 8 सिपाही थे । उनमें से किसने श्री ईश्वर चौधरी को हथकड़ी लगाई । यह बता दीजिए कृपा करके ।

श्री राजेन्द्र सिंह : हम यह नहीं बता सकते ।

श्री एम० सी० डाणा : हथकड़ी लगाने के बाद चाबी उस आदमी के पास रहती है जो हथकड़ी लगाता है ?

श्री राजेन्द्र सिंह : हथकड़ी लगाने के बाद चाबी जितने आदमी हथकड़ी लगाते हैं उनके पास रहती है और मौका पड़ने पर चाबी इकट्ठा भी रहती हैं । कुछ चाबियाँ ऐसी हैं जिनका नम्बर मिट गया है ।

श्री एम० सी० डाणा : अभी जो जेलर साहब आए थे, इनको आप जानते हैं ?

श्री राजेन्द्र सिंह : जी, हाँ ।

श्री एम० सी० डाणा : आपकी इन से कोई बात हुई ?

श्री राजेन्द्र सिंह : जेलर साहब से मालूम हुआ कि यह एम० पी० साहब हैं ।

श्री एम० सी० डाणा : आप से कोई बात नहीं हुई ?

श्री राजेन्द्र सिंह : जी, नहीं ।

श्री एम० सी० डाणा : कुछ भी नहीं ?

श्री राजेन्द्र सिंह : जी, नहीं ।

श्री एम० सी० डाणा : इनको बोलते हुए सुना आपने ?

श्री राजेन्द्र सिंह : जी, हाँ ।

श्री एम० सी० डाणा : क्या कह रहे थे ?

श्री राजेन्द्र सिंह : वह नहीं सुना ।

श्री एम० सी० डाणा : इन्होंने किसी दूसरे सिपाही से आपके सामने कुछ नहीं कहा । अभी जी, जेलर साहब ने आपकी मौजूदगी में आपकी एस्कोर्ट पार्टी के किसी सिपाही से कुछ नहीं कहा ?

श्री राजेन्द्र सिंह : जी, नहीं ।

श्री एम० सी० डाणा : यह बात सही है ।

श्री राजेन्द्र सिंह : जी, नहीं ।

श्री एम० सी० डाणा : आप यह बताइए कि श्री ईश्वर चौधरी और जो अन्य कैदी थे उनको हथकड़ी लगाने वाले कितने आदमी थे और श्री ईश्वर चौधरी को किस ने हथकड़ी लगाई ?

श्री राजेन्द्र सिंह : यह मैं नहीं बता सकता ।



**श्री एम० सी० डागा :** यह बात जरूर थी कि कैदी हल्ला कर रहे थे, थोरगुल मचा गई थी कि आज ठीक हुआ कि एम० पी० के भी हथकड़ी लग गई। यह सत्याग्रही कह रहे थे ?

**श्री राजेन्द्र सिंह :** हजूर, 10 बजे के बाद हम पुलिस लाइन से चले।

**श्री एम० सी० डागा :** जो सवाल मैं पूछा, उसका जवाब दो। जब आप वहां से चले तो सत्याग्रही जोर जोर से कह रहे थे कि एम० पी० के हथकड़ी लग गई। यह बात आपने उनका मुंह से सुनी या नहीं ?

**श्री राजेन्द्र सिंह :** वे लोग नारे लगा रहे थे। एम० पी० के बारे में बात नहीं कर रहे थे।

**श्री एम० सी० डागा :** आप को कैसे मालूम हुआ कि एम० पी० के हथकड़ी लग गई ?

**श्री राजेन्द्र सिंह :** हमारी कमांड पर नहीं लिखा था। जेल के राइटर बाबू ने बताया था कि एम० पी० साहब हैं।

**श्री एम० सी० डागा :** जो लोग ले जा रहे थे उनमें से किस के हाथ में श्री ईश्वर चौधरी की हथकड़ी थी ?

**श्री राजेन्द्र सिंह :** यह बता नहीं सकता।

**श्री एम० सी० डागा :** यह भी तो मालूम पड़े कि वह कौन सा सिपाही था ?

**श्री राजेन्द्र सिंह :** यह हम नहीं बता सकते।

**श्री एम० सी० डागा :** आपसे श्री ईश्वर चौधरी ने कोई बात नहीं की ?

**श्री राजेन्द्र सिंह :** हमसे ज्यादा बात नहीं हुई।

**श्री एम० सी० डागा :** न उन्होंने आप से कोई बात की और न आपने। वे भी चुप रहे और आप भी चुप रहे ?

**श्री मूल चन्द डागा :** कितने माल से काम कर रहे हैं एस्कार्ट पार्टी में ?

**श्री राजेन्द्र सिंह :** 1-10-58 को मेरी बहाली हुई थी।

**श्री मूल चन्द डागा :** आपको मालूम है कि हथकड़ी उन लोगों को लगाई जाती है जो खतरनाक होते हैं, जिनको मौत की सजा होनी होती है, जो भागने वाले होते हैं, जो हिंसा पर उतराक होने वाले होते हैं तथा दूसरे लोगों को लगाना बाजिब नहीं है ?

**श्री राजेन्द्र सिंह :** प्रथम और द्वितीय श्रेणी के कैदियों को नहीं लगाई जाती है। बाकी सबको लगाई जाती है। जिस पर शक हो कि यह भागने वाला है उसको लगाई जाती है।

**श्री मूल चन्द डागा :** मैं फिर सवाल कहता हूँ। विभाग से क्या इस तरह की हिदायत है कि जो भागने वाला नहीं है, खतरनाक नहीं है, मौत की सजा पाने का हकदार नहीं है, हिंसा करने पर उतराक नहीं है उसको न लगाई जाए, उसको कोर्ट में बिना हथकड़ी के ही ले जाया जाए ?

**श्री राजेन्द्र सिंह :** ऐसी ड्यूटी हमने नहीं की है। भ्रफसर लोग ही ऐसी चीखों के बारे में पूरी तरह से समझते हैं। हमें मालूम नहीं है। हिन्दी में लिख दिया जाता तो नहीं लगाई जाती।

**श्री मूल चन्द डागा :** क्या ये सब सत्याग्रही थे, विद्यार्थी थे, पढ़े लिखे थे ?

**श्री राजेन्द्र सिंह :** जी हाँ, लेकिन कुछ ऐसे भी थे जो पब्लिक के आदमी थे, पढ़े लिखे नहीं थे। सबको हमने हथकड़ी लगाकर पेश कर दिया। उनको गाड़ी पर ले गए और गाड़ी से ही वापिस ले आए।

**श्री मूल चन्द डागा :** क्या उनको अदालत में पेश किया गया ?

**श्री राजेन्द्र सिंह :** वहाँ बैठने की जगह नहीं थी। वहाँ से बुलाहट नहीं हुई। अगर आदेश होता कि कोर्ट में पेश करें तो हथकड़ी खोल करके उनको पेश कर देते। कस्टडी वारेंट हमने पेश किया। उसी पर उन्होंने डेट दे दी।

**श्री मूल चन्द डागा :** रीटार ने भी जांच नहीं की कि कितने आ गए हैं ?

**श्री राजेन्द्र सिंह :** जी नहीं। बरामदे में भी बैठने के लिए जगह नहीं थी। इस वास्ते वहाँ से डेट लेकर हम वापिस आ गए और इनको जेल में भेज दिया।

**श्री मूल चन्द डागा :** वापिस जेल में हथकड़ी से लाए ?

**श्री राजेन्द्र सिंह :** जी हाँ। कचहरी में ले जाने के लिए कहा जाता तो कठघरे के बाहर ही हथकड़ी खोल देते और फिर बाद में वहाँ से वापिस आने पर लगा देते।

**श्री मूल चन्द डागा :** आप से कभी ईश्वर चौधरी के बारे में भी पूछा गया है ?

**श्री राजेन्द्र सिंह :** जी नहीं। यहाँ आने के पहले कभी कुछ पूछा नहीं गया। यहाँ आने के वास्ते हमें सूचना मिली और हम आ गए। कोई बात नहीं हुई।

**श्री मूल चन्द डागा :** सूचना किस तारीख को मिली ?

**श्री राजेन्द्र सिंह :** इसके पहले हम पुलिस लाइन्ज में ड्यूटी में थे। जय प्रकाश बाबू की सुरक्षा में थे। उस समय हमें बुलाहट हुई। मुंशी जी से मालूम हुआ। बारह तारीख को बुलाया गया।

**श्री मूल चन्द डागा :** सूचना कब मिली कि पार्लियामेंट में आपको जाना है ?

**श्री राजेन्द्र सिंह :** कागज हमें बारह तारीख को मिला। इसके बाद हम 26 जनवरी की पीरेड में थे। 27 को हमें यहाँ आने का हुकम मिला।

**श्री मूल चन्द डागा :** 12 जनवरी से आज तक इसकी बाबत आपने किसी भी अधिकारी से, हथकड़ी के बारे में पूछा नहीं ?

**श्री राजेन्द्र सिंह :** कुछ अफसरों से पूछा लेकिन उन्होंने कहा कि हम क्या बताएं वहाँ के बारे में, हमें कुछ मालूम नहीं है। वहाँ क्या जवाब देना है क्या नहीं ऐसा कभी हमने नहीं किया है।

**श्री मूल चन्द डागा :** किस अफसर से पूछा ?

**श्री राजेन्द्र सिंह :** जो ज्यादा समय वाले थे।

श्री मूल चन्द डागा : नाम बता सकते हैं ?

श्री राजेन्द्र सिंह : दारोगा जी हैं जिनसे पूछना चाहा था कि वहां क्या जवाब देना है और उन्होंने कहा कि हमें कुछ भी मालूम नहीं है कि कैसे सवाल पूछे जाएंगे और क्या उनका जवाब देना है ।

श्री मूल चन्द डागा : जिस दिन हथकड़ी लगाई उस दिन शर्मा जी को आपने देखा था ?

श्री राजेन्द्र सिंह : शर्मा जी आफिस से बाहर आए थे और मैंने उनको देखा था ।

श्री अटल बिहारी वाजपेयी : जिन कैदियों को अदालत में ले जाना पड़ा है उनके बारे में सबेरे आपको एक कमान मिलता है । पांच तारोख के कैदियों का जो कमान मिला उसमें क्या यह नहीं बताया गया था कि आज जो कैदी अदालत में ले जाएंगे उनमें एक एम० पी० भी है ?

श्री राजेन्द्र सिंह : नहीं बताया गया और न कमान में लिखा गया ।

श्री अटल बिहारी वाजपेयी : कमान कौन देता है ?

श्री राजेन्द्र सिंह : मुंशी जी देते हैं ।

श्री अटल बिहारी वाजपेयी : कमान आपके पास होगी । जरा दिखा दीजिये ।

श्री राजेन्द्र सिंह : यह मिलती है ।

श्री अटल बिहारी वाजपेयी : ये सत्याग्रही 65 थे, लेकिन आपको 16 हथकड़ी और 16 रस्से दिये गये ?

श्री राजेन्द्र सिंह : दो पाटियां थीं—एक पार्टी और थी ।

श्री अटल बिहारी वाजपेयी : जिस व्यक्ति को हथकड़ी लगती है, क्या उसको रस्सा भी लगता है ?

श्री राजेन्द्र सिंह : दो आदमियों के बीच में रस्सा लगता है, जिससे ले जाने में सुविधा होती है ।

श्री अटल बिहारी वाजपेयी : जब आप जेल पहुँचे, तो आपको कैदी सौंपे गये और तब आप को पता लग गया कि इनमें एक एम० पी० साहब भी हैं ?

श्री राजेन्द्र सिंह : जी, नहीं ।

श्री अटल बिहारी वाजपेयी : आप को यह कब पता लग ?

श्री राजेन्द्र सिंह : जब हम जेल में जाते हैं, तो 10 बजे के बाद हम को कमान मिलता है । मुंशी जी आदमियों के नाम देते हैं और हम उस कागज पर दस्तखत कर देते हैं । तब हम हथकड़ी-रस्सा लगा कर उन लोगों को गाड़ी में बिठा कर कोर्ट में ले जाते हैं ।

श्री अटल बिहारी वाजपेयी : जब आप जेल पहुँचे, तो हथकड़ी लग रही थी। क्या आप को उस समय पता लग गया कि उन लोगों में कोई एम० पी० भी है ?

श्री राजेन्द्र सिंह : उस समय मुझे पता नहीं था। जब मैं रजिस्टर पर दस्तखत करने के लिए गया, तब मुझे पता लगा। रजिस्टर पर सब आदमियों के नाम लिखे होते हैं और उस पर दस्तखत होता है। जब मैंने हथकड़ी खोलनी चाही, तो उन्होंने कहा कि अब लग गई है, बाद में—आने के बाद देखा जायेगा, अभी टाइम नहीं है। खोलना है तो सब को खोलें।

श्री के० जी० बेशंमुख : जब आप हथकड़ी खोलने के लिए गये, तो किसने यह कहा कि टाइम नहीं है ? क्या एम० पी० साहब ने यह कहा था कि अब हथकड़ी खोलने की जरूरत नहीं है—अब वह नहीं खोलने देंगे ?

श्री राजेन्द्र सिंह : श्री ईश्वर चौधरी ने कहा कि हथकड़ी लग जाने के बाद हम नहीं खोलेंगे—नहीं खोलने देंगे। कुछ आदमी बाहर गाड़ी में थे और कुछ आदमी गेट के अन्दर थे। हमने दोनों को देखना था।

श्री अटल बिहारी वाजपेयी : आपने कहा कि राइटर बाबू ने कहा कि एम० पी० को हथकड़ी न लगाओ।

श्री राजेन्द्र सिंह : अगर मुझ से पहले कहा जाता, तो हम कभी हथकड़ी न लगाते। जब मैं दस्तखत करने के लिये गया, उस समय मैंने देखा और मैंने कहा। रजिस्टर पर सभी आदमियों के नाम लिखे जाते हैं। मैंने दाहिनी साइड पर देख लिया कि एम० पी० साहब हैं। सिपाही ने कहा कि इनमें एम० पी० भी हैं।

श्री अटल बिहारी वाजपेयी : श्री शर्मा ने नहीं कहा कि वह एम० पी० हैं ?

श्री राजेन्द्र सिंह : अगर कोई आदमी मुझ से कहता, तो हम कभी हथकड़ी न लगाते। हथकड़ी लग जाने के बाद हमको मालूम हुआ। ये लोग आफिस में रहते हैं। जेलर का कोई दस्तखत नहीं रहता है। सभी काम राइटर बाबू करते हैं। राइटर बाबू असामी देते हैं। सिपाही नाम लिखते हैं। वही हमको बताते हैं। हम तो इतने पढ़े-लिखे नहीं हैं।

श्री अटल बिहारी वाजपेयी : जब आपके सिपाही श्री ईश्वर चौधरी को हथकड़ी लगा रहे थे, तो और सत्याग्रही भी खड़े थे। क्या उन्होंने यह कहा कि यह एम० पी० हैं ?

श्री राजेन्द्र सिंह : 35 आदमियों को श्री शिवनाथ राय बाहर हथकड़ी लगा रहे थे। हम एक छोटे हाल में लगा रहे थे। उस समय जेल का कोई आदमी नहीं था। श्री शिवनाथ राय के पास जो 35 आदमी थे, उनको बाहर निकलना था। उसके बाद हम लोगों की बुलाहट हुई। अब हम लोग कमरे से गेट पर आये, तो जो आदमी बाहर निकल रहे थे, उनके नाम मिलाये जा रहे थे। जब पूरे नाम मिल गये, तो जेल से बाहर निकाला।

श्री अटल बिहारी वाजपेयी : क्या आप मानते हैं कि एम० पी० को हथकड़ी नहीं लगानी चाहिये ?

श्री राजेन्द्र सिंह : जी, हां ।

श्री अटल बिहारी वाजपेयी : क्यों ?

श्री राजेन्द्र सिंह : वह राजनैतिक व्यक्ति है । वह भागने वाले नहीं हैं । उनका कोई आफ़िस नहीं है । वह कहीं भी काम कर सकते हैं । इसलिये उनको हथकड़ी नहीं लगती है ।

श्री अटल बिहारी वाजपेयी : क्या बाकी सत्याग्रहियों को हथकड़ी लगाना जरूरी है ?

श्री राजेन्द्र सिंह : जब तक हमको हिन्दी में लिख कर नहीं मिलेगा, तब तक हमको हथकड़ी लगानी होगी, क्योंकि भागने का डर रहता है ।

श्री अटल बिहारी वाजपेयी : जब आपको वमान् दिया जाता है, तो क्या आपको बताया जाता है कि कैदियों में ए डिविजन के कैदी भी होंगे और दूसरे कैदी भी होंगे ?

श्री राजेन्द्र सिंह : उस दिन हमारी बहुत ड्यूटी रहती है । हम लोग खाने-पीने के बाद वहीं पहन कर आते हैं । तब हमको कमान मिलता है । वह हमको नहीं समझाते हैं ।

श्री अटल बिहारी वाजपेयी : क्या आपको ऐसा लगता है कि आपने एम० पी० को हथकड़ी लगा कर गलती की ?

