

**COMMITTEE OF PRIVILEGES
(FOURTEENTH LOK SABHA)**

NINETEENTH REPORT

ON

“Notices of question of privilege given by Shri Mohan Singh and Shri Madhusudan Mistry, MPs against S/Shri Ashok Argal, Mahavir Bhagora and Faggan Singh Kulaste, MPs for allegedly committing a grave misconduct by bringing bundles of currency notes in, and displaying them on the Table of, the House thereby disturbing the proceedings and lowering the dignity of the House”

(Presented to Speaker, Lok Sabha on 1 May, 2009)

SEAL

**LOK SABHA SECRETARIAT
NEW DELHI**

May, 2009/Vaisakha, 1931 (Saka)

PERSONNEL OF THE COMMITTEE OF PRIVILEGES (FOURTEENTH LOK SABHA)

Shri V.Kishore Chandra S.Deo

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Chairman

MEMBERS

2. Shri Kharabela Swain
3. Shri Anantkumar Hegde
4. Shri Virendra Kumar
5. Shri Hemlal Murmu
6. Shri Shriniwas Patil
7. Dr. Sebastian Paul
8. Shri Varkala Radhakrishnan
9. Shri Raju Rana
10. Shri D. Vittal Rao
11. Shri Iqbal Ahmed Saradgi
12. Choudhary Bijendra Singh
13. Shri Beni Prasad Verma

SECRETARIAT

- | | | |
|----------------------------|---|----------------------|
| 1. Shri V.K. Sharma | - | Additional Secretary |
| 2. Shri Ravindra Garimella | - | Deputy Secretary |
| 3. Shri M.L.K. Raja | - | Under Secretary |

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**NINETEENTH REPORT OF THE COMMITTEE OF
PRIVILEGES
(FOURTEENTH LOK SABHA)**

I . INTRODUCTION AND PROCEDURE

I, the Chairman of the Committee of Privileges, having been authorized by the Committee to submit the Report on their behalf, present this Nineteenth Report to the Speaker, Lok Sabha on the question of privilege given notices of by Shri Madhusudan Mistry and Shri Mohan Singh, MPs against Sarvashri Ashok Argal, Mahavir Bhagora and Faggan Singh Kulaste, MPs for lowering the dignity of the House and causing humiliation to members by displaying currency notes in the House .

2. The Committee held 6 sittings. The relevant minutes of these sittings form part of the Report and are appended hereto.

3. At their first sitting held on 28 November, 2008, the Committee considered the matter. The Committee decided to hear Shri Mohan Singh and Shri Madhusudan Mistry, MPs at their next sitting.

4. At their second sitting held on 5 December, 2008, the Committee examined on oath Shri Mohan Singh and Shri Madhusudan Mistry, MPs.

5. At the third sitting held on 15 December, 2008, Sarvashri Ashok Argal, Mahavir Bhagora and Faggan Singh Kulaste, MPs, who attended the sitting, requested for some more time to give evidence before the Committee in the matter. The Committee acceded to the members' request.

6. At their fourth sitting held on 28 January, 2009 the Committee examined on oath Sarvashri Ashok Argal, Mahavir Bhagora and Faggan Singh Kulaste, MPs. The members also submitted their joint written statement to the Committee.

7. At their fifth sitting held on 9 February, 2009 the Committee considered their draft Report. Due to the differences among the members *vis-à-vis* the recommendation, the Committee decided to further examine the matter before finalising the Report.

8. At their sixth sitting held on 29 April, 2009 the Committee considered their draft Report and adopted it as amended. The Committee also permitted Shri Kharabela Swain, a member to append a Note of Dissent to the Report.

II. Facts of the case

9. On 22 July, 2008 during the debate on the Motion of Confidence in the Council of Ministers, at about 16.04 hrs. Shri Ashok Argal, Shri Faggan Singh Kulaste and Shri Mahavir Bhagora, MPs came to the well of the House with two bags. The members took out wads of currency notes from the bags with them and started placing the same on the Table of the House. Amidst pandemonium, the Deputy Speaker who was in the Chair adjourned the House. Thereafter Speaker, Lok Sabha held a meeting in his chamber in which along with leaders of various parties, some Minister and others, Shri Ashok Argal, Shri Faggan Singh Kulaste and Shri Mahavir Bhagora, MPs were also present. The Speaker desired the members to file a written complaint in the matter if they so desired.

