

12.13 hrs.

RULING BY THE SPEAKER

Re : Notices To Raise Issues Involving Allegations Of Serious Nature Against Ministers

Title: Mr. Speaker made observation regarding notices submitted by Sarvashri Ananth Kumar and D.V. Sadananda Gowda against Chief Minister and other Ministers of Karnataka Government as well as the Union Minister of Parliamentary Affairs based on the purported deposition made by a former police official before Additional Chief Metropolitan Magistrate in Bangalore in connection with the Stamp Paper Scam case.

MR. SPEAKER: Hon. Members, on 9th July, 2004, I had received notices from Sarvashri Ananth Kumar and D.V. Sadananda Gowda expressing their intention to raise the issues involving allegations of a serious nature against the former Chief Minister of Karnataka and other Ministers of the Karnataka Government as well as the Union Minister of Parliamentary Affairs. While Shri Sadananda Gowda sought to level allegations against both the former Chief Minister and the Union Minister of Parliamentary Affairs, Shri Ananth Kumar, in his notice confined the allegations to the former Chief Minister and a Minister of the State Government. The allegations, as seen from the notices, appear to be based on the purported deposition made by a former police official before the Additional Chief Metropolitan Magistrate in Bangalore in connection with the 'Stamp Paper Scam Case'. The present status of the matter as to whether it is *sub judice* or not, is not known in clear terms.

In my ruling on 9th July, 2004, I had disallowed both the notices and in my observation in the House on the subject on 9th July, 2004, I had emphasized the need to follow the well laid down rules and practices with regard to making of allegations against any person.

Now I wish to state the reasons why I disallowed the notices. There is a specific rule being Rule 353 in the Rules of Procedure and Conduct of Business in Lok Sabha which reads as follows:

"No allegation of a defamatory or incriminatory nature shall be made by a Member against any person unless the Member has given adequate advance notice to the Speaker and also to the Minister concerned so that the Minister may be able to make an investigation into the matter for the purpose of a reply:"

Provided that the Speaker may at any time prohibit any Member from making any such allegation if he is of opinion that such allegation is derogatory to the dignity of the House or that no public interest is served by making such allegation."

This is the rule. Both the notices given by the hon. Members attracted the provisions of Rule 353. As no adequate advance notice was given to the Speaker and also to the Minister concerned, I could not allow the hon. Members to raise the same because the same contained allegations of defamatory or incriminatory nature.

In Kaul and Shakhder's book on Practice and Procedure of Parliament (Fifth Edition) the observations of the Rules Committee which proposed the rule have been set out and I quote the relevant portion from pages 917 and 918 for the information of the hon. Members:

"It was against the rules of parliamentary debate and decorum to make defamatory statements or allegations of incriminatory nature against any person and the position was rather worse if such allegations were made against persons who were not in a position to defend themselves on the floor of the House. The House should not be made a forum where the conduct and character of persons should be brought into disrepute, as the person against whom allegations were made had no remedy against a speech made on the floor of the House which was privileged. In order to safeguard the honour of the people generally it was imperative that the Members applied voluntary restraint and resorted to making allegations in cases of extreme necessity where there was an element of public interest. Even in such cases, it was necessary that reasonable opportunity should be given to the Minister concerned to investigate into the matter and to produce, if necessary, defence on behalf of the person concerned.

It would not be right to place an absolute ban on Members making such allegations as that might stand in the way of their discharging their duties as responsible Members. While a Member should be given absolute right to bring to the notice of the House any matter which on proper investigation he feels should be ventilated even though it involves the character or reputation of any person, he should in the interest of public morality and high parliamentary decorum inform the Speaker beforehand of his intention to do so and also the Minister concerned. The Minister will then have an opportunity to look into the matter

beforehand and to come prepared with a reply also. At the same time the Speaker will have also an opportunity of satisfying himself that the Member has made reasonable inquiries and has in his possession *prima facie* evidence in support of his allegations."

It has been further observed in Kaul and Shakher at page 918 as follows:

"Unless advance notice is given to the Speaker and the Minister concerned, a Member is not permitted to make allegations in the House. Where allegations are made without fulfilling this requirement, an objection to that effect can be taken by any Member in the House and the Chair in such a case may uphold the objection and forbid the Member from proceeding further in the matter. The Chair may also *suo motu* object to the allegations being made where these are made without following the prescribed procedure. In appropriate cases, the Member may be asked to withdraw them or the Chair may even order the expunction of the allegations from the proceedings though this is done in exceptional cases only."

At page 921 of Kaul and Shakhder, the procedure which has to be followed in dealing with the allegations made against outsiders has been set out, as laid down by the Chair on 17th December, 1970, which reads thus:

"(1) No Member shall be allowed to make an allegation against an outsider unless he has obtained the prior permission of the Speaker after giving advance notice thereof to the Speaker and the Minister concerned. Such notice shall give the name of the person concerned, the nature of allegation against him and some evidence to show that there is a *prima facie* case.

(2) Where a Member makes an allegation in the House against an outsider without obtaining the prior permission of the Speaker, the same may not form part of the record of the House."

In the case of allegations made against Government officers, it will be for the Minister concerned to make a statement in the House, if he so wishes.

When a representation from an outside is substantiated by documentary evidence, the Speaker may, in his discretion, refer the matter to the Government or the Committee on Petitions for inquiry and report.

In these circumstances, I was not inclined to permit Shri Ananth Kumar to raise the matter as it was not permissible for him to raise the matter of which he had given the notice.

As regards Shri Sadananda Gowda's notice *inter-alia* proposing to make allegations against the Union Minister of Parliamentary Affairs, I may invite the attention of the House again to page 921 of Kaul and Shakhder wherein it is stated that it is not enough for a Member merely to give notice to the Speaker in general terms before making allegations in the House. For this purpose, it is necessary that:

- i. The Member gives adequate notice to the Speaker and the Minister concerned;
- ii. The details of the charges sought to be levelled are spelt out in precise terms and are duly supported by the requisite documents, which are to be authenticated by the Member;
- iii. The Member before making the allegations in the House, satisfies himself after making enquiries that there is a basis for the allegations;
- iv. The Member is prepared to accept the responsibility for the allegations; and
- v. The Member is prepared to substantiate the allegations.

I also wish to point out that the conduct of the high functionaries, including Ministers can be discussed only on appropriate motions drawn in a form approved by the Speaker. As the conditionalities stipulated under the rules were not complied with, I had disallowed the notice of Shri Sadananda Gowda. However, if, a fresh notice, which complies with the rules and procedures, is given, I may consider the matter on its merits.

Since the matter is of importance and on many occasions allegations are made, I felt the position should be made clear.