श्री राजेन्द्र सिंह : हमको बाद में मालूम हुआ कि हथकड़ी चलती से लग गई है ।

श्री अटल बिहारी वाजपेयी : क्या आपने श्री ईश्वर चौधरी से माफ़ी मांगी ?

श्री राजेन्द्र सिंह : हम हथकड़ी खोलने के लिये तैयार थे । उन्होंने नहीं खोली ।

श्री अटल बिहारी वाजपेयी : क्या उन्होंने यह कहा कि जब और सत्याग्रहियों को हथकड़ी लग गई है, इसलिये मुझे भी लगी रहने दो ?

श्री राजेन्द्र सिंह : हमने उनसे पूछा कि हम क्या करें । तो वह चुप रहे—उन्होंने कुछ जवाब नहीं दिया ।

श्री श्याम नन्दन मिश्र : आप शाहाबाद जिले के किस क्षेत्र से आते हैं ?

श्री राजेन्द्र सिंह : हमारा घर मुफ़्फ़सिल एरिया में पड़ता है । वह विधान सभा के लिये बरारा क्षेत्र है और यहां हमारे सदस्य श्री बलिराम भगत हैं ।

श्री श्याम नन्दन मिश्र : क्या आप अपने क्षेत्र के पार्लियामेंट के मेम्बर को जानते हैं ? क्या कभी उनसे मुलाकात हुई है ?

श्री राजेन्द्र सिंह : जी, नहीं ।

श्री श्याम नन्धन मिश्र : क्या उनका नाम सुना है ?

श्री राजेन्द्र सिंह : जी, हां ।

श्री श्याम नन्धन मिश्र : आपने सत्याग्रहियों को कोर्ट तक कितनी बार एस्कार्ट किया है ?

श्री राजेन्द्र सिंह : इतनी बात याद नहीं है । हम को ऐसा भी मौका मिलता है कि सत्याग्रहियों को बस में बन्द कर दिया जाता है, गेट पर हम लोग रहते हैं, और कभी उनको बाहर जाकर छोड़ भी देते हैं । जैसा आर्डर होता है, वैसा करते हैं ।

श्री श्याम नन्धन मिश्र : आपने सत्याग्रहियों को कोर्ट तक ले जाने का काम बहुत बार किया होगा ?

श्री राजेन्द्र सिंह : जी, हां । कुछ बार तो जरूर किया है ।

श्री श्याम नन्धन मिश्र : उसमें पहले दर्जों के कैदी भी रहे होंगे ?

श्री राजेन्द्र सिंह : पहले दर्जों के जो कैदी रहते हैं, उनके लिये स्पेशल गाड़ें मिलती हैं और उनके लिये छोटी सी अलग गाड़ी रहती है ।

श्री श्याम नन्धन मिश्र : तो इस बार आपकी पार्टी को कोई ऐसी गाड़ी नहीं दी गई ?

श्री राजेन्द्र सिंह : एक गाड़ी मिली थी जिस पर सभी को जाना था । वह खुली गाड़ी थी ।

श्री श्याम नन्धन मिश्र : यानी आपके जो अफसरान हैं उनकी तरफ से इसका कोई इन्तजाम नहीं था कि पहले दर्जों के कैदी को ले जाया जाय ? जैसा कि आप जानते हैं कि उनके लिये कुछ खास इन्तजाम होता है ऐसा कोई इन्तजाम नहीं था ?

श्री राजेन्द्र सिंह : उसमें अफसर जरूर होते हैं ।

श्री श्याम नन्धन मिश्र : लेकिन इस पार्टी में एक पहले दर्जों के कैदी थे यह तो जाहिर बात थी और उसकी सूचना आपके दूसरे कर्मचारियों को रही होगी, आपको भले ही न हो, लेकिन उन्होंने इसके लिये कोई खास इन्तजाम नहीं किया ?

श्री राजेन्द्र सिंह : हमें तो कुछ इसके बारे में मालूम नहीं है ।

श्री श्याम नन्धन मिश्र : जब आपको यह सूचना मिली कि पार्लियामेंट की कमेटी के सामने आपको जाना है तो आपकी क्या प्रतिक्रिया हुई ? आपके दिल में क्या भावना आई ?

श्री राजेन्द्र सिंह : हम बोले कि हम दिल्ली कभी नहीं गए ।

श्री श्याम नन्धन मिश्र : आप पहली बार दिल्ली आये हैं, तो यह तो पार्लियामेंट ने अच्छा काम किया कि आपको दिल्ली बुला लिया । लेकिन आपके दिल में क्या भाव आया ?

श्री राजेन्द्र सिंह : हम इसके बारे में क्या कहें ?

श्री श्याम नन्दन मिश्र : हम तो आपके ही समाज के रहने वाले हैं। आप सीधे सादे आदमी हैं इसलिये आपसे पूछ रहे हैं।

श्री राजेन्द्र सिंह : एक साहब हमारे साथ आये हैं, वह यहां सभी जगह दिखाने के लिये ले गए लेकिन वह भी कुछ इसके बारे में नहीं बता सके ?

श्री श्याम नन्दन मिश्र : जब आपको यह मालूम हुआ कि आपको पार्लियामेंट्री कमेटी के सामने पेश होना है तो आपको क्या लगा ?

श्री राजेन्द्र सिंह : सभी साथी कहने लगे कि आपकी नौकरी चली जाएगी।

श्री श्याम नन्दन मिश्र : नहीं, नहीं, पार्लियामेंट ऐसी खूंखार चीज नहीं है।

श्री अटल बिहारी वाजपेयी : डरने की जरूरत नहीं है। आप जो कुछ भी हो साफ़ साफ़ कहें।

श्री श्याम नन्दन मिश्र : हम सब एक ही समाज के आदमी हैं। जैसे हम लोग हैं ऐसे ही आप भी हैं। आप से हम यह जानना चाहते हैं कि आपके ही प्रतिनिधि जो हैं उनके साथ बर्ताव करने के लिये आपने ही कायदा बनाया हुआ है, उस कायदे का पालन क्यों नहीं हुआ ? इतना ही हम जानना चाहते हैं और कुछ नहीं। आपको जब कैदी सुपुर्द किये जाते हैं तो उस समय यह नहीं बताया जाता है कि किस दर्जे के कौन-कौन कैदी हैं ?

श्री राजेन्द्र सिंह : जी, नहीं। आर्डर कभी अंग्रेजी में आता है और कभी हिन्दी में आता है।

श्री श्याम नन्दन मिश्र : जेल में जाते हैं कैदियों को लेने तो वहां के अधिकारी यह नहीं बताते आपको कि कुछ आदमी तो इस दर्जे के हैं, कुछ इस दर्जे के ?

श्री राजेन्द्र सिंह : बहुत से ऐसे कैदी होते हैं सत्याग्रहियों में जो कभी हथकड़ी नहीं लगाते हैं। लेकिन हम लोग उनको बर्रियारी से लगाते हैं।

श्री श्याम नन्दन मिश्र : हम यह पूछते हैं कि कैदियों का जो वर्ग है यानी किस दर्जे के कौन-कौन कैदी हैं यह आपको पता होता है या नहीं। आपको यह तो बताया जाता होगा कि कैदी जो आपके सुपुर्द किए जाते हैं उनमें ए क्लास के कैदी 16 हैं सी क्लास के 40 हैं।

श्री राजेन्द्र सिंह : ऐसा किसी एस्कोर्ट पार्टी के साथ नहीं बताया जाता है।

श्री श्याम नन्दन मिश्र : राइटर बाबू कब से आपके साथ थे ?

श्री राजेन्द्र सिंह : हम लोग जब गेट में आए तो एक सिपाही से बात कर रहे थे। वह कलम से कुछ लिख रहे थे।

श्री इय्याम नन्वन मिश्र : राइटर बाबू जिस समय कैदी सुपुर्व किये जा रहे थे उस समय आपके साथ थे और उसके बाद में भी वितनी देर तक थे ?

श्री राजेन्द्र सिंह : गेट के बाहर नहीं थे ।

श्री इय्याम नन्वन मिश्र : आपने यह बात एक कही कि राइटर बाबू ने बताया जेलर साहब ने नहीं कि ईश्वर चौधरी जी एम० पी० हैं । यह राइटर बाबू ने बताया ?

श्री राजेन्द्र सिंह : जी, हां ।

श्री इय्याम नन्वन मिश्र : इसीलिये मैंने पूछा कि राइटर बाबू तो शुरू से आपके साथ थे और शुरू में नहीं बताया, बाद में चल कर बताया ?

श्री राजेन्द्र सिंह : राइटर बाबू को हम लोग कमांड दे देते हैं और जेल में जो कैदियों के मेठ होते हैं वही जेल के अन्दर जाते हैं आसामियों को बुलाने के लिये । हम लोग वहीं रहते हैं । जब आसामी आ जाते हैं तब आलमारी से कस्टडी वारंट वगैरह निकालते हैं । देखते हैं कि किसमें कितने जाने हैं, कितने नहीं जाने हैं । जाने वालों में कोई कैदी कभी तैयार नहीं रहता है तो कस्टडी वारंट बूँद कर निकाला जाता है । आसामी लोग आ जाते हैं तो उसके बाद हम लोग हथकड़ी रस्सा वगैरह लगाते हैं । फिर कस्टडी वारंट वह हमको गिन कर देते हैं ।

श्री इय्याम नन्वन मिश्र : आपने यह पूरी तरह समझा कि किस राइटर बाबू के बारे में मैं कह रहा हूँ ? जो जेल के अन्दर राइटर हैं उनके बारे में मैंने कहा कि आपको उन्होंने आखिर में चल कर बताया कि ईश्वर चौधरी साहब एम० पी० हैं, राइटर बाबू तो उसके पहले भी आपके साथ थे तो उन्होंने पहले क्यों नहीं बताया ?

श्री राजेन्द्र सिंह : हुजूर कमांड हम लोग आमद करा लेते हैं । उसके बाद आसामी जब तक भीतर के गेट के अन्दर नहीं आते तब तक वे लोग कस्टडी वारंट नहीं लाते हैं ।

श्री इय्याम नन्वन मिश्र : मेरा मतलब है कि हथकड़ी लगाने के पहले भी राइटर बाबू वहां थे ?

श्री राजेन्द्र सिंह : जी, नहीं । ऐसा था कि एक पार्टी और जानी थी । वह पहले से गेट के अन्दर थी । उस पार्टी में 35 आदमी थे जो एक कोर्ट में जाने वाले थे, वे गेट के अन्दर पहले थे । वह पार्टी हमसे पहले निकलने वाली थी । उस के साथ राइटर बाबू उस समय थे । जब उनको निकाल कर दे दिया और हमको फिर यह बता दिया कि ये आसामी हैं, हमने हथकड़ी रस्सा लगाना शुरू कर दिया । वह पार्टी जब चली गई तब कस्टडी वारंट इस पार्टी का निकालना शुरू किया । उसके बाद हम लोग दस्तखत करके गेट के बाहर निकले ।

श्री इय्याम नन्वन मिश्र : अगर वह मेरी पकड़ में नहीं आया कि किस बक्त में हथकड़ी लगाई गई ? जब राइटर बाबू उसके पहले आपसे मिले होंगे उसके बाद ही तो हथ-



कड़ी लगाई होगी ? हथकड़ी लगाने के बन्त कोई जेल का भफसर रहता है या नहीं रहता है ?

श्री राजेन्द्र सिंह : जी नहीं । गेट में जो रजिस्टर रहता है उसमें लिखने के लिए उस समय वे रहते हैं । हथकड़ी लगाने के बाद हम लोग रजिस्टर पर दस्तखत करते हैं कि इतने आदमी हैं और उसके बाद एक-एक आदमी को गिन कर तब जाने देते हैं । फिर हम लोग निकलते हैं ।

श्री इय्याम मन्धन मिश्र : अब आप जाइये । जो दहशत आपके दिल में पैदा हुई है, उसके लिये परेशान न होइये । हम लोग किसी का नुकसान करने के लिये यहाँ नहीं बैठे हैं । हम लोग जो कायदे-कानून बनाये गये हैं उनके पालन के लिये यहाँ बैठे हैं और जहाँ तक होता है, आपके जैसे जो भाई घाते हैं, उनके साथ जितना अच्छा बर्ताव हो सकता है, करते हैं । उनके बारे में जितना ख्याल किया जा सकता है, वह ख्याल करते हैं । आप के दिमाग में जो चिन्ता लोगों ने पैदा कर दी है, वह चिन्ता लेकर मत जाइये ।

(साक्षी बाहर गया)

*(The Committee then adjourned).*

*Saturday, the 15th November, 1975*

## PRESENT

Shri N. K. P. Salve—*Chairman.*

## MEMBERS

2. Shri Chakleshwar Singh
3. Shri Somnath Chatterjee
4. Shri M. C. Daga
5. Shri K. G. Deshmukh
6. Shri Arjun Sethi
7. Shri B. R. Shukla

## SECRETARIAT

1. Shri B. K. Mukherjee—*Chief Legislative Committee Officer*
2. Shri J. R. Kapur—*Senior Legislative Committee Officer*

## WITNESS

Shri R. N. Dash—*Secretary, Home Department, Government of Bihar.*

(The Committee met at 10.30 hours).

**Evidence of Shri R. N. Dash, Secretary, Home Department,  
Government of Bihar**

(Shri R. N. Dash was called in as Witness and administered)

**Mr. Chairman:** This Committee has been deliberating over the hand-cuffing of Shri Ishwar Chaudhry for quite some time and the evidence given so far has not clarified certain issues, especially those which impinge on the question of, and the procedure involved for the hand-cuffing of undertrials. It was in that connection that the Committee thought we should examine you and apprise ourselves of the exact position.

Now, who has sent this extract on teleprinter? Who is this Mr. Magon?

**Shri R. N. Dash:** He is an Under Secretary in the Home Ministry.

**Mr. Chairman:** Who has sent the teleprinter message?

**Shri R. N. Dash:** We have sent a message which bears No. 7532 dated 11 November, 1975.

**Mr. Chairman:** Do I take it that you are fully aware of the contents of this Message?

**Shri R. N. Dash:** Yes.

**Mr. Chairman:** In this teleprinter message you have tried to summarise briefly the procedure which is prescribed in the Bihar Jail Manual and Bihar and Orissa Police Manual. You have said that the undertrials within the precincts of the jail premises are under the charge of, or in the custody of, the prison authorities. It is only after they are brought to the main gate and handed over to the Police officials that they are under the charge of Police, and the officer in charge of the escort party is responsible for the security of the prisoners. That appears to be the procedure as made out in the teleprinter message on a reading of the various rules in the two Manuals—Jail Manual and the Police Manual. Is that the correct reading?

**Shri R. N. Dash:** Yes.

**Mr. Chairman:** You have proceeded further and stated that, if he is a superior class prisoner, then he cannot be handcuffed unless there is reason that he may attempt to escape and even if that be so, he cannot be handcuffed unless there is permission taken from the higher authorities. If that is so, I would like to ask you a few questions and then the hon. Members may like to apprise themselves of the facts. Firstly, have you apprised yourself of all the facts connected with this case?

**Shri R. N. Dash:** We got a preliminary inquiry done immediately when we learnt that there was an unfortunate incident of handcuffing of an hon. Member of Parliament and when we also learnt that it was, *prima facie*, not authorised by law. After a preliminary inquiry, it appeared that handcuffing had been done and it was not authorised by law. The handcuffing was not intentional and it was a *bona fide* mistake on the part of the escort party.

**Mr. Chairman:** My simple query was this. As a result of that inquiry, have you now apprised yourself of all the facts? Because, we want to apprise ourselves of the various facts relating to the whole incident.

**Shri R. N. Dash:** Yes.

**Mr. Chairman:** First, tell me what do you mean by 'superior class of undertrials'? Who are 'superior class undertrials'?

**Shri R. N. Dash:** It is the concerned Court or the District Magistrate who has got the concurrent powers to declare which of the prisoners will be deemed to be of superior class, and we have an instruction that a Member of Parliament or a Member of any of the State Legislatures will automatically be treated as of superior class.

**Mr. Chairman:** What is the classification of Satyagrahis?

**Shri R. N. Dash:** The *Satyagrahis* are not automatically classified under superior class. The basis of classification is their standard of living and the status enjoyed by them in the society.

**Mr. Chairman:** Not the cause for which they were fighting and coming to the jail?

**Shri R. N. Dash:** No.

**Mr. Chairman:** Also not how decent and how desirable their behaviour is?

**Shri R. N. Dash:** To the best of my knowledge, the two criteria are those which I mentioned.

**Mr. Chairman:** Standard of living and position in the society ?

**Shri R. N. Dash:** Yes.

**Mr. Chairman:** So, *Satyagrahis* are not classified under superior class irrespective of what cause they are fighting for and irrespective of how decent and desirable their behaviour might be. There must be many *Satyagrahis* who have hardly any social status and whose standard of living may be poor. Are those *Satyagrahis* handcuffed in Bihar?

**Shri R. N. Dash:** The practice is that, unless a prisoner is classified as an upper division prisoner, the officer in charge of the escort party handcuffs him during escort.

