

Fourteenth Lok Sabha

Session : 8

Date : 11-08-2006

Participants : [Chatterjee Shri Somnath](#)

an>

Title : Observation regarding Question of Privilege consequent upon alleged leakage of Report of Justice Pathak Inquiry Authority on Volcker Committee Disclosures before it was laid on the Table of the House.

MR. SPEAKER: Hon. Members, on 7 August, 2006, I received several notices raising, what has been described as, question of privilege from Prof. V.K. Malhotra, Sarvashri Braja Kishore Tripathy, Prabhunath Singh, George Fernandes, Santosh Gangwar, Sukhdev Singh Libra, Major Gen. B.C. Khanduri and Mohan Singh against the hon. Prime Minister regarding alleged leakage of the report of the Justice Pathak Inquiry Authority on the Volcker Committee Disclosures before it was laid on the Table of the House. Shri Mohan Singh's notice is also directed against Editor of the newspaper *Rashtriya Sahara* which has, it is stated, carried a news report in this regard. I have also received a notice of question of privilege from Dr. M. Jagannath on 8 August, 2006 in the matter. It is the contention of the hon. Members that leakage of the contents of the Report before it was laid on the Table of both Houses of Parliament amounts to a breach of privilege and contempt of the House. Though Justice Pathak Inquiry Authority was not constituted under the Commissions of Inquiry Act, 1952, the Government subsequently issued a notification declaring that certain specific provisions of the Act would be applicable to the said Authority. Hence the report of the Authority which was presented to the hon. Prime Minister by Justice Pathak on 3 August, 2006 was to be treated as confidential and not to be published before it was laid on the Table of both the Houses of Parliament.

On 4 August, 2006, when some hon. Members raised the matter about the leakage in the media of the report of the Pathak Inquiry Authority, from the Chair, I expressed my resentment on such publication and also desired that the Government should enquire into the matter.

The question that has arisen is whether such prior publication, what is described as the leakage of a portion of the report in the media, amounts to breach of privilege of the House. The question which has been raised is not *res integra* and there are ample authorities to hold that giving premature publicity to any matter connected with the business of the House is not a breach of privilege and contempt of the House, though in some cases it may amount to an act of impropriety. It has been held that no privilege of Parliament is involved if statement on any matter of public interest is not first made in the House and is made outside. Such actions are against conventions and propriety but do not constitute any basis on which breach of privilege can be founded. It has been held that it is not a breach of privilege if documents intended for Members are circulated to the Press and to non-Members first, though such acts are deprecated^[k1].

It may ^[Rs2]be mentioned and as has been stated that after the submission of the report to the Government in the evening of 3 August, 2006, it was placed before the House on Monday, 7 August, 2006 along with Action Taken Report thereon and I expect the Government will duly investigate as to how the leakage took place. Of course, it is for the Government to take action but I expect that such steps will be taken.

Late Shri G.V. Mavalankar, hon. Speaker of first Lok Sabha in his ruling in the House on 22 August, 1955 on the issue of leakage of the Report of the Bank Award Commission before it was laid on the Table of the House, was pleased to hold that leakage of the Report did not constitute any breach of privilege. Similarly, on a number of occasions in the past, question of breach of privilege was raised in the context of leakage of the Budget. On 19 March, 1956, a question of breach of privilege was

raised in the Lok Sabha on the leakage of budget proposals. The then hon. Speaker while giving his ruling on the issue referred to two well-known cases of the House of Commons, namely, Thomas Case and Dalton Case, in which the leakage of budget was treated as not constituting a breach of privilege, and held accordingly. Again, on 25 February, 1982, on a question of privilege in the context of the leakage of Railway Budget, the hon. Speaker ruled that leakage of budget did not constitute a breach of privilege. It has been consistently held in a catena of cases in India as well as in the House of Commons that a document which is in the custody of the Government before it is presented to the House is treated as an official secret and, therefore, the leakage of the same does not constitute a breach of privilege of the House.

In view of the rulings of my very distinguished predecessors and the well-established position, I hold that no breach of privilege or contempt of the House has been occasioned by the leakage of the contents of the Report. I, therefore, disallow the notices of question of privilege.

... (*Interruptions*)

MR. SPEAKER: Now, Papers to be laid on the Table.

... (*Interruptions*)

PROF. VIJAY KUMAR MALHOTRA (SOUTH DELHI): Sir, you have said the other day that the Government should inquire into it... (*Interruptions*)

MR. SPEAKER: Today also I have mentioned it. You need not reiterate.

... (*Interruptions*)

MR. SPEAKER: I have again mentioned it.

... (*Interruptions*)

MR. SPEAKER: It is very unfortunate.

... (*Interruptions*)

PROF. VIJAY KUMAR MALHOTRA : But Sir, you have said so... (*Interruptions*)

MR. SPEAKER: Yes, I have said so.

PROF. VIJAY KUMAR MALHOTRA : But the Government says that they will not inquire into the leakage... (*Interruptions*) अध्यक्ष महोदय, आपने यह कहा है लेकिन, ... (ब्यवधान) सरकार कह रही है कि हम इंकवायरी ही नहीं करेंगे। इंकवायरी तो होनी चाहिए।... (ब्यवधान)

MR. SPEAKER: I have also said that it is entirely for the Government to take action.

PROF. VIJAY KUMAR MALHOTRA : But there should be some direction from you on this issue.

MR. SPEAKER: No direction. I am sorry.

... (*Interruptions*)

प्रो. विजय कुमार मल्होत्रा : अध्यक्ष महोदय, यह बात तो ये क्लिअर करें कि हम इंकवायरी क्यों नहीं करेंगे ?... (व्यवधान)

MR. SPEAKER: Now, Papers to be laid on the Table.

... (*Interruptions*)

MR. SPEAKER: Nothing else will be recorded.

(*Interruptions*) ... *

* Not Recorded.