Thereafter, when the House met at 18.00 hrs. that day the Speaker

made the following observation:

"Hon. Members...some time back, when my distinguished colleague, hon. Deputy-Speaker was presiding over the proceedings of the House, certain incidents have taken place, which according to me, are most unfortunate. It is a very sad day in the history of Parliament that such a situation has happened. Thereafter, I called a meeting of the hon. Leaders. I am grateful to the hon. Leader of Opposition. He was very kindly present also.

We have heard the three hon. Members of the House. They had some complaints to make. I had requested them to put their complaints in writing to me. I assured them, I assured the leaders and I assure the House that all possible steps that are required in that connection will be taken by me as a custodian of this House. It is my duty to do that and I seek the cooperation of all sections of the House.

Please allow me to apply my judgment, look into the matter, and I can assure you nobody will be spared if found guilty."

On 25 July, 2008 Shri Ashok Argal, Shri Faggan Singh Kulaste and Shri Mahavir Bhagora, MPs gave their joint written complaint in the matter.

On 26 July, 2008, the Speaker, Lok Sabha appointed an Inquiry Committee to inquire into the matter.

10. In the meantime, Shri Mohan Singh, MP gave a notice of question of privilege dated 24 July, 2008 against Sarvashri Ashok Argal, Mahavir Bhagora and Faggan Singh Kulaste, MPs . The member contended that the

three MPs had lowered the dignity and prestige of the House and had also misused the privileges given to members by bringing bundles of currency notes and laying them on the Table of the House. He further contended that the said three members had also committed breach of his privilege by not giving him a chance to speak during the confidence motion held on 21 and 22 July, 2008. He also stated that the action of the three MPs was in violation of Rule 349(xiv), (xv) and (xvi) of the Rules of Procedure and Conduct of Business in Lok Sabha.

11. Shri Madhusudan Mistry, MP also gave a notice of question of privilege dated 31 July, 2008 against the said three members, contending that their action amounted to contempt and a breach of privilege of the House.

12. On 12 November, 2008,* the Speaker, Lok Sabha in exercise of his powers under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha referred the matter to the Committee of Privileges for examination, investigation and report.

* The notices were referred to the Committee of Privileges after presentation of the Report of the Committee to inquire into the complaint made by some members regarding alleged offer of money to them in connection with voting on the motion of confidence, by the Chairman of the Inquiry Committee to the Speaker, Lok Sabha on 12 November, 2008.

III. EVIDENCE

Evidence Of Shri Mohan Singh, MP

13. During his evidence before the Committee on 5 December, 2008 Shri Mohan Singh *inter-alia* stated as follows : –

“The bundles of notes were displayed to prevent me from completing my speech. I could not raise my point in the House and the proceedings of the House was interrupted for half an hour which constitutes a breach of privilege. To prevent any member from delivering his speech is a breach of his privilege. Besides bringing disrepute to Parliament these acts, which are acts of misconduct, the same also amount to a breach of privilege.”

Evidence Of Shri Madhusudan Mistry, MP

14. During his evidence before the Committee on 5 December, 2008 Shri Madhusudan Mistry *inter-alia* stated as follows:-

“...The entire incident brought disrepute and disgrace not to the House alone but also to other members of Parliament who are looked down by the public as such, saying that these are the people who have, in fact, sold themselves by accepting the money against their votes.”

“This is a misconduct on the part of all those who did this act. A lot of avenues were open for them. They could have gone to the Hon’ble Speaker; they could have gone and brought the matter to the notice of the other respective Committees and Chairmen and so on. That did not happen, but they chose to come to the Parliament and wave notes and thereby paralyzing the entire proceedings...”

“...The point which the Committee should note is that this is the money which the Committee should note is that this is the money which was accepted by the members outside of the House and outside

the Parliament precincts. It means the members of Parliament accepted the money. They kept the money at their house and then they brought it...They brought that money in the House which could have been avoided...”