**Mr. Chairman:** That means, as a practice or as a rule, all the *Satyagrahis* are handcuffed unless any one is classified as a superior class undertrials.

**Shri R. N. Dash:** Yes.

**Mr. Chairman:** Now, tell me, in this particular case of Rajendra Singh—we have examined him on this matter very extensively—you say that the decision was taken by the Head Constable in charge of the escort party, namely, Rajendra Singh.

**Shri R. N. Dash:** Yes.

**Mr. Chairman:** Did he take this in violation of the Manual rules?

**Shri R. N. Dash:** Yes.

**Mr. Chairman:** Was it in consonance with the practice he was following?

**Shri R. N. Dash:** No, Sir.

**Mr. Chairman:** Did he know that he was handcuffing a superior undertrial?

**Shri R. N. Dash:** May I distinguish between the hon. M.P. and the other prisoners who belonged to that batch? So far as the hon. M.P. was concerned, as per the rules and practice, he would not have been handcuffed. So far as the other prisoners are concerned, as per rules and practice, they were to be handcuffed unless any of them belonged to the upper division.

**Mr. Chairman:** So far as superior class undertrials are concerned, as you have said, they are not to be handcuffed, and members of Parliament and Members of State Legislatures are classified under supe-

rior class. Therefore, the first and foremost question that arises is this: Did the Police party know that, among the *Satyagrahis*, there was also a superior class undertrial just because he was a Member of Parliament?

**Shri R. N. Dash:** We have not examined the officer in charge of the police party, but from the records it appears that the escort party knew that there was this particular hon. Member of Parliament in that batch.

**Mr. Chairman:** He was aware of the fact that one of the *Satyagrahis* when he was to escort was a Member of Parliament?

**Shri R. N. Dash:** Yes. May I proceed further? My presumptions are based on the facts that the requisition letter which was sent by the jail authorities to the police authorities indicated this fact, and the very custody warrant that the officer in charge of the escort party was carrying also mentioned this.

**Mr. Chairman:** Who issues these warrants?

**Shri R. N. Dash:** The custody warrant was issued by the special judicial Magistrate in this particular case. The custody warrants are issued by the concerned courts, asking the jail authorities to cause production of the accused persons on a particular date, and the requisitions for escort party are sent by the jail authorities.

**Shri M. C. Daga:** When were the instructions issued about prisoners? What is the date of that letter? And what exactly were the instructions?

**Shri R. N. Dash:** The earliest paper that we have readily is an instruction dated 6 October 1964 from the Government of Bihar to the Inspector-General of Prisons where it is said that the MPs, MLAs and MLCs are to be treated as upper division prisoners even in anticipation of orders of the concerned authorities.

**Shri M. C. Daga:** Is it in the Rules or not?

**Shri R. N. Dash:** The rules as they stand now do not distinguish upper division prisoners and Members of Parliament.

**Shri M. C. Daga:** In which year these rules were framed by the Bihar Government?

Kindly let me know whether in the year 1964 you got the instructions issued by the Bihar Government and whether the rule was framed according to that.

**Shri R. N. Dash:** To the best of my knowledge we have not incorporated any rule in the Police Manual or the Jail Manual indicating that an hon. MP or an MLA or MLC will automatically be treated as an upper division or superior prisoner. But we have got instructions.

**Shri M. C. Daga:** How can the escort party know? Suppose the escort party is not aware of the rules and you have got instructions simply how do you ensure that the escort party is familiar with the instructions.

**Shri R. N. Dash:** It is specifically mentioned in the custody warrant.

**Shri M. C. Daga:** The Central Government had issued instructions in the year 1957. For the first time on 26th July 1957 these instructions were issued by the Central Government. Are you aware of this fact?

**Shri R. N. Dash:** I am sorry I cannot say offhand.

**Shri M. C. Daga:** Again the Centre had issued instructions on 24th January 1959. You say that the instructions were issued by the Bihar Government in 1964. Do you know this fact that the Central Government has already issued instructions in the year 1957, that is, on 26th July 1957 and then again on 24th January 1959?

**Shri R. N. Dash:** I am aware that some instructions were issued from time to time. I am sorry readily I cannot mention the dates.

**Shri M. C. Daga:** On what basis were these instructions issued by the Bihar Government?

**Shri R. N. Dash:** I am sorry I cannot say offhand.

**Shri M. C. Daga:** Now you say that the District Magistrate or the trying court which deals with the cases will specify or classify the prisoners.

**Shri R. N. Dash:** Yes.

**Shri M. C. Daga:** In that case was this done by the trial court?

**Shri R. N. Dash:** Yes, it was.

**Shri M. C. Daga:** On what date was it done?

**Shri R. N. Dash:** It was done on the day the accused persons were first produced before the court.

**Shri M. C. Daga:** What was the first date? The accused were arrested on 10th June 1974 and they were produced before the court on the 5th. Please let me know whether on 10th June 1974 the court had classified or not.

**Shri R. N. Dash:** I find from the original custody warrant....

**Mr. Chairman:** You have brought the custody warrant with you?

**Shri R. N. Dash:** Yes.

**Mr. Chairman:** Please read it out.

**Shri R. N. Dash:** It has been issued by the Special Judicial Magistrate, Sadar, Patna on 10th June 1974 on which date the Police arrested the hon. M.P.

**Shri M. C. Daga:** The custody warrant indicated that he is an M.P.

**Shri R. N. Dash:** The custody warrant indicates that he is an M.P. and is an upper division prisoner. It wants that they be produced on 24th June 1974.

**Shri M. C. Daga:** Were they produced on the 24th?

**Shri R. N. Dash:** I am sorry I have not inquired about that.

**Mr. Chairman:** Please send me that file as it is. I will see only one document and send it back to you.

**Shri M. C. Daga:** Were the accused produced on that date or not?

**Shri B. R. Shukla:** There must be an entry in the warrant itself.

**Shri M. C. Daga:** When were the accused produced before the court?

**Shri Dash:** I can perhaps give the date after consulting the custody warrant.

**Shri M. C. Daga:** As alleged on 5th August 1974 the accused were produced before the court and they were handcuffed. Is this correct? You have said one thing that it was a *bona fide* mistake. You said it in the very beginning. How do you justify it?

The warrant indicates that he is an M.P. It was known to the escort party and you say it was a *bona fide* mistake. How do you justify your own statement?

**Shri R. N. Dash:** We believe that this handcuffing was done unintentionally, and without any *mala fide* intention.

**Mr. Chairman:** What is the basis for you to say that it was a *bona fide* error? *Bona fide* error presumes that you are unaware of

the identify of the person and acting in good faith, not knowing what you are doing, you handcuffed him. The facts as now revealed to us show a completely different picture because Rajendra Singh gave us a completely different story. We will like to re-examine him. If he wanted to take us for a ride, that is not good. This intermediate custody warrant is issued by Spl. Magistrate, Sadar, Patna. Now he issues this to the officer in charge of the jail, Phulwari. Who carries this physically? It is the escort party.

**Shri R. N. Dash:** Yes

**Mr. Chairman:** Now, the endorsements there—have they been made originally or subsequently?

**Shri R. N. Dash:** I believe the endorsements were made by the court.

**Mr. Chairman:** The endorsement in the red ink—*Uchcha Shreni ke Bandi*, M.P., who made it?

**Shri R. N. Dash:** I cannot say whether this was written originally on 10th June, 1974 or at a subsequent stage.

**Mr. Chairman:** It is a very crucial question. You should have come prepared.

**Shri M. C. Daga:** What is the date of the warrant?

**Shri R. N. Dash:** 10th June, 1974.

**Mr. Chairman:** If police was in custody of the document and they have the knowledge of this fact, I am afraid I have doubts about their *bona fide* intentions.

**Shri R. N. Dash:** We have not examined the Officer Incharge of the escort party.

**Mr. Chairman:** Have you gone through these papers of the Privileges Committee?

**Shri R. N. Dash:** No, I have not gone through them.

**Mr. Chairman:** Did you ask the Constable any question as to what he has said?

**Shri R. N. Dash:** No, Sir.

**Mr. Chairman:** The evidence which has been coming before us so far did not reveal very clearly as to whether or not the identity of the under-trial became clear. Therefore, I want to make it clear to you as to what we were told created a tremendous amount of difficulty. Questions were asked by Dagaji and Atal Bihari Vajpayee.



**Shri Atal Bihari Vajpayee** asked questions on this point. This is what we have been told so far and this has not been controverted. You come and plead their *bonafides*. You will see how the Committee is put on the horns of dilemma.

**"Atal Bihari Vajpayee:** You receive a command in the morning regarding the prisoners whom you have to produce in the Court. When you received the command regarding the prisoners to be produced on the 5th were you not told that one of them was an M.P.?"

**Shri Rajendra Singh:** No, I was not told, nor was it mentioned in the command.

**Shri Atal Bihari Vajpayee:** When you reached the jail, the prisoners were handed over to you, did you come to know that one of the prisoners was an M.P. also?

**Shri Rajendra Singh:** Yes, Sir,

**Shri Atal Bihari Vajpayee:** When did you come to know this fact?

**Shri Rajendra Singh:** When we go to the prison, we receive the command after 10 O'Clock. Munshiji hands over the list of names and we sign that paper. Then we take these prisoners to the Court in a van duly hand-cuffed and tied with the rope.

**Shri Atal Bihari Vajpayee:** When you reached the prison, the prisoners were being hand-cuffed. Did you come to know that there was an M.P. also among them?

**Shri Rajendra Singh:** I did not know at that time. I came to know this fact only when I went to sign the register. Names of all prisoners and their signatures are recorded in this register. When I wanted to remove the hand-cuffs, I was told to let it remain there as it was already there. It could be done later, on return, as there was paucity of time."

It is one thing to say that everything was written on it. As a rule we do not look into it. He says, the moment he came to know of this that he was an M.P., he said that the hand-cuff should be removed. But the M.P. did not allow.

According to him there was no mention of the fact on the warrant.

**"Shri Rajendra Singh:** It was not written in our command. The 'writer' of the jail had told that he was an M.P.

**Shri Mool Chand Daga:** What is the name of the constable who was holding the hand-cuff of Shri Ishwar Chaudhry?

**Shri Rajendra Singh:** I can't say.

**Shri Mool Chand Daga:** Did Shri Ishwar Chaudhry not say anything to you?

**Shri Rajendra Singh:** He did not say anything."

In reply to Shri Daga's question, firstly he said that he did not know anything about him, nor he (M.P.) told him anything.

**"Shri Mool Chand Daga:** When you had come to know that he was Shri Ishwar Chaudhry, who was there with you who hand-cuffed him?

**Shri Rajendra Singh:** There were 8 constables with me.

**Shri Mool Chand Daga:** Give a straight forward reply as to who was that person who hand-cuffed Shri Ishwar Chaudhury?

**Shri Rajendra Singh:** There were 32 persons at that time and if only one person were to hand-cuff all of them, we would not have been able to produce them before the court in time. There were 8 constables and 3 or 4 of them were engaged in hand-cuffing the prisoners. So, it is not known, as to who had hand-cuffed him but when we came to know, that he was an M.P., we requested him to allow us to remove the hand-cuffs but he declined to do so.

**Shri Mool Chand Daga:** Had you any talk with him?

**Shri Rajendra Singh:** I came to know it from the jailor that he was an M.P."

Please tell me as to who made an enquiry?

**Shri R. N. Dash:** Home Ministry requested D. M. to ascertain the facts and to apprise the Government of the same. It was a preliminary enquiry to ascertain the facts.

**Mr. Chairman:** The findings of the D.M. are with you. Have these been given to the Government?

**Shri R. N. Dash:** Yes, Sir.

**Mr. Chairman:** Please hand over the findings of the preliminary enquiry to office.

**Shri M. C. Daga:** On 10-6-1974 in whose custody were the war-rants?

**Shri R. N. Dash:** After the custody warrant is signed by the concerned court it is handed over to the escort party again along with the prisoners.

**Shri M. C. Daga:** Who was the person who was heading that escort party on 10-6-1974?

**Shri R. N. Dash:** I cannot say off hand.

**Shri M. C. Daga:** On 5th August when the prisoners were to be taken to the court, this escort warrant was handed over by the jail authority to the escort party. Is it so?

**Shri R. N. Dash:** I believe so.

**Shri M. C. Daga:** At what time was it handed over to them?

You said that District Magistrate was appointed by the Home Department to make an enquiry into it. Please tell me the time when this warrant was handed over to Shri Rajendra Singh.

**Shri R. N. Dash:** As per the records maintained in the jail they were handed over in between 12 hrs. and 13 hrs. on 5-8-1974.

**Mr. Chairman:** At what time on 5th August were they taken away?

**Shri R. N. Dash:** At 1300 hours.

**Shri M. C. Daga:** At 1200 hours the document was handed over to Shri Rajendra Singh.

**Shri R. N. Dash:** The time is 12-10 hours.

**Mr. Chairman:** That was handed over to Shri Rajendra Singh at 12-10 hours, before he proceeded to get them in his custody he had this document with him.

**Shri M. C. Daga:** Was the custody warrant written in English or in Hindi?

**Mr. Chairman:** It is written in English. Bring that again. I want the Members to go through it.

**Shri M. C. Daga:** Does Rajendra Singh know English? What is his qualification?

**Mr. Chairman:** Is it within your knowledge that he knows English as well? one is a head constable and he should be reading Hindi.

**Shri R. N. Dash:** I believe he should be well versed in Hindi.

**Shri M. C. Daga:** It is written there as follows:

उच्च श्रेणी के बंदी एम० पी० ।

**Mr. Chairman:** There is an endorsement to this effect.

**Shri M. C. Daga:** When was the preliminary enquiry completed?

**Shri R. N. Dash:** It was by the District Magistrate, Patna either on 6th or 7th August. May I submit.

**Mr. Chairman:** You have all the protection here. You may make all the submission you want to make.

**Shri R. N. Dash:** We did not direct any regular enquiry into the matter.

**Shri M. C. Daga:** You said it was a preliminary enquiry for ascertainment of the facts.

**Shri R. N. Dash:** We requested the District Magistrate to ascertain the facts and let us know.

**Mr. Chairman:** Whatever be his evidence you may make over the same to the Committee.

**Shri R. N. Dash:** The District Magistrate obtained a report from the Superintendent, Central Jail, Phulwari Sharif on 7th August and he gave his comments along with that report in his letter dated 8th August. Thereafter we did not make any further enquiry as to further details.

**Shri M. C. Daga:** From 8th August 1974 upto to-day one year has passed; no enquiry was completed in spite of the assurances being given by the Home Minister in Parliament.

**Shri R. N. Dash:** May I submit that on receipt of the report of the District Magistrate accompanied by a report of the Superintendent of the concerned Jail, the State Government felt that it was a *bona fide* mistake due to the reason that the handcuffing was unintentional and without any *mala fide* motive.

**Shri M. C. Daga:** This is the report of the Superintendent of Jail. You will kindly read out what is written and on which the D.M. writes.

“उच्च श्रेणी के” लिखा हुआ था ।

This is the report of the Superintendent of Central Jail in Hindi. I am only reading the last paragraph.

**Mr. Chairman:** Whichever is relevant you may read that out.

श्री आर० एन० दाश : “छानबीन के आधार पर मैं समझता हूँ कि अनेक साधारण सत्याग्रही बन्दियों के बीच एक-मात्र एस० पी० श्री ईश्वर चौधरी को हथकड़ी लगाने वाले कांस्टेबल ने गलतफहमी से हथकड़ी पहना दी थी। एवं तुरन्त बाद कारा के उपस्थित पदाधिकारियों द्वारा प्रयास करने के बावजूद एवं भारक्षी द्वारा हथकड़ी खोलना चाहने के बाद भी श्री ईश्वर चौधरी, एस० पी० ने हथकड़ी उतारना स्वीकार नहीं किया। इनकी इच्छा के विरुद्ध हथकड़ी जबरदस्ती खोलना सम्भव नहीं था। जहाँ तक अन्य साधारण सत्याग्रहियों का प्रश्न है—उन्हें साधारणतया भारक्षी दल हथकड़ी लगा कर ही कारा से बाहर ले

This is the last paragraph of the report of the Superintendent of the concerned jail.

**Shri Somnath Chatterjee:** Has that been accepted by the District Magistrate?

**Shri M. C. Daga:** This was a preliminary enquiry.

**Shri Somnath Chatterjee:** That has been accepted by the District Magistrate and he was content with the report of the Superintendent of jail.

**Shri R. N. Dash:** We had requested him to ascertain the facts and to communicate to Government. Still I read out the report?

**Mr. Chairman:** This was the report of the Superintendent of jail possibly to the District Magistrate and on which he has made his recommendation.

**Shri Somnath Chatterjee:** The accused gave a report exonerating him.

**Shri M. C. Daga:** Let us know whether the Superintendent of Police has examined Shri Rajendra Singh?

**Mr. Chairman:** Even the jail authority is not free from this. Is he going to say that this is not a *bona fide* mistake?

**Shri R. N. Dash:** May I read out the relevant portion of the report?

"It will appear that Shri Ishwar Chaudhry was handcuffed unintentionally without any *mala fide* motive on part of either the Jail staff of the escorting party. It will further appear that immediately on detection that Shri Chaudhry was a Member of Parliament....."

