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Title: Ruling regarding the citizenship of member, Shri M. K. Subba.

MR. SPEAKER: Hon. Members may recall that the issue regarding the citizenship of one of the hon. Members of this House, namely, Shri M.K. Subba was raised by Prof. Vijay Kumar Malhotra in the House on 7 and 8 March 2007. As per the request of Prof. Malhotra, I met the leaders of the Parties in Lok Sabha on 9 March 2007. In that meeting, I had requested Prof. Malhotra to give me the details regarding the case which he had in his possession. Prior to that, at his request, I had also heard Shri M.K. Subba in my Chamber and asked him to furnish his comments on the issue raised by Prof. Malhotra in the House and also to furnish any documentary evidence that he might have in his possession.

I received a communication from Shri Subba along with photocopies of several documents on 9 March 2007. I also received a communication from Prof. Vijay Kumar Malhotra on 12 March 2007. Prof. Malhotra had with his communication enclosed transcript of a news-item telecast on CNN-IBN TV Channel on 6 March 2007. The thrust of the news-item was that Shri M.K. Subba is not an Indian citizen[MSOffice2].

Shri M.K. Subba has tried to establish with the help of documents supplied by him that he is an Indian citizen. He had also referred to the judgement given by the Sikkim High Court in his favour on the same issue. Shri Subba has also requested me that he may be permitted to make a personal explanation to clarify his position on the issue in the House.

I also held a meeting with the hon. Leaders of the parties to have the benefit of their views in the matter on 14th March, 2007.

The two questions involved in this matter are (i) whether Shri M.K. Subba is a citizen of India or not, and (ii) whether he is disqualified to be a Member of this House. It goes without saying that the answer to the second question depends on the determination of the first question by the courts. I have been informed that the matter of citizenship of Shri Subba is presently *sub judice* in the Supreme Court.

As regards the question of disqualification of Shri Subba, which can arise only after the matter of his citizenship has been decided by the Court, the limited issue, as far as it appears to me, is whether the Speaker, Lok Sabha or for that matter even Lok Sabha is competent to consider or take a decision in the matter.

Article 102 of the Constitution provides for disqualification for membership of either House of Parliament, *inter alia*, on the ground that that person is not a citizen of India. According to Article 103 of the Constitution, if the question of disqualification of a Member on the ground that he is not a citizen of India arises, "the question shall be referred for the decision of the President and his decision shall be final." Article 103 also provides that "before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion."

In view of the unambiguous provisions of the Constitution, I am of the view, as were the leaders of the Parties with whom I had discussed the matter on 14th March, 2007 that neither the Speaker, Lok Sabha nor this House is competent to take a decision in the matter.

On 7th and 8th March, 2007 when the matter was raised on the floor of the House, a reference was made to the case against ten Members of Lok Sabha who were alleged to have accepted money for raising questions in the House. A parallel was sought to be drawn with that case and it was demanded that this matter may also be referred to a Committee of the House for examination and report, as was done in the case of ten Members.

I am convinced that it would not be appropriate to draw a parallel between the two cases. The earlier case, popularly known as the 'Cash for Query' case, related to the parliamentary conduct of the said ten Members. The complaint against the said Members was that their conduct was unbecoming of Members of Parliament. It was, therefore, considered that it would be just and appropriate if the matter was investigated into by a Committee consisting of Members from all sections of the House. I had decided to constitute the Committee and did so, after consulting Leaders of the Parties in Lok Sabha. Based on the recommendations of the Committee, motion to expel the Members was moved by the hon. Leader of the House and adopted by the House. In the present case, the allegation against Shri Subba has no nexus with his parliamentary duties. In my opinion, the House has no jurisdiction to examine this matter.

In view of this, I feel that no action is called for by the House or the Presiding Officer in the matter.