**Evidence Of Sarvashri Ashok Argal, Mahavir Bhagora,
and Faggan Singh Kulaste, MPs**

15. During their evidence before the Committee on 28 January, 2009, the three members *inter-alia* stated as follows:-

“...We would humbly like to say that on 22nd July 2008, discussion on the Confidence Motion was going on and voting on the Motion was to take place same day in the evening. Some people contacted with us and offered money to vote against the party line...discussion was going on such an important subject and the hon. Members were asked to vote in a certain way in exchange of money. This was a serious matter of our breach of privilege as Members of Parliament and it was on a whole contempt of the House...in the circumstances where dignity of the House and privileges of the Members are at stake, such matters should be given top priority than any other matter pending or in continuance in the House. Sir, our intention was not to refrain the hon. Members from speaking or to disrupt the proceedings of the House as it has been alleged in the notice. I would like to make it clear that by bringing the bags of currency notes in the House we have neither violated Rule 349 of the Rules of Procedure nor violated the directions of the Hon. Speaker as it has been alleged, but these bags are proof of the glaring

audacity of the culprits and opponents of democracy. As per provisions of Rule 349, these bags cannot be taken as demonstrable items in any form.

We would further like to say that Constitution provisions especially Article 105 guarantees privilege of House and its Members. Rules of the Procedure of the House are framed in the true spirit of Constitutional provisions. Sir, in the present case we all three were influenced to cast vote in a particular manner during the voting on the Confidence Motion in the House which amounts to violation of constitutional provisions as far as privileges are concerned. It is our firm opinion that the matter regarding supremacy of the Constitution and importance of parliamentary privileges should be discussed on priority basis than any other issue. When proceedings of the House cannot run as per Constitution and are corruption ridden, then discussion on the Confidence Motion was meaningless. As it has been alleged in the notice of breach of privilege that we have brought down the dignity of the House, this charge is baseless. Rather contrary to violating the rules of the procedure of the House/Directions of the Speaker, our motive was to stress the need to maintain the dignity of the House and to make it free from corruption.”

IV Findings and Conclusions

16. The issue before the Committee is whether the act of the three members, in bringing bundles of currency notes and displaying them on the table of the House, has lowered the dignity and prestige of the House and whether it also constitutes a breach of privilege and contempt of the House.

17. The Committee note that Rule 349(xvi) of the Rules of Procedure and Conduct of Business in Lok Sabha provides “*that members shall not display flags, emblems or any exhibits in the House*’.

18. The Committee also note that according to Kaul and Shakdher “*Disrespect to the House collectively is the original and fundamental form of breach of privilege, and almost all breaches can be reduced to it. Any misconduct in the presence of the House or a Committee thereof, whether by members of Parliament or by member of the public who have been admitted to the galleries of the House or to sittings of Committees as witnesses, will constitute a contempt of the House. Such misconduct may be defined as a disorderly, contumacious, disrespectful or contemptuous behaviour in the presence of the House.*”

The position in this respect has been stated in **Erskine May's treatise on 'the law, Privileges, Proceedings and usage of parliament'** as follows:-

“Any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence.”

19. There is no doubt whatsoever that Sarvashri Ashok Argal, Mahavir Bhagora and Faggan Singh Kulaste, MPs have breached the provisions of rule 349 (xvi) by bringing the currency notes inside the House and displaying them in the manner in which they did. The Committee are of the view that breach of the provision of rule 349(xvi) can certainly be said to constitute a violation of norms of etiquette on the part of Sarvashri Ashok Argal, Mahavir Bhagora and Faggan Singh Kulaste, MPs. However, according to “Practice and Procedure of Parliament” by Kaul and Shakhder(5th edn.p. 292), “breaches of rules, conventions and practices are not regarded as breaches of privilege.” The Committee, therefore, feel that the act of willful violation of the provisions of Rules of Procedure by the

said three members though reprehensible cannot give rise to a breach of privilege.

20. The question that needs to be settled, therefore, is whether this act of the three members comes in the category of disrespect to the House or misconduct in the presence of the House and whether by committing such an act the said members can be said to have obstructed and impeded the House in performance of its functions.

21. It is a matter of record that the action of displaying of currency notes in the House and placing them on the Table of the House by the three members, disrupted the proceedings of and created pandemonium in the House. Further it prevented a member, *viz* Shri Mohan Singh, who had been called by the Deputy Speaker to speak, from participating in the discussion on the Motion of Confidence. As a matter of fact, the House had to be adjourned repeatedly due to commotion that was created in the House as a result of the action of the members and consequently many more members, who could have otherwise spoken, were deprived of the opportunity to participate in the discussion. This act of the members, therefore, definitely obstructed and impeded members from discharging their parliamentary duties and the House in performance of its functions. Further this act, which

was against the rules and conventions of the House, lowered the dignity not only of the members but of the entire House in the eyes of the public.