**Mr. Chairman:** May be, that is correct.

**Shri R. N. Dash:** ".....and being Category One prisoner should not have been handcuffed, the havildar of the escorting party tried to undo his mistake by removing the handcuff of Shri Chaudhry but Shri Chaudhry did not allow him to do so."

**Mr. Chairman:** That is all right. The relevant part is this that he accepts the recommendation of the Superintendent of Jails that the handcuffing was unintended and a *bona fide* error. And this is what the Magistrate also recommends. But in this preliminary enquiry, have they gone into details about the procedure which has been followed with reference to the intermediate custody warrant? Is there any mention about this? For the first time this evidence has come before this Committee.

**Shri R. N. Dash:** May I read out the relevant portion?

**Mr. Chairman:** Please do so.

श्री भार० एन० दाश : "इस विषय पर जांच करने के पश्चात् ज्ञात हुआ कि उपरोक्त सत्याग्रही बन्दियों को दिनांक 5-8-74 को स्थानीय न्यायालय में उपस्थित करने की तिथि निर्दिष्ट थी। इस कारा के पत्रांक 531 दि० 2-8-74 द्वारा बरीय भारक्षी अधीक्षक, पटना को अनुरोध किया गया था कि इस कारा में संसीमित सत्याग्रही बन्दियों को स्थानीय न्यायालय में 5-8-74 को उपस्थित करना है, जिसे मैं श्री ईश्वर चौधरी, एम०पी०, भी एक हूँ। तदनुसार भारक्षी दल कारा पर आया। कारा के लिपिक, जो प्रवेश प्रशाखा के प्रभारी हैं के वक्तव्य के अनुसार उन्होंने भारक्षी दल को कहा कि इन में श्री ईश्वर चौधरी एम० पी० भी हैं, जिन्हें उन्होंने पहचान करा दिया। लिपिक सत्याग्रहियों का गेट-रजिस्टर में नाम लिखाने तथा गिनती मिलाने में व्यस्त थे। इसी बीच भारक्षी दल ने श्री चौधरी को भी अन्य कई सत्याग्रहियों के साथ हथकड़ी पहना दी। श्री ईश्वर चौधरी ने भी पूछताछ में बताया कि उन्होंने स्वयं हथकड़ी लगाने वाले कांस्टेबल को यह नहीं कहा था कि वे एम०पी० हैं, पर उनके साथ के सत्याग्रही कह रहे थे कि एम० पी० सहब की भी हथकड़ी लग रही है। श्री चौधरी ने यह भी बतलाया कि उन्होंने हथकड़ी लगाने वाले कांस्टेबल को तीन बार कहा कि अपने अधिकारी से यह पूछले कि उनको हथकड़ी नहीं लगाना है।

**Shri Somnath Chatterjee:** This is the report of the Superintendent. On that, you have concluded that this was a bona fide mistake.

**Mr. Chairman:** These are some facts he is adverting to. What is the basis for him to come to the conclusion of bona fides?

**Shri Somnath Chatterjee:** In the report of the District Magistrate, Mr. Dash, do you find any reference to the rules, the Police Manual Rules or the Jail Code?

**Shri R. N. Dash:** There is no reference.

**Shri Somnath Chatterjee:** He was asked to make a report on the facts and not to give his conclusions.

**Shri R. N. Dash:** He was asked to ascertain the facts and to communicate to Government.

**Mr. Chairman:** Not to make recommendations.

**Shri Somnath Chatterjee:** He has given his views annexing a copy of the report of the Jail Superintendent and the State Government has accepted it. Has the State Government considered these rules before accepting this report?

**Shri R. N. Dash:** There is no doubt before the State Government that an error has been committed.

**Mr. Chairman:** Was it bonafide or otherwise? An error has been committed. This is absolutely undisputed. And MP has been hand-cuffed, supposedly a superior class; I do not know. You send other Satyagrahis also to jail. You are not to be blamed, if the rules are faulty, nor is the Assistant Jailor to be blamed. That is a different thing. Supposedly a superior class has been hand-cuffed and an error has been committed. But, the question is on the grounds of bonafides. Were there compelling circumstances for the State Government to feel that the circumstances were such....

**Shri Somnath Chatterjee:** I would like to know, whether the State Government took into consideration these rules at all.

**Mr. Chairman:** Did the State Government consider these various aspects, which we are now questioning you about?

**Shri R. N. Dash:** When these were placed before the State Government, the State Government did not have any further comments to make.

**Mr. Chairman:** They just accepted this. Did they apply their mind or not?

**Shri R. N. Dash:** They came to the conclusion that this was due to inadvertance.

**Shri M. C. Daga:** I will read out the relevant portion.

भुवनेश्वर शर्मा जो एस्तिरटेड जेलर थे, क्या उनसे जेल सुररिस्टैंडेंट ने इन्क्वायरी की थी ?

**Shri R. N. Dash:** Yes, Sir. It appears.

**Shri M. C. Daga:** I am reading out his statement:

"It is not my job to hand-cuff a prisoner. As I have already stated, it is the job of the Police to hand-cuff a prisoner. As soon as the prisoners were taken away, our Superintendent came to the office.

This is important.

"I told him that the escorting party had handcuffed Shri Chaudhry and that on my asking the escorting party to remove the handcuffs, he did not let them do so."

**Shri R. N. Dash:** I am afraid, I am not aware of this statement. report. Shri Bhubaneshwar Sharma, who was the Assistant Jailor,

who was in-charge of the Phulwari Sharif Jail, says that the Superintendent came on the same day and he told him this—what I have quoted. But, the Superintendent does not mention his name and he simply says 'No'.

**Shri R. N. Dash:** Unfortunately, I have not read the complete letter.

**Shri M. C. Daga:** You have just said that the Superintendent said that it was bonafide. The question is, did he make an enquiry from Shri Bhubaneswar Sharma or not?

**Shri R. N. Dash:** I will read out the relevant paragraph.

प्रभारी कांस्टेबल श्री भूवनेश्वर शर्मा के वक्तव्य के अनुसार वे अपने कार्यालय में काम कर रहे थे कि एकाएक उन्होंने देखा कि श्री ईश्वर चौधरी न्यायालय जाने के लिये गेट में हथकड़ी पहनकर तैयार थे। वे लपक कर गेट में गये और झारखी दल से बोले कि वह एम० पी० हैं, उनकी हथकड़ी आपने क्यों लगाई? श्री चौधरी ने इसको सम्पुष्टि की। गार्ड ने हथकड़ी खोलने के लिए चाबियाँ निकाली और खोलना चाहा।

श्री भूलचंद डागा : उसी दिन सुपरिस्टेडेंट जेल ने श्री भूवनेश्वर शर्मा का ध्यान लिया है, फिर सुपरिस्टेडेंट कैसे स्टेटमेंट देता है ?

On the very day, the Superintendent went to Shri Bhubaneswar Sharma. What happened? He said that Mr. Ishwar Chaudhry had been handcuffed in spite of his protest. This was said by Shri Bhubaneswar Sharma, Assistant Jailor to the Superintendent and now the Superintendent gives this report. He went to him on the 5th August. On the 5th August, the Superintendent went to Shri Bhubaneswar Sharma and Shri Shubaneswar Sharma told him on the very day, that is, on the 5th August, that this was done. Now, you say that he has submitted this report. I am not able to understand it.

**Mr. Chairman:** Have you any comments to offer on what Mr. Daga has said?

**Shri R. N. Dash:** I am afraid, I am not aware of any statement of Shri Bhubaneswar Sharma except that simple sentence quoted by the Superintendent in his letter.

**Mr. Chairman:** Shri Bhubaneswar Sharma has sent a written communication to the Superintendent, Divisional Camp Jail, Phulwari Sharif which is dated 7th August, 1974, and for your



information, Mr. Dash, I will read out the relevant portion. The purpose of this enquiry was to ascertain facts and ascertain them objectively and the purpose was not merely to make a pretence of an enquiry. Then, I cannot understand how the Magistrate was dependent on the report of a set of people who were themselves suspects?

**Shri M. C. Daga:** Mr. Chairman, kindly look to page 1502. My specific question was this:

"This incident took place on the 5th August and you talked to Shri Ishwar Chaudhry on that day. Why did you not then inform your Superintendent or other senior officer that he had been hand-cuffed though it should not have been done?"

Shri Bhubaneshwar Sharma says this:

"Sir, it is not my job to handcuff a prisoner. As I have already stated it is the job of the police to handcuff prisoners. As soon as the prisoners were taken away, our Superintendent came to the office. I told him that the escorting party had handcuffed Shri Chaudhry and that on my asking the escorting party to remove the handcuffs, he did not let them do so."

This is the statement of the Assistant Jailor. On the same day, the Superintendent went to him. Now, the report has been given by the Superintendent that it was a bona fide mistake. I am not able to understand it. I have read out the statement of the Assistant Jailor. This was given on oath before this Committee. Now, you also mentioned about some preliminary enquiry. How do you say that there should be a preliminary enquiry and a final enquiry? Is there any procedure laid down? What is a preliminary enquiry and a final enquiry? I have not understood it. Is there any procedure laid down that there should be a preliminary enquiry and a final enquiry?

**Shri R. N. Dash:** What I meant was that, the State Government wanted to know quickly, rather in a summary way...

**Mr. Chairman:** It is true that it is open to the State Government to choose whichever method they want to follow, for ascertaining facts. But, this is a matter which we consider to be exceedingly unfortunate and exceedingly disconcerting for us that this should be happening to a *satyagrahi*. We are worried about Ishwar Chaudhry, a *satyagrahi*. Of course, as an MP the matter has

come to this Committee. We will take care of that. But that in the land of Gandhiji satyagrahis are not treated worse than criminals is a different aspect of the matter. Was the State Government really serious about the matter? Was inquiry made with same degree of seriousness about it. Surely I can never understand the purpose in asking a set of people's report in this matter, people who were bound to say that it is *bona fide*. Would the jail people ever say that it is not *bona fide*? Would they be left out of it? That is the whole point we are trying to make before you now.

**Shri M. C. Daga:** You said in rule (E) that it is desirable that under-trials should be classified according to division one, division two and division three? What is this classification about?

**Shri R. N. Dash:** As far as I understand, under-trial prisoners are classified as superior and ordinary. The convict prisoners are classified as first division, second division, third division. So far as the treatment, facilities etc. are concerned, the superior amongst the under-trials and the first division amongst the convicts are at par. I cannot give details about the classification of convict prisoners because I have not studied that aspect in detail. But unless a person is specially classified as superior, he is treated as ordinary.

**Shri M. C. Daga:** What is the basis of the status? A man is a perfectly dishonest person, a rogue, but if he has more means, he can get superior status!

**Mr. Chairman:** He has mentioned a two-fold criteria, that a person who has a social status and a higher standard of living becomes high class. In that view, Haji Mastan and company would all be high class and satyagrahis will all be handcuffed.

**Shri M. C. Daga:** That goes against your rules. The police shall be responsible for deciding what precautions are required to be taken. They have got the discretion. If they want to handcuff, they can; if they do not, they need not. Is this correct? The escort party should see that the accused do not abscond. So it is left to them to handcuff or not.

**Shri R. N. Dash:** As far as I understand, the escort party has first to distinguish the superior prisoners as against the ordinary class prisoners. So far as the superior prisoners are concerned, in case the escort party has any reasons to believe that a particular prisoner may try to escape, he has to bring it immediately to the notice of the SP or any gazetted officer. In case he cannot do so due to some circumstances, he can himself take the decision to handcuff him.

**Shri M. C. Daga:** They say the SP will give him permission.

**Shri R. N. Dash:** Where possible.

**Shri M. C. Daga:** Suppose an MP is there; he will have to seek permission of the SP or Magistrate. Whom will the escort party approach?

**Mr. Chairman:** SP.

**Shri M. C. Daga:** Suppose he is in the court at 10. Then he will rush to the SP to ask 'I want permission from you that he should be handcuffed'.

**Shri R. N. Dash:** There are two words inserted 'where possible'.

**Mr. Chairman:** So the circumstances must permit.

I come to a larger aspect which, I think, is extremely important. We are dealing with a set of people whose purpose for courting arrest must not be lost sight of. As long as this democracy will remain, satyagraha will remain, and as long as satyagraha remains, there are going to be satyagraha prisoners. We may or may not agree with their cause. But no Government has any business to humiliate satyagrahis. Are you aware of some communication on this subject as to how satyagrahis should be treated which passed between the Government of India and State Governments?

**Shri R. N. Dash:** I do not remember offhand.

**Mr. Chairman:** I wish you had apprised yourself of this because we would like to know what is the thinking of the State Government on that communication sent by the Joint Secretary to the Government of India in the Home Ministry, No. 2/15/57-P. IV dated 26 July 1957. Office will give you a copy of this. When this matter came up in the Lok Sabha, the hon. Speaker had observed:

"I will be conveying your views to the Home Minister. My personal view is, those days have gone when handcuffs were used.... It is very much hoped that the views that are conveyed by you will be considered and some decision taken so that all respectable citizens who are voluntary satyagrahis or who occupy good positions in public life....."

that should be the criterion, and not how one lives—

"or who are good journalists, jurists, doctors, writers or educators are treated well...."

"I will convey it to the Home Minister".

Thereafter a communication was sent by the Deputy Secretary. in the Home Ministry, Government of India, enclosing a copy of the earlier communication of 26 July, 1957, which reads *inter alia*:

"I am directed to say that instances have recently come to the notice of the Government of India in which persons arrested by the police were handcuffed although the circumstances did not seem to justify this course. Handcuffs are normally to be used by the police only where the prisoner is violent, disorderly, obstructive or is likely to attempt to escape or to commit suicide or is charged with certain serious non-bailable offences. It is, however, observed that in actual practice, prisoners and persons arrested by the police are handcuffed more or less as a matter of routine. The use of handcuffs not only causes humiliation to the prisoners or arrested persons but also destroys his self-respect and is contrary to the modern outlook on the treatment of offenders. I am accordingly to suggest for the consideration of the State Government that the use of hand-cuffs should be restricted to cases where the prisoner is of a desperate character or there are reasonable grounds to believe that he will use violence or attempt to escape or where there are other similar reasons."

Are you in a position to say what is the thinking of your State Government on this? We are aware of the federal character of our Constitution and are not trying to make inroads into what is their domain. But this is a very important matter.

**Shri R. N. Dash:** May I be permitted to communicate it promptly on returning to Patna?

**Mr. Chairman:** Yes. We would anxiously like to know also what is the practice with satyagrahis today.

**Shri Somnath Chatterjee:** Whether they will have a rethinking about the matter and have not closed it.

Otherwise, we would like to have some more clarifications.

**Mr. Chairman:** Mr. Dash, you may communicate your views to the Committee later on. But the Committee feel that the enquiry made by the Government is extremely inadequate. We consider that it is a very serious matter and we would like to know whether the Government wants to thoroughly probe into the matter.

**Shri R. N. Dash:** We will probe the matter thoroughly.

**Mr. Chairman:** How soon you will give us the findings of the Government?

**Shri R. N. Dash:** Within a month, Sir.

**Mr. Chairman:** Then it will be very helpful to us.

**Shri K. G. Deshmukh:** Here I feel that we should make enquiry from the other side also.

**Mr. Chairman:** Mr. Dash, the enquiry should encompass all the various facets of the matter. I do not know whether your officials will be able to enquire from the MP—if it is possible in a polite manner—and also try to find out the views of the MP. Don't summon him because I do not want another privilege issue to come up before this Committee.

The Committee is not at all interested in trying to catch hold of 'X' or 'Y' or 'Z'. We are concerned with certain systems which are now coming on the surface and it would be a most unfortunate thing to happen if a head-constable or a constable is to be penalised. We do not know whether the highest police official is responsible for this sort of violation of the rules. Now, you know it is not possible to make available that part of evidence to you. But you have promised to give us the information within a month. It is very prompt of you if you give that within a month.

**Shri B. R. Shukla:** I would like that the witness should come with more precise information on these points, that is the date fixed for the production of Mr. Ishwar Chaudhry before the 5th of August 1974. Then on a previous date he was to be produced. Whether he was produced at all before the Magistrate concerned and if he was produced whether on that date he was sent in hand-cuffed or otherwise. The second point is: who was the head of the escorting party on the previous day? The third point is: whether the jail authorities while handing over the person to the escorting party, gave any instruction with regard to the hand-cuffing? If not, whether hand-cuffing was done at the discretion of the head of the escorting party or were there any specific rules by virtue of which the escorting party had to act in this matter?

**Shri Somnath Chatterjee:** There are two points. One is: is it the duty of the Police escorting party to ascertain whether there would be any superior class persons or not or whether it is the jail authorities to inform the Police party whether there are superior persons

or not according to the Government classification? The other point is: Mr. Dash has spoken about practice of hand-cuffing. Whether there is any rule contrary to this practice? You do not have to reply to this now. Please ascertain and let us know.

