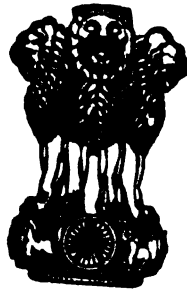


**COMMITTEE ON
PRIVATE MEMBERS' BILLS
AND RESOLUTIONS
(1954)**

REPORT ON THE CONTEMPT OF PARLIAMENT BILL

**BY
DR. N. B. KHARE**



समिप जयते

**LOK SABHA SECRETARIAT
NEW DELHI
October, 1954.**

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2. Shri N. C. Nandi—*Deputy Secretary*.
3. Shri V. Narasimhan—*Under Secretary*.

REPORT

I, the Chairman of the Committee on Private Members' Bills and Resolutions, having been authorised by the Committee submit this report to the Speaker on the "Contempt of Parliament Bill, 1954"; proposed to be introduced by Dr. N. B. Khare in the Lok Sabha.

Terms of Reference

2. Under sub-rule (2) of Rule 44 of the Rules of Procedure and Conduct of Business of the Lok Sabha, the Speaker had directed that the Committee may examine the "Contempt of Parliament Bill" by Dr. N. B. Khare and make a report to him, before the notice of the Bill is considered for admission by him.

The Committee at its sitting held on the 25th September, 1954, examined the bill.

Provisions of the Contempt of Parliament Bill

3. According to the Statement of Objects and Reasons of the Bill "there is no law to punish an invasion or trespass on the legislative field of the Parliament. The offence of making false rules, regulations, byelaws etc. has gone uninvestigated and unpunished. Making of false documents is ordinarily punishable under the Indian Penal Code, but cognizance thereof is barred except on sanction to prosecute given by the President or head of a Government Department. In the case of false rules, regulations, byelaws etc. it is very difficult to obtain such a sanction. The result is that the offence of the nature of 'contempt of Parliament' goes uninvestigated and unpunished.Hence this Bill".

4. 'Contempt of Parliament', according to the Bill, means "legislation without an express delegation by law, of the power to legislate by rules, regulations, byelaws, orders or instructions by an Officer, Clerk or other person (whether or not in the employment of the Union, or State) on a subject entered in (i) the Union Legislative List; (ii) the State List and (iii) the Concurrent List of Schedule VII of the Constitution of India and includes (1) legislation made in excess of the power actually delegated by an Act or Ordinance; and (2) 'user' by any Officer, Clerk or other person of the instrument made as aforesaid".

5. Accordingly the Bill provides that the "Contempt of Parliament shall be an offence triable by High Court or Supreme Court of India, which Courts shall have jurisdiction to try the same on

complaint being made by any person, who is a citizen of India, irrespective of the consideration whether or not he is affected by the instruments forming the subject of contempt. Cognizance shall be taken without sanction of the President or the Departmental Head”.

6. The Bill, therefore, provides for the following punishments for an offence of ‘Contempt of Parliament’ viz.:—

Those, found guilty of the offence and convicted by a High Court or the Supreme Court, shall be punished with imprisonment, which may extend to six months or with fine which may extend to Rupees One thousand or with both

In the case of any Officer, Clerk or other person, who is deemed to be guilty of abetment of the offence of ‘Contempt of Parliament’, he will be liable to be punished with half the quantum of punishment mentioned above.

Findings of the Committee

7. The Committee examined the Bill in all its aspects with reference to the relevant Articles of the Constitution, the general laws of the country and the Rules of Procedure and Conduct of Business of the Lok Sabha and the following are their findings with reference to the provisions of the Bill.

(1) The Bill is based on the assumption that “false” byelaws, rules, regulations etc. are either made without legal delegation of authority or are made in excess of the power actually delegated under a statute. The Committee could not find any instance of what the Bill terms as ‘false’ bye-laws, rules or regulations having been made by any authority, nor has the Member given any instance in support of the assumption underlying the Bill.

(2) A rule or bye-law to be valid and enforced must be made, sanctioned and published in the manner prescribed by the Statute, which authorises its making. No bye-law, rule or regulation can be valid, unless published in the official Gazette either of the Government of India or of the State Government concerned.