22. The Committee note that the three members during their evidence submitted that their action was necessary to expose the buying and selling of votes that was taking place at the time the debate on the Motion of Confidence was going on. The members insisted that offer of money to them to influence their parliamentary conduct was an act of grave misconduct and needed to be exposed. Shri Ashok Argal asserted that Rules of Procedure do not specifically preclude placing of currency notes on the table of the House. *The members also contended that Article 105 of the Constitution guarantees privileges to members of Parliament.*

23. **The Committee are in agreement with the members that any attempt to influence members of Parliament in discharge of their parliamentary duties by way intimidation, offering of inducement or otherwise, would not only constitute a grave contempt of the House and breach of privileges of members, but also amount to unethical conduct. Surely and certainly all such acts should be exposed.**

24. The Committee are, however, appalled at the manner adopted by the three members to expose the attempt to influence them in their parliamentary conduct and the justification sought to be given by them for their action. It would be relevant to note that as per the facts which emerged from the Cash for Vote Inquiry Report, the money was given to them at Shri Argal's residence on the morning of 22 July, 2008. Had the members, therefore, wanted to expose this alleged attempt to induce them to vote and also those who were behind this despicable act, they had enough time to go with their complaint to other authorities, to bring the guilty to book. That they chose to commit another act of misconduct to expose a misconduct, that too in such a brazen and audacious manner, is an indicator of the scant regard these members have for the rules, conventions and dignity of the House.

25. Reverting to the case under consideration, the said three members could have laid a trap and got the persons who brought money to them arrested at the residence of Shri Argal; they could have gone to the Speaker and lodged a complaint with him or they could have approached the police subsequently and registered a complaint in the matter. But instead of taking such logical and practical steps, they waited, planned and deliberately brought the money inside the House and placed it on the Table of the House. The intention seemed to be to dramatise the whole sordid affair.

Significantly there hasn't been even a hint of remorse or regret on the part of the members in this regard.

26. The Committee, are therefore of the firm view that there could possibly be no justification whatsoever for this act of grave misconduct merely for the stated reason that it emanated out of an intent to expose another illegal act.

27. Privileges of Parliament enumerated in Article 105 of the Constitution are meant to enable the Houses of Parliament and their members to perform their parliamentary duties without any impediment or hindrance. Article 105(2) confers immunity on members in respect of anything said in Parliament, which means during the sitting of the House and in the course of transaction of business of the House. But these privileges are subject to the power of the House to regulate its internal proceedings and to adjudicate upon matters arising within the House.

28. It is ironical indeed that the members refer to Article 105 of the Constitution when faced with a question of alleged breach of privilege. Privileges are available to members to perform their parliamentary duties and not for preventing or obstructing other members from performing their

parliamentary duties. Further, as already stated provisions of Article 105 are subject to the rules and standing order regulating procedure in Parliament. As a matter of fact, immunity is available from any action in respect of anything said or any vote given in the House or any Committee of the House; it is not available in respect of any such act committed in the House. If, therefore, by indulging in certain act in the House, a member commits contempt of the House, it is not open to him to claim immunity under Article 105.

29. The political system is facing a crisis of confidence among the common people. Each and every act of member is under the public gaze. Our democratic policy can ill afford indiscreet and unbecoming conducts by members which tend to erode its credibility. Lamentably, members are routinely accused of misusing their rights and immunities. In this case the act was committed by the three members in full view of the House and they were well aware that that their actions were being watched by millions of people on television nationally and internationally.

30. The Committee feel that Sarvashri Ashok Argal, Mahavir Bhagora and Faggan Singh Kulaste, who are all experienced parliamentarians, should not have indulged in such reckless and irresponsible behaviour, which

certainly tends to have serious impact upon the trust and confidence which people usually repose in this august institution. **Their actions do constitute a contempt of the House.**

31. The Committee express their profound sadness over this behaviour of the said three members. No extenuating circumstances-real or imaginary-can detract from the gravity of such acts and serious implications and adverse impact of the same on the credibility of our democratic institutions. **The Committee strongly deprecate and condemn the irresponsible behaviour of the members.** The Committee hope that there would not be recurrence of such incidents.

V. Recommendation

32. **In view of the foregoing discussion the Committee recommend that their observations made at paras 25 to 31 above and their displeasure may be communicated to Shri Ashok Argal, Shri Faggan Singh Kulaste and Shri Mahavir Bhagora, MPs.**

COMMITTEE OF PRIVILEGES