**Mr. Chairman:** Mr. Dash, we find that your evidence has been very helpful and useful but it is not complete. So, we would again want you to come when we hope you would be fully apprised yourself of not only the legal aspects of the matter but also the factual aspect of the matter. I cannot sufficiently emphasise that it is not purely a question of hand-cuffing of an MP but it is a matter which goes into very basic norms of democracy and functioning of the parliamentary system of democracy. And this report is to go to the Parliament. It would be a very important report and we want to make a very thorough job. It just happens that in Bihar this particular case has come about but it is only symbolic of a larger malady which this Committee will have to consider and act upon. Please bear in mind the very great significance and importance in the overall context of the matter.

Thank you very much.

**Shri R. N. Dash:** We will enquire into all these matters in detail.

*(The witness then withdrew)*

## **APPENDIX I**

**(See para 20 of the Report)**

### **REPORT OF INQUIRY INSTITUTED BY THE GOVERNMENT OF BIHAR INTO THE INCIDENT OF HANDCUFFING OF SHRI ISHWAR CHAUDHRY, M.P., AT THE GATE OF PHULWARI SHARIF JAIL ON 5-8-1974.**

I have been directed by the Secretary to Government, Home (Special) Department, Bihar, Patna, in his letter No. 3561/C dated 1-12-75 to enquire into the unfortunate incident of handcuffing of Shri Ishwar Chaudhry, M.P. at the gate of Phulwari Sharif Jail on 5-8-1974. It is mentioned in the aforesaid letter that while being escorted from Phulwari Sharif Jail to the Court on the 5th August, 1974, Shri Ishwar Chaudhry, M.P., an undertrial prisoner of superior class accused in Gardanibagh P.S. case No. 15 dated 10-6-74, was handcuffed contrary to rules and practices and it has become necessary to make an enquiry into the matter. On perusal of para 2 of this letter, it appears that I have been asked to enquire on the following points:—

(I) The circumstances under which Shri Ishwar Chaudhry, M.P., was handcuffed.

(II) Whether the rules and procedures were followed by the Jail's authorities and the Escort Party.

It may be mentioned in this connection that in course of my enquiry, I have enquired into the role played by some other police officers and men also, in addition to the Escort Party, because the facts collected in course of enquiry indicated that the unfortunate incident of handcuffing took place on account of them also.

(III) To fix responsibility for such unfortunate incident.

(IV) To enquire whether Shri Ishwar Chaudhry was handcuffed on any other occasion when he was arrested, escorted or produced before the Court in connection with this case, and if so, to fix responsibility for the same.

(2) I visited Phulwari Sharif Special District Jail for spot inspection on 7-1-76 in presence of the concerned Jail Superintendent Shri P. K. Ganguli, the Jailer Incharge Shri Bhubaneswar Sharma,

the Jail Clerk Shri Ashok Kumar Singh and the Officer Incharge of the Escort Party Shri Rajendra Singh, who was assisted by Shri Keshari Kumar Singh, Sergeant. As most of the witnesses were not available in Patna, in spite of necessary attempts, it has taken some time to contact all the witnesses concerned.

(3) The following persons and witnesses have been examined in course of enquiry:—

- (1) Shri Ishwar Chaudhry, M.P. (on 23-12-75).
- (2) Shri P. K. Ganguli, the then Superintendent of Phulwari Sharif Camp Jail (on 9-1-76).
- (3) Shri Bhubaneswar Sharma, the then Jailor Incharge, Phulwari Sharif Camp Jail (on 9-1-76).
- (4) Shri Ashok Kumar Singh, the then Clerk, Phulwari Sharif Camp Jail (on 9-1-76).
- (5) Shri Rajendra Prasad Singh, the then Havildar Incharge, Escort Party (on 10-1-76).
- (6) Shri G. Achari, the then Senior S.P., Patna (on 15-1-76).
- (7) Shri Dhanesh Upadhyay, Sub-inspector (on 20-1-76).
- (8) Shri Abdul Latif, Munshi (on 22-1-76).
- (9) Shri Kamla Pd. Singh, Reserve Sergeant Major (II), (on 2-2-76).

The relevant papers on the subject available in the Home Department and the Jail Department have also been consulted.

4. On perusal of the relevant files, it appears that Shri Ishwar Chaudhry, M.P., was arrested alongwith 65 others while demonstrating and obstructing near the Bihar Assembly area on 10-6-74 in course of the current agitation *vide* Gardanibagh P.S. case No. 15(6) 74 u/ss 143|341|188 I.P.C. and 7 of the Criminal Law Amendment Act. He remained in jail custody in Phulwari Sharif Special District Jail during the period from 10-6-74 (6.30 P.M.) till 8-8-74 (2.30 P.M.). The case was withdrawn later and he along with other accused persons was released on 8-8-74. It was alleged that while he was being taken out from the Phulwari Sharif Special District Jail on 5-8-74, he was handcuffed by the Escort Party contrary to rules and practices, because he, being an M.P. and an undertrial prisoner of superior class in the jail, was not to be handcuffed. This allegation, broadly, is the subject matter of this enquiry.

5. Now I come to the specific points for enquiry.



**Point No. (I).—**The circumstances under which Shri Ishwar Chaudhry was handcuffed.

The first point for enquiry is to ascertain the circumstances under which Shri Ishwar Chaudhry, M.P. was handcuffed on 5-8-74. As already stated, he along with many other undertrial prisoners of Gardanibagh P.S. case No. 15(6)74 u/ss 143|341|188 I.P.C. and 7 of Criminal Law Amendment Act was remanded to jail custody in Phulwari Sharif Special District Jail.

On 2-8-74, the Superintendent, Camp District Jail, Phulwari Sharif, in his letter No. 531 dated 2-8-74 addressed to the Senior Superintendent of Police, Patna, said that at that time there were 65 Satyagrahi undertrial prisoners in that jail, including Shri Ishwar Chaudhry, M.P., who were to be produced before the local Court on 5-8-74. The Superintendent in this letter requested the Senior S.P., Patna to make appropriate arrangement for production of those undertrial prisoners in Court on 5-8-74.

Shri G. Achari, the then Senior S.P., Patna, has stated that the aforesaid letter of the Superintendent, Phulwari Sharif Jail reached him on 3-8-74. After going through the letter, he put in his initial in the margin on 3-8-74 and on his orders, it was endorsed by his reader to the Reserve Sergeant Major (II) on that very day, and the letter was sent to the office of R.S.M. (II).

Shri Kamla Pd. Singh, R.S.M. (II) has stated that he received the aforesaid letter along with the endorsement of the Senior S.P., Patna on 4-8-74. After going through the letter, he gave the following remarks thereon:—

“सुनान जेल से सम्पर्क स्थापित कर गार्ड की व्यवस्था करें” ।

“Consequent upon the receipt of the aforesaid letter of the Phulwari Sharif Camp Jail, Shri Abdul Latif, Munshi attached to the office of R.S.M. (II), filled up and prepared two Command Certificates on 5-8-74, for deputation of two escort parties. In this report, Command Certificate No. 714984S will be mainly referred to, because it is this command certificate which was made over to Shri Rajendra Singh, Havildar incharge of the escort party which escorted 32 undertrial prisoners including Shri Ishwar Chaudhry, M.P. from Phulwari Sharif Camp Jail on 5-8-74. However, this command certificate did not contain any mention of the name of Shri Ishwar Chaudhry, M.P., rather it provided for escort of 65 Satyagrahi prisoners from Phulwari Sharif Jail. The escort party consisted of Shri Rajendra Singh, incharge of the party along with 8 constables, whose names were mentioned therein. As Shri Kamla Pd. Singh, R.S.M. (II) was not present in the office at that time, nor was RSM (I)

available there, the Munshi Shri Latif took that command certificate to Shri Dhanesh Upadhyaya, Reserve Sub-Inspector for Signature. Shri Upadhyaya signed it on the request of the Munshi. Thereafter, the Munshi made over the original command certificate to the drill-passed constable No. 1196 Rajendra Singh, who was in-charge of the escort party. No instructions were given by anybody to the officer-in-charge of the escort party and it was not mentioned to him that one of the undertrial prisoners to be escorted was Shri Ishwar Chaudhry, M.P.

After getting the command certificate, Shri Rajendra Singh, Officer-in-charge of the escort party, collected rifles, handcuffs, rope, etc. from the magazine. He was given a 3-tonner Police van also from the new Police line. With these equipments, he left for the Phulwari Sharif Jail with the impression that the party had to escort the undertrial prisoners of ordinary class only. This escort party reached Phulwari Sharif Camp Jail at about 11.45 A.M. on 5-8-74, according to the entry made in the jail register. The officer-in-charge of the escort party made over his command certificate to the jail clerk Shri Ashok Kumar Singh and remained stationed at a place, which is situated between the outer gate and the inner gate of the jail. On receiving the command, the jail clerk Shri Ashok Kumar Singh called the undertrial prisoners, who came to the place where the escort party was standing. Incidentally it may be mentioned that the other escort party with command certificate No. 714983S under the charge of Havildar Sheonath Rai had also reached there by that time. Altogether about 67 undertrial prisoners came near these two escort parties. The jail clerk Shri Ashok Kumar Singh divided them in two groups. The first batch of 35 prisoners was made over to the escort party headed by Havildar Sheonath Rai, who left the jail premises at about 12.15 P.M. The second group of 32 undertrial prisoners (including Shri Ishwar Chaudhry, M.P.) was made over to Shri Rajendra Singh, Officer-in-charge of the escort party, alongwith their custody warrants. At this stage, I am not entering into some controversial facts, such as reading of custody warrants, identification of the M.P., alleged discussion regarding handcuffing, etc. These points will be discussed later in the report in Point Nos. (II) and (III). The members of the escort party started handcuffing the undertrial prisoners and consequently all the prisoners including Shri Ishwar Chaudhry, M.P., were handcuffed. Thereafter, Shri Rajendra Singh, Officer-in-charge of the escort party, signed the jail gate register and came out of the jail at about 1 P.M. alongwith the undertrial prisoners and his escort party. Here again, I am not mentioning about the

alleged attempt by the escort party to remove the handcuff of Shri Ishwar Chaudhry, M.P. This point will also be discussed later in point Nos. (II) and (III) of the report. All the 32 undertrial prisoners and the members of the escort party were accommodated together in the 3-tonner Police van and they left for the Court. This escort party returned to the Phulwari Sharif Camp Jail from the Court at about 4.50 P.M. with the same set of 32 undertrial prisoners, who were all in handcuffs till then.

The above analysis would indicate the circumstances under which Shri Ishwar Chaudhry, M.P., was handcuffed by the police escort party, without discussing some controversial points involved in the process.

**Point No. (II)**—Whether the rules and procedures were followed by the Jail authorities and the escort party and some other police officers and men.

The second point for consideration is whether the rules and procedures were followed by the Jail authorities, the escort party and some other police officers and men.

In this connection, the following facts are relevant:—

(1) Under rule 237A of the Bihar & Orissa Police Manual, the undertrial prisoners are divided into two divisions, superior and ordinary. The classification is based on previous standards of living only; undertrial prisoners who by social status, education and habit of life have been accustomed to a superior mode of living are classified as superior and all others are ordinary. The above rule of the Police Manual has to be read with Govt. of Bihar, Jail Department, letter No. 15284 dated 6-10-64, addressed to the Inspector General of Prisons, Bihar with copy to Superintendents of all Central/District/Sub Jails of the State, which lays down that as soon as any M.P. or M.L.A. or M.L.C. is arrested and brought to jail for custody, he should be accorded facilities as an Upper Division prisoner in the jail in anticipation of orders from local authority

Shri Ishwar Chaudhry, M.P., was remanded to jail custody by order of the Court dated 10-6-74. The custody warrant signed by the Court mentions his name as Shri Ishwar Chaudhry, M.P. On perusal of the gate register of the Phulwari Sharif Camp Jail, it appears that Shri Ishwar Chaudhry, M.P., entered the jail on 10-6-74, vide entry No. 985 dated 10-6-74. Shri Bhubaneswar Sharma Jailor incharge has stated that he took over charge of the Phulwari Sharif Jail on 7-7-74 and checked all the custody warrants. In this

process on 8-7-74 he wrote on the back of the custody warrant of Shri Ishwar Chaudhry, M.P. in read ink as follows:—

“उक्त धेन ब दी एम० पी०” ।

He further stated that although he wrote this on 8-7-74, Shri Ishwar Chaudhry, M.P. was given the status of a superior class prisoner with effect from the date of his entry in the jail and he was given facilities in the jail accordingly. Shri Ashok Kumar Singh, Jail Clerk, has said that the above words in Hindi were written by the Jailor, although he does not remember the date on which these words were written. Shri Ishwar Chaudhry, M.P. has himself mentioned in his deposition that he was given the status of a superior class prisoner in the jail. These facts clearly prove that so far as the classification of Shri Ishwar Chaudhry, M.P. in jail is concerned, he was given the status of a superior class prisoner and in this respect the relevant rules of the Police Manual and the Departmental instructions were properly followed.

(2) Rule 535 of the Bihar & Orissa Police Manual lays down that escorts shall be furnished only on written indents from competent authority. The rule further says that atleast 72 hours' notice shall be given to the Superintendent of Police to enable him to furnish an escort of the proper strength, but in urgent cases, escort will be provided even on shorter notice.

A written requisition for providing escort was sent by the Superintendent, Camp District Jail, Phulwari Sharif to the Senior S.P., Patna in his letter No. 531 dated 2-8-74 which the Senior S.P., Patna received on 3-8-74. On the same date, it was endorsed by the Senior S.P., Patna to R.S.M. (II) in whose office the letter is said to have been delivered on 4-8-74 as admitted by Shri Kamla Pd. Singh, R.S.M. (II) and Shri Abdul Latif, Munshi. The command certificate was written on 5-8-74.

Therefore, so far the rules regarding escort requisitions are concerned, they were properly followed by the jail authorities.

(3) Rule 536 of the Bihar & Orissa Police Manual provides for action to be taken on receipt of requisitions. It says that on receipt of an escort requisition, the head clerk shall fill up the order. Letter No. 531 dated 2-8-74 of the Superintendent, Camp District Jail, Phulwari Sharif, specifically mentioned that 65 Satyagrahi prisoners, including Shri Ishwar Chaudhry, M.P., were to be escorted to the Court on 5-8-74 and that appropriate arrangement should be made for their production in Court. This letter was read by the Senior S.P., Patna on 3-8-74 and thereafter endorsed by him to the Reserve Sergeant Major, No. (II). The Senior S. P. has stated that

although on perusal of the letter he came to know that one of the prisoners to be escorted was Shri Ishwar Chaudhry, M. P., he did not take any action in respect of the M.P. separately because he thought that the Reserve Sergeant Major, No. II would take all necessary action in the matter according to Police Manual Rules. He further stated that as per rule 623 of the Police Manual, the Reserve Sergeant Major has the duty to detail all escorts and to receive the reports of the officers incharge of the escorts on their return.

The escort requisition was read by R.S.M. (II) Shri Kamla Pd. Singh and also by the Munshi Shri Abdul Latif on 4-8-74. The R.S.M. (II) wrote on the escort requisition as follows:—

“सेशन जेल से सम्पर्क स्थापित कर ग ई की व्यवस्था करें”।

However, he has not given the date below his initial, which he admits in his deposition. The Munshi Shri Abdul Latif wrote the command certificate on 5-8-74 after perusing the escort requisition sent by the jail authorities, but he did not mention in the command certificate that one of the 65 Satyagrahi prisoners was Shri Ishwar Chaudhry, M.P. He has said that he did not think it necessary to write this.

In this connection, it appears relevant to mention Rule 558 of the Police Manual, which says that when a notorious criminal or a notable State prisoner forms one of the party, the escort shall be special and regulated in accordance with the importance of the prisoner being escorted. Although the term “a notable State prisoner” has not been clearly defined in this rule, Shri Ishwar Chaudhry, being a member of Parliament, could certainly be regarded as a notable State prisoner, and, therefore, special escort should have been provided for him. Unfortunately, this was not done and Shri Chaudhry was escorted along with the ordinary prisoners. Considering the fact that Shri Chaudhry could be regarded as a notable State prisoner, even if no special escort was provided for him, atleast his name could have been specially mentioned in the command certificate prepared by the Munshi Shri Abdul Latif, so as to draw special attention of the escort party towards him and to take particular care for his escort. Shri Abdul Latif appears to have failed to discharge his duties properly and carefully in not mentioning the name of the M.P. in the command certificate.

This point appears to have been missed completely even by Shri Kamla Pd. Singh, R.S.M. (II) in his endorsement on the escort requisition on 4-8-74. He should have given specific instruction regarding the escort of the MP. in his note dated 4-8-74.

Shri Dhanesh Upadhyaya, Sub-Inspector, who signed the command certificate in the absence of R.S.M. (II) on the request of Shri Abdul Latif, Munshi, should have atleast compared the entries of the command certificate with the escort requisition received from the jail in order to ensure that the command certificate was properly and completely filled up. He appears to have taken the plea of "good faith" in his entire deposition. He did not care to see the requisition letter.