(3) Under section 23 of the General Clauses Act, 1897, where power to make rules or bye-laws is given subject to previous publication of the rules or byelaws the authority empowered has to publish in the official Gazette the draft of the proposed rules or byelaws for the information of the general public; opinions are invited from the public, the objections or suggestions received by the authority concerned are considered and the rules or byelaws suitably modified and finally published in the official Gazette. Such rule

or byelaw made and published in the official Gazette in exercise of delegated authority is taken as conclusive proof that it has been duly made.

(4) Where rules and regulations are made under the rule-making power delegated by the principal Act, they are laid on the Table of the House either for information of the House or for a specified period. It is open to the House, if it so desired, to give notice of amendments or draw the attention of Government to any particular aspect of the rules made. Besides, in certain cases the principal Act specifically stipulates that the rules and regulations made thereunder by the subordinate authority are subject to the approval, amendment or repeal by the House.

(5) So far as the rules, regulations and byelaws made under delegated authority by the Central Government are concerned, there is a Parliamentary Committee on Subordinate Legislation, whose function it is to scrutinize and report to the House whether the powers delegated by Parliament have been properly exercised within the framework of the principal statute delegating such powers. Under Rule 269 of the Rules of Procedure, if the Committee is of opinion that any order, rule or regulation should be annulled wholly or in part, or should be amended in any respect it shall report that opinion and the grounds thereof to the House. It is also open to the Committee to make a report to the House on any matter relating to any order, rule or regulation which, it feels, should be brought to the notice of the House.

(6) Our Rules of Procedure also provide the limitations within which rules, regulations or byelaws can be made by the rule-making authority and it is the function of the Committee, when rules and regulations, made under delegated authority, are published by the Government in the Gazette and laid on the Table, to examine them in the light of the principles laid down for the guidance of the Committee under Rule 268. Besides, in the case of every Bill, where there is provision for subordinate legislation, a memorandum has to be furnished with respect to the necessity of and the limit within which it is proposed to make the rules and regulations under the Legislation.

(7) Thus there are ample safeguards already in existence against any abuse of powers delegated under a statute to a subordinate authority to make rules, byelaws or regulations. There is no scope for any irregularity, as apprehended by the author of the Bill. Where, however, the exercise of the rule-making power has exceeded the powers authorised by the enabling Act, the validity of the rules and orders can always be contested in a court of law. Besides the

Government itself has the power to punish any abuse of the rule-making power by its own officers and in the final analysis the Parliament itself has the ultimate authority to censure the Government in case there has been such abuse of power.

(8) Apart from the foregoing considerations, the provisions of a Bill like this also presume *mala fides* on the part of the rule-making authority and if enacted into law, may influence the executive authority to whom powers had been delegated in not framing necessary rules under a statute. It may thus prejudice the proper implementation of the law and the morale of the administration in general.

(9) As regards the aspect of the Bill, which relates to contempt of Parliament and which specifies the punishments for such offence, the provisions in the Bill are derogatory to the dignity of a sovereign Parliament. Under Article 105 of the Constitution the powers, privileges and immunities of the House and its Members are equated with those of the House of Commons in the United Kingdom. As such the Parliament itself has the sovereign right to punish for contempt of itself committed by any person. It would, therefore, be against the principles of the Constitution and the sovereignty of Parliament to legislate that the Parliament's inherent powers should be transferred to a court of law.

Recommendations

8. In view of the findings of the Committee stated above, the Committee feels that the Bill has not been properly conceived and that it is not necessary for the purpose for which it is intended. Accordingly, the Committee recommends that the notice of the Bill may not be admitted by the Speaker.

M. ANANTHASAYANAM AYYANGAR.

NEW DELHI;

The 30th September, 1954.

APPENDIX

Speaker's Orders on the Report of the Committee on Private Members' Bills and Resolutions on the Contempt of Parliament Bill, 1954, by Dr. N. B. Khare.

I agree with the Committee's findings.

Dr. Khare be informed that the notice is not admitted.

G. V. MAVALANKAR.

The 1st October, 1954.