(4) Rule 537 of the Police Manual says that the reserve officer is responsible that the officer-incharge of an escort is fully aware of the various orders to be observed from the time he takes charge of the prisoners until his return, that a proper inspection of the men's arms, ammunition is made, that the men detailed are all present and fit and the guard is properly equipped and dressed. Thus the responsibility for proper briefing of the escort party lies on the Reserve Sergeant Major, (II) according to Rules.

In this particular case, unfortunately, nobody appears to have given any such instruction or briefing to the escort party. Shri Rajendra Singh, officer-incharge of the escort party, has stated in his evidence that while making over the command certificate to him, the Munshi or any other officer did not tell him that one of the prisoners to be escorted by him was Shri Ishwar Chaudhry, M.P.,. He left for the jail with his party under the impression that he had to escort the prisoners of ordinary class only. He further says that he had no knowledge of the requisition letter sent by the jail authorities to the Superintendent of Police. He further says that although he knew that M.Ps., M.L.As. were not to be handcuffed during escort, but on 5-8-74 he did not know at all that he had to escort an M.P. No officer of the Police Lines gave him any instruction on this point to emphasise that one of the prisoners was an M.P. and he should not be handcuffed.

Shri Gopal Achari, the then Senior S.P., has stated that under rule 537 of the Police Manual, it is the duty of R.S.M. (II) to give necessary instructions to the escort party regarding the relevant rules of escort.

In this particular case, although it was the duty of R.S.M. (II) to give necessary instructions to the escort party regarding escorting of the M.P., these instructions could have been given to the escort party by two more persons, such as, Shri Dhanesh Upadhyaya, Sub-inspector who signed the command certificate and Shri Abdul Latif, Munshi, who prepared the command certificate and made it over to the escort party. Unfortunately, none of these three

persons performed this job. Shri Kamala Pd. Singh, R.S.M. (II), was not present in the office at the time of preparation of the command certificate and he claims to have gone out for some Government work at that time. Therefore, he could neither sign the command certificate nor could he give any instruction to the escort party as provided for in rule 537 of the Police Manual. He was not on leave on that date. He does not remember for what specific Government work he had gone out from his office or where he had actually gone and when he returned to the office on 5-8-74. His whereabouts on 5-8-74, therefore, requires further probe by his superior officer of the department.

Shri Dhanesh Upadhyaya has stated that he did not meet the escort party at all and that he simply signed the command certificate in the absence of R.S.M. (II) and on the request of the Munshi in good faith. While signing the command certificate, he performed the duties of R.S.M. (II), and, therefore, it was also his responsibility to give proper instructions to the escort party, which he failed to do.

Shri Abdul La'if, Munshi, who wrote the command certificate, got it signed by Shri Dhanesh Upadhyaya, R.S.I. and made over the same to Shri Rajendra Singh, Officer-in-charge of the escort party, has stated that he had no talk with Shri Rajendra Singh at that time and that he did not tell Rajendra Singh that the latter should not handcuff the M.P. He did not mention these facts to the officer-in-charge of the second escort party also, namely Havildar Sheonath Rai. He has simply said that it is not his duty to give instructions to the escort party and that this is the duty of R.S.M. (II). Considering the fact that R.S.M. (II) was absent and that Shri Dhanesh Upadhyaya, who signed the command certificate, did not meet the officer-in-charge of the escort party, Shri Abdul Latif should have at least verbally mentioned to the officer in-charge of the escort party that the party had to escort an M.P., who should not be handcuffed.

The above analysis will show that Rule 537 of the Police Manual was not followed in this case and that orders were not explained to the officer-in-charge of the escort party.

(5) Rule 849 of the Jail Manual says that on the date entered in the original warrant or on the date fixed by any subsequent orders, undertrial prisoners shall be placed in the custody of the police to be taken to Court. Rule 850 of the Jail Manual read with Rule 295 of the Police Manual provides that the names of all prisoners to be produced each day before the Magistrate must be entered in the Hajat register (P.M. Form No. 61) by the Court Officer whose duty it is to

ensure the punctual attendance of the prisoners in the Court on the day fixed. The Officer commanding the Court Officers' guard will produce the register to the Jailor who will make over under written acknowledgement for production before the Magistrates, those prisoners together with their warrants, whose production has been duly ordered and whose names are entered therein.

In this particular case, the Hajat register was not given to the Officer-in-charge of the escort party and naturally, therefore, it was not produced to the Jailor. Consequently, the entries of the Hajat register could not be compared by the jail authorities with their own record. The escort party was given only the command certificate by the police office. In course of my enquiry and spot inspection, it was gathered that the system of production of the Hajat register was not being followed. This point requires further probe by the senior Officers of the Police Department.

In the absence of the Hajat register of the Court Officer in this particular case, the undertrial prisoners had to be placed in the custody of the escort party by the jail authorities on the basis of their own records, which they also maintain separately with the help of the custody warrants, etc. On perusal of the relevant file available in the Home Department, it appears that it is the responsibility of the Jail staff to maintain records, requisition police escort, parties, bring up the prisoners and to deliver them to the officer-in-charge of the police escort parties. It is the responsibility of the Officer-in-charge of the police escort party to receive the prisoners, to escort them and to produce them before the Court. As per practice, the jail clerk prepares list of prisoners to be delivered and gets them from the wards to the jail office at the gate, where the Officer-in-charge of the police escort party takes them over between the two main gates of the jail. However, the jail clerk is supposed to work under the direct supervision and control of the Jailor, because under Rule 850 of the Jails Manual, the Hajat register has to be produced to the Jailor, who has to make over the prisoners together with their warrants to the escort party. Therefore, if the Jailor cannot do this job, personally, he is expected, atleast, to exercise close supervision and control over the jail clerk, who actually performs this job.

Under Rule 557A of the Police Manual read with Rule 801A of the Jail Manual, the responsibility for the safety of prisoners under escort rests with the police party. The police is responsible for deciding what precautions in the way of fetters, accommodation, etc. shall be provided. In this particular case, unfortunately, there is considerable difference of opinion between the escort party and the jail staff regarding the manner in which the undertrial prisoners were made over by the jail staff to the escort party and also regarding the procedure which was actually followed in the process. The



main points of difference are on three items, such as (a) reading of custody warrants, (b) identification of Shri Ishwar Chaudhry, M.P. and (c) discussion centering round the handcuffing of the M.P. by the escort party. These three points are discussed below separately:—

(a) Shri Ashok Kumar Singh, Jail Clerk, in his statement has said that he called and collected the undertrial prisoners between the outer gate and the inner gate of the jail where the escort party was standing. They were divided into two groups. The undertrial prisoners of the first group were made over to the escort party headed by Sheonath Rai who left the jail premises thereafter on a police van. There were 32 undertrial prisoners in the second group who were made over to the escort party headed by Rajendra Singh. This group included Shri Ishwar Chaudhry, M.P. The clerk has further claimed that he read out the names of the undertrial prisoners from their custody warrants and they started standing in a line accordingly and that while doing so he also read out the custody warrant of Shri Ishwar Chaudhry as follows:—

"Shri Ishwar Chaudhry, M.P." and thereafter the M.P. also stood in the same line. However, the jail clerk has admitted that he did not read out the words " उच्च श्रेणी बन्दी एम० पी० "which were written in red ink on the back of the custody warrant by the Jailor much before 5th August, 1974. Shri Bhubhaneswar Sharma Jailor-in-charge, in his statement, has said that although he was present in Phulwari Sharif Camp Jail on 5-8-74 and working in his office there, the actual work of placing the undertrial prisoners in the custody of the police was being done by the jail clerk Shri Ashok Kumar Singh. Shri Sharma did not actually see how the prisoners were made over by the jail clerk to the escort party. Shri Sharma does not know whether Shri Ashok Kumar Singh read out the custody warrants or not in presence of the escort party. Shri P. K. Ganguli, Jail Superintendent, has stated that he was not present in Phulwari Sharif Camp Jail when the prisoners were being made over to the escort party.

Shri Rajendra Singh, Officer-in-charge of the escort party, has stated that the jail clerk Shri Ashok Kumar Singh did not read out the custody warrant of the prisoners.

The statements of the jail staff and the police escort party being contradictory on the point of reading out of the custody warrants, the statement of Shri Ishwar Chaudhry, M.P., is very helpful in this connection. He says that when the undertrial prisoners reached the place between the outer gate and the inner gate where the police escort party was present from before, the jail staff Shri Ashok Kumar Singh started reading out the custody warrant one by one in which

the names of the prisoners were written. While reading the custody warrant of the M.P., Shri Ashok Kumar Singh said "Ishwar Chaudhry, M.P.". He further says that all the custody warrants were read out and names of all the prisoners were tallied by the escort party. The statement of Shri Ishwar Chaudhry, M.P., supports the case of the jail clerk Shri Ashok Kumar Singh that he had actually read the custody warrants including that of Shri Ishwar Chaudhry, M.P. and that he said "Shri Ishwar Chaudhry, M.P.". This being the position, it goes against Shri Rajendra Singh, Officer-in-charge of the escort party, that he did not take any special notice of the custody warrant of Shri Ishwar Chaudhry, M.P., did not regard Shri Ishwar Chaudhry as M.P. and consequently he did not refrain from handcuffing the M.P.

(b) Another point of difference between the jail staff and the escort party is regarding identification of Shri Ishwar Chaudhry, M.P., before the M.P., was actually handcuffed.

Shri Ashok Kumar Singh, jail clerk, has stated that he introduced Shri Ishwar Chaudhry, M.P. to the Officer-in-charge of the escort party and told the Officer-in-charge that Shri Ishwar Chaudhry was an M.P. and a prisoner of superior class, and therefore, he should not be handcuffed. Thus, Shri Ashok Kumar Singh claims to have properly identified Shri Ishwar Chaudhry as an M.P. while handing him over to the escort party and before the M.P. was handcuffed.

Shri Bhubaneshwar Sharma, Jailor, has said that he was not present at the spot when the M.P. was being handed over by Shri Ashok Kumar Singh to the escort party and, therefore, Shri Sharma did not see whether Shri Ashok Kumar Singh had properly identified Shri Ishwar Chaudhry as M.P., before the M.P. was handcuffed. Shri Sharma has further said that he does not know whether Shri Ashok Kumar Singh had told the escort party that Shri Ishwar Chaudhry was an M.P. and a prisoner of superior class and he should not be handcuffed.

Shri Rajendra Singh, Officer-in-charge of the escort party has stated that nobody told him at the time of taking over charge of Shri Ishwar Chaudhry that Shri Chaudhry was an M.P. or he was a prisoner of superior class or that he should not be handcuffed. He further says that nobody introduced Shri Ishwar Chaudhry to him as an M.P. or as a prisoner of superior class. Thus, on the point of identification of the M.P. before handcuffing, Shri Rajendra Singh completely denies the stand taken by Shri Ashok Kumar Singh, jail clerk. He says that had he been introduced to Shri Ishwar Chaudhry as an M.P. or a superior class prisoner or had he been told that Shri Ishwar Chaudhry should not be handcuffed, the escort party would

not have handcuffed Shri Ishwar Chaudhry. The statement of Shri Ishwar Chaudhry, M.P. is specific on this point also. He says that although his custody warrant was read out by the jail staff to the escort party, no jail staff at that time told the escort party that he was an M.P. and a prisoner of superior class.

The statement of Shri Ishwar Chaudhry, M.P., supports the case of the escort party that the M.P. was not properly identified before handcuffing or while being handed over to the escort party.

(c) The third point of difference is centered round the discussions regarding the actual handcuffing of Shri Ishwar Chaudhry, M.P. by the Police escort party.

Shri Ashok Kumar Singh, Jail clerk, stated that he had told the Officer-in-charge of the escort party that Shri Ishwar Chaudhry being an M.P. and a prisoner of superior class, should not be handcuffed. This he claims to have said before the M.P. was actually handcuffed and while handing the M.P. over to the escort party. He has further said that he did not see when actually the escort party handcuffed Shri Ishwar Chaudhry, M.P., because he was busy in reading out the custody warrants.

Shri Bhuwaneshwar Sharma, Jailor, does not know whether Shri Ashok Kumar Singh had told the escort party that Shri Ishwar Chaudhry, M.P., should not be handcuffed. He also does not know as to how exactly and at what stage Shri Ishwar Chaudhry, M.P., was handcuffed by the escort party.

Shri Rajendra Singh, Officer-in-charge of the escort party, has stated that when the undertrial prisoners were divided into two groups and they stood in two separate groups, he took his group of prisoners to a room near the jail gate. The members of his escort party started handcuffing the prisoners there and thus all the prisoners were handcuffed. He has further stated that till that time no jail staff had told him that Shri Ishwar Chaudhry should not be handcuffed.

Shri Ishwar Chaudhry, M.P., in his statement, has said that no jail staff had told the escort party that he was an M.P. or a prisoner of superior class and that he should not be handcuffed. He has further said that while he was being handcuffed, no jail staff prevented the escort party from doing so.

The above statement of Shri Ishwar Chaudhry, M.P., is in favour of the escort party that no jail staff had told the escort party that Shri Ishwar Chaudhry, M.P., should not be handcuffed, before the

handcuffing was actually completed, and therefore, the version as given by the escort party on this point has to be believed.

(6) Rule 241(a) (ii) of the Police Manual says that undertrial prisoners classified as superior should not be handcuffed unless there is reason to suspect that they may attempt to escape when the orders of the Superintendent of Police or a gazetted officer should be taken where possible and reasons for imposing handcuffs recorded in writing.

As already stated, Shri Ishwar Chaudhry, M.P., was classified as a superior class prisoner in the jail, and, therefore, he should not have been handcuffed unless there was reason to suspect that he might try to escape. Apparently, there was no reason for such a suspicion. However, the point remains whether it was known to the escort party that Shri Ishwar Chaudhry was a prisoner of the superior class. As already discussed, he was not instructed or briefed by any police officer in the New Police Lines on the subject and he came to the jail on the presumption that he had to escort the prisoners of ordinary class only. The term "उच्च श्रेणी कादी, एम. पी." was written in red ink on the back of the custody warrant, but Shri Ashok Kumar Singh, Jail clerk, admits that while reading out the custody warrant he did not read out the above words in Hindi. So far as Government of Bihar, Jail Department letter No. 15284 dated the 6th October, 1964 is concerned, it is addressed to the Inspector General of Prisons, Bihar, with copy to Superintendent of Central|District|Sub Jails and it is just possible that the escort party might not be familiar with this letter and might not be knowing that the M.Ps. are treated as superior class prisoners in the jail. However, Shri Rajendra Singh, Officer-in-charge of the escort party, in his statement, has admitted that he knows and even on 5th August 1974 it was known to him that M.Ps/M.L.As. should not be handcuffed during escort. This he came to know in course of his service career. The only plea that he takes in this context is that on 5th August, 1974 it was not known to him that he had to escort an M.P. But it has already been observed in the above report that the custody warrant of Shri Ishwar Chaudhry, M.P., was actually read out to Shri Rajendra Singh by the Jail clerk Shri Ashok Kumar Singh, who said, while reading the custody warrant, as follows:—"Shri Ishwar Chaudhry, M.P.". Therefore, atleast on hearing the name of the M.P. from the custody warrant he should have realised that Shri Ishwar Chaudhry was an M.P. and that he was not to be handcuffed. He appears to have utterly ignored this aspect. The responsibility for the actual handcuffing of Shri Ishwar Chaudhry, M.P., in the circumstances, rests with the escort party headed by Shri Rajendra Singh.

(7) Rule 241(a) (iii) (e) of the Police Manual says that it is undesirable that undertrial prisoners classified as superior should be taken from and to Court and jail along with batches of prisoners classified as ordinary undertrials. When possible, undertrial prisoners classified as superior should be conveyed to and from Court in a special conveyance.

On perusal of the statements of the witnesses, it appears that the escort party headed by Shri Rajendra Singh was given a 3-tonner police van and no special conveyance for escort of the M.P. was provided, and, therefore, this Rule was not followed in this case. On perusal of letter No. 531 dated 2nd August, 1974 from the Superintendent, District Jail, Phulwari Sharif, Shri Kamla Pd. Singh, R.S.M. (II) must have known that one of the prisoners to be escorted was Shri Ishwar Chaudhry, M.P. Therefore, in his note given at the bottom of the aforesaid letter, he should have mentioned that a special conveyance should be provided for escort of the M.P. But he simply mentioned about deputation of the escort party.

However, it may be argued that for want of adequate number of vehicles it might not have been possible for the police to arrange for a special conveyance for the M.P., but even in that case the Officer-in-charge of the escort party could have arranged for accommodation of Shri Ishwar Chaudhry, M.P. on the front seat of the vehicle by the side of the driver. Atleast by that time the escort party fully knew that one of the prisoners to be escorted was Shri Ishwar Chaudhry, M.P., and, therefore, the escort party cannot take the plea that they could not think of making special provision of seat for the M.P. In this case all the undertrial prisoners were asked to sit together on the back seats of the van. Shri Rajendra Singh has advanced the argument that arranging a seat for the M.P. on the front seats of the vehicle would have meant accommodation for atleast 4 persons, namely, the driver, two prisoners handcuffed together and one member of the escort party. In course of my spot inspection of the Phulwari Sharif Camp Jail on 7th January, 1976 in presence of Shri Rajendra Singh, Officer-in-charge of the escort party, I could see a vehicle in front of the jail gate similar to the vehicle said to have been allotted to Shri Rajendra Singh. On inspection, I was inclined to believe that four persons could be accommodated on the front seats of the vehicle. Therefore, the plea of the Officer-in-charge of the escort party cannot be accepted.

(8) Some reference may be made at this stage to the incident which took place after the handcuffing of Shri Ishwar Chaudhry, M.P., was completed.

Shri Ashok Kumar Singh, the jail clerk, has stated in this connection that when he handed over all the custody warrants to the Officer-in-charge of the escort party, he saw that Shri Ishwar Chaudhry, M.P., had been handcuffed like other undertrial prisoners. Then he claims to have said to the officer-in-charge of the escort party as to why the M.P. had been handcuffed. On this, the escort party took out the key and wanted to open the handcuff, but Shri Ishwar Chaudhry, M.P., said that there was no harm in it and that the handcuff should not be removed. Shri Bhuwaneshwar Sharma, Jailor, has stated in this connection that when the undertrial prisoners were passing by the side of the door of his office, he saw that Shri Ishwar Chaudhry, M.P., was in handcuffs. Seeing this, he came to the gate and told the Officer-in-charge of the escort party that Shri Ishwar Chaudhry was an M.P. and a superior class prisoner and therefore he should not have been handcuffed. Hearing this, the escort party wanted to remove the handcuff, but Shri Ishwar Chaudhry did not allow the escort party to do so. Shri Rajendra Singh, Officer-in-charge of the escort party, has stated on this point that while he was taking the undertrial prisoners out of the outer gate of the jail and some prisoners had actually gone out of the gate, the jail clerk Shri Ashok Kumar Singh told him that Shri Ishwar Chaudhry, M.P. should not have been handcuffed. Thereupon, he took out the key and tried to open the handcuff of Shri Ishwar Chaudhry, but Shri Chaudhry did not allow him to do so. The statements of Shri Ashok Kumar Singh, Shri Bhuwaneshwar Sharma and Shri Rajendra Singh are of the same nature on this point, except on one aspect regarding the place and stage when the escort party tried to open the handcuff of the M.P. According to Shri Ashok Kumar Singh, jail clerk, he protested to the escort party against handcuffing of the M.P. after he had given the custody warrants to the escort party. At that time, the undertrial prisoners had not moved towards the outer gate for going out of the jail. Shri Bhuwaneshwar Sharma, Jailor, claims to have protested against the handcuffing of the M.P. to the escort party when he saw that the M.P. was passing towards the gate in front of the door of his office room. Shri Rajendra Singh says that the jail clerk Shri Ashok Kumar Singh protested against handcuffing of the M.P. to him when some of the undertrial prisoners had actually gone out of the jail. However, this small difference in the location of the actual spot is not of much importance, because by that time the handcuffing had already been completed and it does not change the position, no matter when the escort party tried to open the handcuff a few yards here or there between the two gates of the jail.

Shri Ishwar Chaudhry, M.P., has stated in this connection that when the undertrial prisoners were sitting in the van one after the other and when his turn came Shri Bhuwaneshwar Sharma, Jailor, went there and said that he (Shri Chaudhry) was in division; but

still his handcuffs remained intact. Shri Ishwar Chaudhry has further stated that Shri Bhuwaneshwar Sharma, Jailor, did not tell the escort party that his handcuffs should be opened, nor did he protest against his handcuffing. He has further stated that no body tried to open his handcuff. In this connection, the statement of Shri Ishwar Chaudhry, M.P., recorded by Shri P. K. Ganguli, Superintendent, District Jail, Phulwari Sharif on 7th August, 1974 is relevant, which says that at the time of his sitting in the vehicle, the Jailor told the escort party that he (Shri Chaudhry) was in division and he would not be handcuffed. It appears that in course of his statement before me on 23rd December, 1975 Shri Ishwar Chaudhry, perhaps, did not remember exactly what was said by Shri Bhuwaneshwar Sharma, Jailor on 5th August, 1974 on this point. When Shri Bhuwaneshwar Sharma said that Shri Ishwar Chaudhry was in division, the natural inference would be that he would also have said that Shri Chaudhry should not have been handcuffed. It also appears that on knowing that Shri Ishwar Chaudhry was an M.P., who should not have been handcuffed, the escort party might have tried to open the handcuffs of Shri Chaudhry, but might not have succeeded in the attempt.

**Point No. (III)—To fix responsibility for such unfortunate incident**

The third point of enquiry is to fix responsibility for the unfortunate incident of handcuffing of Shri Ishwar Chaudhry, M.P. This point has already been covered in point No. (II) while discussing whether the rules and procedures were followed by the jail authorities, the escort party and other police officers and men. However, the responsibility of the various officers in this connection may be briefly summarised as follows:—

(1) *Shri Abdul Latif, Munshi*—He should have mentioned the name of Shri Ishwar Chaudhry, M.P. in the command certificate, even if no special escort was provided for the M.P., under Rule 558(a) of the Police Manual, because Shri Chaudhry being an M.P. was a notable State prisoner. He failed to discharge his duties properly in not mentioning the name of the M.P. in the command certificate to draw special attention of the escort party.

Secondly, considering the fact that R.S.M. (II) was absent from office on 5th August, 1974 and Shri Dhanesh Upadhyaya, S.I., did not meet the escort party, Shri Abdul Latif should have atleast verbally mentioned to the escort party that one of the prisoners to be escorted was Shri Ishwar Chaudhry, M.P. who should not be handcuffed. He did not do so.

(2) *Shri Kamla Pd. Singh, R.S.M. (II)*—At the bottom of letter No. 531 dated 2nd August, 1974 from the Superintendent, District Jail, Phulwari Sharif, he gave a note only regarding deputation of the escort party, but he gave no special instruction therein regarding Shri Ishwar Chaudhry, M.P. On perusal of the letter, he must have been fully aware of the fact that one of the prisoners to be escorted was Shri Ishwar Chaudhry, M.P., and, therefore, he should have given some specific note regarding the escort of the M.P. He did not give the date below his initial which also cannot be appreciated.

Shri Kamla Pd. Singh should have ordered on the requisition letter that a special conveyance should be provided for escort of the M.P. as provided for in Rule 241(a) (iii) (e) of the Police Manual.

Thirdly, the whereabouts of Shri Kamla Pd. Singh on 5th August, 1974 requires further probe by his superior officers of the Police Department as he does not remember when, where and for what purpose he had gone out from the office on that date and when he returned back to office. Due to his absence from office, the escort party could not be properly briefed under Rule 537 of the Police Manual and the command certificate could not be signed by him.

(3) *Shri Dhanesh Upadhyaya, S.I. of Police*.—He did not compare the command certificate with the requisition letter received from the jail to ensure that the command certificate was properly and completely filled up. He did not care to see the requisition letter. Had he done so, he could have detected that the name of Shri Ishwar Chaudhry, M.P., was not mentioned in the command certificate.

Secondly, while signing the command certificate he performed the duties of R.S.M. (II) and hence it was also his responsibility to give proper instruction to the escort party under Rule 537 of the Police Manual. He failed to do so.

(4) *Shri Rajendra Singh, Officer-in-charge of the Escort Party*.—The custody warrant of Shri Ishwar Chaudhry, M.P., was actually read out to Shri Rajendra Singh by the jail clerk Shri Ashok Kumar Singh, who in this process uttered the words "Shri Ishwar Chaudhry, M.P.". This being the position, it goes against Shri Rajendra Singh that he did not take any notice of the custody warrant of Shri Ishwar Chaudhry, M.P., did not regard Shri Chaudhry as M.P. and consequently he did not refrain from getting the M.P. handcuffed.



Secondly, he knew on 5th August, 1974 that M.Ps./M.L.As. were not to be handcuffed during escort. This he knew in course of his service career. The custody warrant was read out to him, indicating that Shri Ishwar Chaudhry was an M.P. Hence the escort party headed by him should not have handcuffed the M.P.

Thirdly, he should have arranged for accommodation of the M.P. on the front seat of the police van by the side of the driver, if no special conveyance for the M.P. was provided. Atleast, by that time he was fully aware of the fact that Shri Ishwar Chaudhry was an M.P., and, therefore, Shri Rajendra Singh should not have accommodated the M.P. along with other prisoners in the back seat of the police van.

(5) *Shri Ashok Kumar Singh, Jail Clerk.*—He did not properly identify Shri Ishwar Chaudhry as an M.P. or a prisoner of superior class, while handing him over to the escort party and before the M.P. was handcuffed.

Secondly, he did not tell the escort party that Shri Ishwar Chaudhry was an M.P., who should not be handcuffed. He did not prevent the escort party from actually handcuffing the M.P., although he was present at the spot.

(6) *Shri Bhuwaneshwar Sharma, Jailor.*—He did not exercise supervision over Shri Ashok Kumar Singh, Jail Clerk, while Shri Ishwar Chaudhry, M.P., was being handed over to the escort party. He did not ensure that Shri Ishwar Chaudhry was properly identified and introduced to the escort party.

Secondly, Shri Bhuwaneshwar Sharma did not ascertain and ensure the fact that the escort party was told not to handcuff Shri Ishwar Chaudhry, M.P. He should have remained present on the spot and should have himself intimated to the escort party that Shri Ishwar Chaudhry, M.P., should not be handcuffed. He remained sitting in his office room till the handcuffing was completed. Shri Ishwar Chaudhry, M.P., has stated that Shri Sharma was witnessing the entire show, Shri Sharma did not intervene in the matter before the handcuffing was done.

**POINT NO. (IV).**—The fourth point for enquiry is whether Shri Ishwar Chaudhry was handcuffed on any other occasion when he was arrested, escorted or produced before the Court in connection with this case, and if so, to fix responsibility for the same.

Shri Ishwar Chaudhry, M.P., has himself stated that after coming to jail in this case on 10th June, 1974, he was taken to the

Court for the first time on 5th August, 1974. He has further said that on 10th June, 1974 he was not handcuffed after being arrested and while being brought to the jail. It has been further stated by him that even after 5th August, 1974, he was never handcuffed. Thus, according to his own statement, Shri Ishwar Chaudhry, M.P., was handcuffed for the first time in this case on 5th August, 1974, which has been discussed in detail in the above paragraphs. Therefore, this point does not need further elaboration.

Sd/-

(MAHAKRISHNA DAS)

Patna, the  
11th February, 1976.

*Dy. Secretary to Government  
Home (Special) Department,  
Bihar.*

## APPENDIX II

(See para 22 of the Report)

No. 5|B-2015|75-H(P) 12899  
GOVERNMENT OF BIHAR  
HOME (POLICE) DEPARTMENT

*Most Immediate*

From

R. N. Dash,  
Secretary to Government.

To

Shri M. L. Mehta,  
Deputy Secretary to Govt. of India,  
Ministry of Home Affairs,  
New Delhi.

Patna, the 23rd December, 1975.

**SUBJECT:** *Use of handcuffs by the Police and Jail authorities.*

Sir,

I am directed to refer to your letter No. 8|70|74-GPAI, dated the 8th November, 1974, and earlier letter No. 2|15|57-P.IV, dated the 26th July, 1957 of the Joint Secretary to the Government of India, Ministry of Home Affairs, on the aforesaid subject and to state that the principle enunciated in the aforesaid letters have been accepted in our Jails Department and already stand incorporated in the Bihar and Orissa Police Manual. The general principle enunciated in these rules of the Police Manual is that, the prisoners in custody or under escort shall not be subjected to more restraint than is necessary to prevent their escape. Specific exemptions from handcuffing, except under extra-ordinary circumstances, have been laid down in the rules in respect of under-trial prisoners classified as superior, convict prisoners classified in Divisions (I) and (II), women, witnesses arrested u/s. 171 Cr.P.C. old or infirm persons, and prisoners accused in bailable cases. Even in

respect of prisoners not covered by these categories, it is not obligatory for the police to handcuff them, and the concerned police officer has to exercise his discretion. Prominent persons including Legislators, Doctors, Journalists, Jurists, Advocates, Writers, Educationists, etc., referred to by Government of India are, in normal course, classified into superior or upper divisions, and hence, they accordingly belong to the exempted categories. Hence it is not necessary to make any other amendments in Rules, or to issue any specific instructions in respect of these categories of prisoners.

2. However, the rules and instructions of the State Government do not mention any such exemption in respect of "Political Prisoners" or "Satyagrahis". These terms do not occur in Acts and Rules, and it is difficult to definite them. Arrests and Prosecutions of persons relate to offences committed irrespective of their political nature. There have been instances when so-called political crimes have been of a very heinous nature. Further more, in the wake of political agitations, anti-social elements and even listed bad characters mix up with Satyagrahis under a political coverage and seek to gain political benefits which they would not have deserved otherwise. Many of them have reported to have indulged in acts of violence, sabotage and vandalism which would make them unworthy of respect of better treatment. Hence, the State Government feel that it is not necessary to grant any blanket exemption from handcuffing in favour of "Political Prisoners" and "Satyagrahis". Those "Political Prisoners" and "Satyagrahis" who otherwise belong to the superior or upper divisions, will automatically get the benefit of such exemption under the existing rules. Others will be treated as ordinary prisoners; but they are also not expected to be handcuffed in a routine way.

3. The State Government, however, recently issued instructions to the Police Officers to adhere to the rules already laid down, restraining use of handcuffs, copy of which is enclosed for ready reference. (See enclosure).

4. The Privileges Committee of the Lok Sabha during their discussions on 15th November, 1975 also wanted to be apprised of the views of the State Government on the aforesaid subject. We will be grateful if they are apprised accordingly.

Yours faithfully,

Encls : As above

Sd/- (R.N. DASH)  
Secretary to Government.

**Memo. No. 12897/H(P), Patna, the 23rd December, 1975.**

**Copy along with copy of enclosure, forwarded to Shri B. K. Mukherjee, Chief Legislative Committee Officer, Lok Sabha, Parliament House, New Delhi, with request to kindly apprise the Privileges Committee of the Lok Sabha with the aforesaid views of the State Government.**

**Sd|-(R.N. DASH),  
Secretary to Government**

*Enclosure to Appendix II*

No. 5|B-2015|75-H(P)12897  
GOVERNMENT OF BIHAR  
HOME (POLICE) DEPARTMENT

**From**

Shri R. N. Dash, Secretary to Government.

**To**

The Inspector General of Police, Bihar, Patna.

Patna-15, the 23rd December, 1975.

**SUBJECT:** *Use of handcuffs by the Police to restrain prisoners under custody or under escort.*

**Sir,**

I am directed to state that concern had been expressed on several occasions in the recent past about indiscriminate use of handcuffs by Police personnel to restrain prisoners under custody or under escort. The rules and principles of handcuffing by Police are contained in Rules 241, 242, 562 and 563 of the Police Manual. The underlying principle enunciated in these Rules is that, the restraint used in respect of prisoners under custody or under escort shall be the minimum and that prisoners classified as superior or of upper division shall be treated in a dignified way. In other words, the prisoners should not be subjected to more restraint than is necessary to prevent their escape. But in spite of these principles, handcuffing in the past has been done in a routine way, and, on a few occasions, in violation of the exemptions enunciated in the rules itself. It may be recalled that under-trial prisoners classified as superior, convict prisoners classified in Division (I) and (II), women, witnesses arrested u/s 171 (Cr. P.C.) old or infirm persons and prisoners accused in bailable cases, have been exempted from handcuffing, except under extraordinary circumstances. Even in respect of prisoners not covered by these categories, it is not obligatory for the police to handcuff them. The concerned Police Officer has to exercise his discretion. Unfortunately, this discretion has not been used properly in the past and as a result, the

policy and practice of handcuffing have come into criticism in the public. The Government of India have also pointed out that handcuffs had been used on several occasions although the circumstances did not justify the same. Since use of handcuffs not only causes humiliation to the prisoners or arrested persons, but also destroy their self-respect, the State Government hereby reiterate the principle already contained in the Police Manual that handcuffs should be used only under exceptional circumstances as indicated in the rules, and not as a matter of routine. All concerned may kindly be advised accordingly.

Yours faithfully,

Sd/- (R. N. DASH),

*Secretary to Government.*

### APPENDIX III

(See para 22 of the Report)

No. 4237/C.

From

Shri V. S. Dubey, District Magistrate, Patna.

To

The Secretary to Government, Home (Special) Department,  
Bihar, Patna.

Dated, Patna, the 8th August, 1974.

Sir,

Kindly refer to teleprinter message No. N.R. 483 dated 6th August, 1974 regarding production of Shri Ishwar Chaudhry, M.P. in handcuff. A detailed factual report in this connection has been obtained from the Jail Superintendent, Phulwari Sharif and is enclosed for favour of perusal and necessary action. It will appear that Shri Ishwar Chaudhry was handcuffed unintentionally, without any malafide motive on part of either the Jail staff or the escorting party. It will further appear that immediately on detection that Shri Chaudhry was a Member of Parliament and being category I prisoner should not have been handcuffed. The Havaldar of the escorting party tried to undo his mistake by removing the handcuff of Shri Chaudhry but Shri Chaudhry did not allow him to do so. The Jail staff also tried to persuade him but he refused to remove his handcuffs saying that when all other prisoners have been handcuffed why should there be any exception in his case.

Yours faithfully,

Sd/- (V.S. DUBEY).

Magistrate, Patna.



*Enclosure to Appendix III*

*Translation*

*(Original in Hindi)*

No. 5271.

From

Superintendent, Camp Jail, Phulwari Sharif, Patna.

To

District Magistrate, Patna.

Phulwari Sharif, the 7th August, 1974.

**SUBJECT:** *Appearance of a high class under-trial, Shri Ishwar Chaudhry, M.P., and other Satyagrahi under-trials in the court in a handcuffed manner.*

Sir,

With reference to your Memo. No. 4229/C dated 7th August, 1974 on the subject mentioned above I am to inform you that on 5th August, 1974 a Member of Parliament, Shri Ishwar Chaudhry and other Satyagrahi undertrials were made to appear before the Court in a handcuffed manner by the police from the Camp Jail, Phulwari Sharif.

After investigations it has been learnt that the above-mentioned Satyagrahi undertrials were required to appear in the local court on 5th August, 1974. A Senior Superintendent of Police, Patna, had been informed vide this Jail letter No. 531 dated 2nd August, 1974 that Satyagrahi undertrials including Shri Ishwar Chaudhry, M.P., confined in this jail were to be produced in the local Court. Accordingly, a contingent of the police force came to the jail. According to the statement of the clerk of the jail, who is incharge of the Entry Section, he informed the Police force that those undertrials included Shri Ishwar Chaudhry, M.P. and he identified him also. The clerk concerned was busy in writing the names of Satyagrahis in the Gate Register and in counting them. In the meantime the policemen handcuffed Shri Chaudhry along with other Satyagrahis. On enquiry Shri Ishwar Chaudhry himself stated that he had not told the constable, who handcuffed him, that

he was an M.P. but the Satyagrahis accompanying him had been saying that an M.P. was handcuffed. Shri Chaudhry also stated that he had asked the constable thrice to enquire from his officer as to who was not to be handcuffed.

According to the statement of the clerk concerned, he was busy in writing the names of the undertrials and in counting them. Suddenly he saw Shri Chaudhry standing at the gate in a handcuffed manner. At this he asked the guard as to why the M.P. had been handcuffed by him. At this the M.P. said that there was no harm in doing that.

According to the statement of Shri Bhuvaneshwar Sharma, Jailor Incharge, he was working in his office, suddenly saw that Shri Ishwar Chaudhry was ready at the gate to go to the Court in a handcuffed manner. He rushed to the Gate and told the police men that he was an M.P. and a high class undertrial and asked them as to why they had handcuffed him. Shri Ishwar Chaudhry also confirmed it. The Guard took out his key to remove the handcuff and wanted to unlock it. Then Shri Chaudhry said that when all others had been handcuffed he should also remain so. The Jailor Incharge requested Shri Chaudhry, M.P. to get the handcuffs removed but he did not agree to that.

On the basis of the enquiry I feel that since Shri Ishwar Chaudhry was the only M.P. amongst many ordinary Satyagrahi undertrials, the constable handcuffed him unknowingly and despite immediate attempt by the Jail officials and the police men to remove the handcuffs, Shri Ishwar Chaudhry, M.P. did not agree to it. It was not possible to remove the handcuffs forcibly against his wishes. So far as other ordinary Satyagrahis are concerned they are ordinarily taken out of the Jail in a handcuffed manner by the Police men.

*Yours faithfully,*

·Sd/-

Superintendent, Camp Jail,  
Phulwari Sharif, Patna.

#### **APPENDIX IV**

**(See para 28 of the Report)**

**Copy of the Ministry of Home Affairs letter No. 2/15/57-P. IV, dated the 28th July, 1957, addressed to all State Governments and Union Territories regarding the use of hand-cuffs by the Police and Jail authorities.**

**Sir,**

I am directed to say that instances have recently come to the notice of the Government of India in which persons arrested by the police were hand-cuffed although the circumstances did not seem to justify this course. Hand-cuffs are normally to be used by the Police only where the prisoner is violent, disorderly, obstructive or is likely to attempt to escape or to commit suicide or is charged with certain serious non-bailable offences. It is, however, observed that in actual practice prisoners and persons arrested by the police are handcuffed more or less as a matter of routine. The use of hand-cuffs not only causes humiliation to the prisoners or arrested persons but also destroys his self-respect and is contrary to the modern outlook on the treatment of offenders. I am accordingly to suggest for the consideration of the State Government that the use of hand-cuffs should be restricted to cases where the prisoner is of a desperate character or there are reasonable grounds to believe that he will use violence or attempt to escape or where there are other similar reasons. If the State Government have no objection, necessary instructions may please be issued to the police and other authorities. I am to request that necessary instructions may please be issued to the police and other authorities concerned.

**Yours faithfully,**

**Sd/-**

**Joint Secretary to the Govt. of India.**

## APPENDIX V

(See para 30 of the Report)

(A) Extracts from the Bihar and Orissa Police Manual, 1930 (Vol-I).

### CHAPTER-XI

#### ARREST AND CUSTODY OF ACCUSED

237A. *Classification of prisoners.*—(1) (i) Under-trial prisoners are divided into two divisions, superior and ordinary. The classification is based on previous standards of living only; under-trial prisoners who, by social status, education and habit of life, have been accustomed to a superior mode of living, will be classified as superior and all others as ordinary.

(ii) Before a prisoner is produced before a court, the classification will be made by the officer in charge of the police-station or court *hajat* who will use his discretion.

(iii) After the prisoner has been produced before a court, the classification will be made by the trying court subject to the approval of the District Magistrate.

(2) Convicted prisoners, for the purposes of treatment in jail, are classified in three divisions, I, II and III, viz.

##### Division I.—

Prisoners sentenced to rigorous or simple imprisonment will be classed in this division if—

- (a) they are non-habitual prisoners of good character;
- (b) they by social status, education and habit of life have been accustomed to a superior mode of living: provided that—
- (c) they have not been convicted of—
  - (i) offences involving elements of cruelty, moral degradation or personal greed;
  - (ii) serious or premeditated violence;
  - (iii) serious offences against property.

- (iv) offences relating to the possession of explosive, fire-arms and other dangerous weapons with the object of committing an offence or of enabling an offence to be committed;
- (v) abetment or incitement of offences falling within these sub-clauses.

#### Division II.—

Prisoners will be eligible for this division who by social status, education or habit of life have been accustomed to a superior mode of living. Habitual prisoners will not be excluded automatically: the classifying authority will be allowed discretion to suggest their inclusion in this class on grounds of character and antecedents, subject to confirmation or revision by the local Government.

#### Division III.—

Will consist of prisoners who are not classified in Divisions I and II.

xxx

xxx

xxx

241. (a) (i) *Restrain of prisoners. Use of handcuffs.*—Prisoners arrested by the police for transmission to a magistrate or to the scene of an enquiry, and also under-trial prisoners shall not be subjected to more restraint than is necessary to prevent their escape.

(ii) Undertrial prisoners classified as superior in accordance with rule 237A (1) by the magistrate or the officer in charge of the police-station (or any convicted prisoners classified in Divisions I and II) should not be handcuffed unless there is reason to suspect that they may attempt to escape, when the orders of the Superintendent of Police or a Gazetted Officer should be taken where possible and reasons for imposing handcuffs recorded in writing.

(iii) In no case shall women, or witnesses arrested under section 171, Cr.P.C., be handcuffed, nor shall restraint be used to those who, either by age or infirmity, are easily and securely kept in custody.

(b) In bailable cases prisoners shall not be handcuffed at the time they are despatched, unless they are violent or have previously attempted to escape. Similarly, they shall not be handcuffed *en route*, except in emergencies as permitted in P.M. rule 240(b) and (i), or unless they become violent or attempt to escape. In such cases the order to apply handcuffs or a rope shall be given by the

senior officer present who shall, if at a police-station, enter the reasons in the station diary, and in the certificate in P.M. form No. 43 or, if in the interior, or *en-route*, shall report the facts to the first police-station or court at which he arrives.

(c) When despatching prisoners accused of non-bailable offences, the amount of restraint necessary must be left to the discretion of the despatching officer, who shall be the senior officer present. In certain circumstances the use of handcuffs may not be necessary, but if, for instance, the prisoner has previously attempted to escape, or is a powerful man in custody for a crime of violence, or is of notorious antecedents, or disposed to give trouble, or if the journey is long, or the number of prisoners is large, handcuffs may properly be used. Escorts shall in any case be supplied with handcuffs for use should necessity arise. If it becomes necessary *en route* for the officer in charge of the escort to depart from the instructions received at the time of despatch, he shall report the facts and reasons to the first police-station or court at which he arrives.

(d) The rules in chapter XVIII for the escort of convicts apply generally to the guarding and escorting of persons arrested by the police so far as they are not contradictory to the rules contained in this chapter, but no person so arrested shall be subjected to more restraint than is necessary to prevent his escape.

(e) It is undesirable that, under-trial prisoners classified as superior for any convicted prisoners classified in Divisions I and II should be taken from and to court and Jail, and in particular between Jails, along with batches of prisoners classified as ordinary under-trials (or in Division III). When possible under-trial prisoners classified as superior should be conveyed to and from court in a special conveyance.

(f) A prisoner who desires to provide at his own expense a vehicle for the conveyance of himself and his escort may be permitted to do so; in such cases, one member of the escort shall sit alongside the driver and no person, other than the driver, the prisoner and his escort, shall be permitted to travel in it. Provided that if no driver, other than the prisoner himself, is available the officer in charge of the escort may in his discretion refuse this concession.

242. *Use of handcuffs*—In the case of two prisoners, whom it is necessary to handcuff, they shall be handcuffed in couples, the right wrist of one to the left wrist of the other. When the number under escort consists of an odd number, the odd man shall be handcuffed to two other prisoners.

In all cases in which the use of handcuffs is allowed and considered necessary and when no proper handcuffs are available, the prisoners may be secured by ropes or pieces of clothing. These shall be so tied as not to interfere with proper circulation, and shall be replaced by handcuffs as soon as possible.

Great caution shall be exercised at all times in the removal of handcuffs and other fastenings from prisoners *en route*, whether by land or water.

## CHAPTER XII

### PROSECUTION OF CASES

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295. (a) *Hajat register*.—A *hajat* register in schedule XLIII (High Court) form No. (R) 12 shall be kept in each court office.

(b) *Custody and release of prisoners*.—The court police shall escort offenders under trial from the jail or lock-up to the magistrate's court and guard them while there.

(c) They shall also return to the jail, under safe escort, prisoners sentenced to imprisonment or remanded to *hajat* by the magistrate.

(d) Prisoners discharged or acquitted shall be released in open court by order of the magistrate; prisoners remanded or convicted shall be sent to jail with their appropriate warrants; and prisoners enlarged on bail or on their own recognizances, if present in court, shall be released there, the court officer obtaining the magistrate's initials opposite their names in the *hajat* register in attestation of the release.

(e) Whenever the trial of a prisoner, who is detained pending the result of such trial, shall be adjourned for any reason, a day shall be fixed by the magistrate for the rehearing of the case, and it shall be the duty of the court officer to ensure the punctual attendance of the prisoner on the day fixed.

(f) The names of all the prisoners to be produced each day before the magistrate shall be entered in the *hajat* register by the court officer. The jailor shall make over the prisoners with their warrants to the court officer's guard for production before the magistrate.

## CHAPTER XVIII

### GUARDS AND ESCORTS

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535. (a) *Escort requisitions*.—Escorts shall be furnished only on written indents from competent authority. A separate requisition shall be made for each escort required in (P.M. form No. 97) and escort parties shall be distinguished from each other by the number of the requisition. Persons authorised to indent for escort parties shall be supplied with books of requisition forms by Superintendents.

(b) *Strength of escort*.—The Superintendent shall determine the strength of the guard when it is not laid down by rules 557(B), 558 and 587—591.

(c) *Notice*.—At least 72 hours' notice (inclusive of Sundays and holidays) shall be given to the Superintendent to enable him to furnish an escort of the proper strength. But in urgent cases, on requisition from competent authority, he shall do his best to supply or relieve escorts at shorter notice. Superintendents shall report promptly to the Range Deputy Inspector-General, by telegraph when necessary, when they anticipate difficulty in providing escorts within the time fixed by District Officers. In such cases special arrangements shall be made by the Deputy Inspector-General.

536. (a) *Action on receipt of requisition*.—On receipt of an escort requisition, the head clerk shall fill up the order on the reverse of it, showing the strength of the escort required and, if it is necessary to make advance payments to the escort the amount of daily allowance or mileage due.

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(c) The requisition and the amount of the advances, if any [See also rule 550(b)] and, in the case of treasure escorts, the cost of the fares and all charges to be incurred on account of freight, etc. [See rule 550(c)] shall be sent to the reserve officer who shall make the amount over to the officer-in-charge of the escort and take his receipt on the requisition. He shall at the same time give the officer-in-charge of the party a command certificate (P.M. form No. 9) and shall note on it the details of the money and warrants made over and the number of the escort requisition, as well as details of the prisoners or treasure or other property to be escorted and such instructions as are necessary, e.g., whether the prisoners are to be fettered or not, the route to be taken, etc.

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537. *Orders to be explained to officer in command.*—The reserve officer is responsible that the officer-in-charge of an escort is fully aware of the various orders to be observed from the time he takes charge of the prisoners or treasure until his return; that a proper inspection of the men's arms, ammunition and accoutrements is made; that the men detailed are all present and fit; and the guard is properly equipped and dressed.

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557A. *Responsibility of the Police for prisoners under escort*—The responsibility for the safety of prisoners under escort will rest with the police. The police shall be responsible for deciding what precautions in the way of fetters, accommodation, etc., shall be provided.

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558(a). *Special escorts in certain cases.*—When a notorious criminal or a notable State prisoner forms one of the party, the escort shall be special and regulated in accordance with the importance of the prisoner or prisoners being escorted [See rule 562(e)].

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562. (a) *Use of handcuff, leg irons, rope, etc.*—Male convicts of Division III shall be handcuffed during transit and transportation convicts shall in addition be furnished with leg irons and leather gaiters, which shall be supplied by the Jail Department for each prisoner to prevent abrasion of the skin. Convict warders and overseers need not be handcuffed.

(b) Convicts of Divisions I and II should not be handcuffed unless there is reason to suspect that they may attempt to escape.

(c) No female prisoner shall be handcuffed or fettered.

(d) The restraint to be used in the case of male under-trial prisoners is defined in rule 241.

(e) The procedure laid down in rule 242 shall also be followed in all cases in respect of the handcuffing of prisoners.

(f) In the case of dangerous or refractory characters [See rule 558(a)] special precautions shall be taken if the Superintendent of Police considers it necessary.

(g) The officer-in-charge of the escort party shall be supplied with two pairs of removable leg-shackles, if such are available, or rope to be temporarily substituted for handcuffs when convicts are easing themselves.

563. (a) *Care and examination of handcuffs, etc.*—Handcuffs and ropes shall be supplied to escort parties by the reserve officer. Fetters, when required by the police, will be supplied and kept by the Jail Department. The police will inform the jail authorities in advance when they require fetters so that the prisoners may be ready fettered when the escort arrives.

(b) Keys of handcuffs and leg irons and shackles shall be kept by the senior police officer-in-charge of the prisoners.

(c) Before taking charge of prisoners, the officer-in-charge of the escort shall see that all handcuffs and leg irons are secure and in good order and that none of the prisoners can possibly rid themselves of them without aid. This examination shall be repeated whenever the prisoners halt or resume their journey.

**(B) EXTRACTS FROM THE BIHAR JAIL MANUAL RULES FOR  
THE SUPERINTENDENCE AND MANAGEMENT OF JAILS  
IN BIHAR.**

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**CHAPTER XXIV  
TRANSFER OF PRISONERS**

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801A. The responsibility for the safety of prisoners under escort will rest with the Police. The Police shall be responsible for deciding what precautions in the way of fetters, accommodations, etc., shall be provided.

**CHAPTER XXVI  
UNDER-TRIAL PRISONERS**

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849. On the date entered in the original warrant, or on the date fixed by any subsequent orders, under-trial prisoners shall be placed in the custody of the police to be taken to court. If any prisoner wishes that cash belonging to him in the hands of the jailor shall be returned to him when sent to court to enable him to pay for legal assistance, this may be done, and a receipt shall be taken from the prisoner, otherwise such money shall be retained by the jailor and shall, if the prisoner be released in court, be delivered to him at the jail gate together with his private property on his application.

850. The names of all prisoners to be produced each day before the magistrate must be entered in the *Hajat Register* (P.M. Form No. 61) by the court officer, whose duty it is to ensure the punctual attendance of prisoners at court on the day fixed. The officer commanding the court officer's guard will produce the register to the jailor who will make over under written acknowledgement for production before the magistrates, those prisoners, together with their warrants, whose production has been duly ordered and whose names are entered therein. The jailor shall also initial in this register the entry of the name of every prisoner received from court either on remand or conviction.

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