

12.17 hrs.

RE. MOTION FOR ADJOURNMENT

CONDUCT OF THE MINISTER OF EXTERNAL AFFAIRS IN VIOLATING THE OATH OF SECRECY BY HIS STATEMENT ALLEGING SECRET UNDERSTANDING BETWEEN

MR. BHUTTO AND SHRIMATI INDIRA GANDHI

MR. SPEAKER: Shri C. M. Stephen, Leader of the Opposition, has given a notice of motion under Rule 56 of the Rules of Procedure and Conduct of Business in Lok Sabha for the adjournment of the business of the House for the purpose of discussing a definite matter of urgent public importance namely:

"Conduct of the Minister for External Affairs in violating the oath of secrecy by his recent announcement at two public meetings alleging a secret understanding between Mr. Bhutto and the former Prime Minister and claiming in his speech in the House on the 18th April, 1978 that this information was from official documents he came into contact within his capacity as the Minister".

The question for my consideration is whether I should accord consent for the motion as provided by the aforementioned rule.

Before according consent, I have to consider two questions viz., (i) Is there a *prima facie* case of breach by secrecy of oath as contemplated by the Third Schedule of the Constitution read with Article 75(4) of the Constitution assuming without deciding that the breach of a constitutional provision is good ground for seeking adjournment motion and (ii) Is the matter one of urgent public importance so as to require the adjournment of the consideration of the listed business?

Article 75(4) provides that "before a Minister enters upon his office, the President shall administer to him the oaths of office and of secrecy accord-

ing to the forms set out for the purpose in the Third Schedule." The form of oath of secrecy for a Minister of the Union provides:

"I...do swear in the name of God solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for the Union except as may be required for the due discharge of my duties as such Minister."

The Minister for External Affairs is alleged to have stated at two public meetings that the former Prime Minister Smt. Indira Gandhi had a secret understanding with Mr. Bhutto, the then Prime Minister of Pakistan.

During the debate in the House, he stated:

"Ever since I took charge of the Ministry of External Affairs. I have been trying to know the circumstances in which the talks between Shrimati Gandhi and Mr. Bhutto in Simla in 1972, which had run into serious difficulties, suddenly calminated in the Simla Agreement."

I myself was present in Simla when the talks were going on between the two sides and it was common knowledge there that the negotiations had run into rough weather. Therefore, it puzzled me and I am sure it must have puzzled many other observers of Indo-Pak relations at that time, how all of a sudden an agreement had emerged. Several journalists, some of whom had interviewed Mr. Bhutto, have given stories of a sudden change in the course of events after a post-dinner meeting between the two leaders. In fact, the country at large was surprised that a reference to "final settlement of Jammu and Kashmir" had been included in the Simla Agreement.

Since assuming the charge of the Ministry of External Affairs, I have

made an effort to acquaint myself with not only various documents relating to the discussions but also have held personal discussions with the number of knowledgeable individuals. Piecing together all the evidence from different sources, I cannot but reaffirm that some sort of secret understanding was reached by Shri-mati Gandhi in her confidential conversation with Mr. Bhutto"

The oath of secrecy provided in the Constitution forbids a Minister from disclosing information made available to him or become known to him except as may be required for the due discharge of his duties as such Minister. The secrecy imposed is not a blanket one. It is subject to an important qualification viz., that he can disclose the information gathered by him as Minister if it becomes necessary for him for the due discharge of his duties as such Minister. Many official secrets have been disclosed in the past. What may be required to be kept secret at one stage may be required to be brought to the knowledge of the public at a later stage. One Minister may consider that a particular information should be kept confidential whereas his successor may think that it will be in public interest to let the public know about it. Such things have happened in the past and such things are bound to happen in the future. The information that emergency was declared in 1975 without the prior recommendation of the Cabinet was kept confidential at that time, but the succeeding Council of Ministers thought it fit to bring it to the notice of the public. Similarly the planting of a nuclear device at Nanda Devi was kept confidential for a very long time but recently the Prime Minister thought that it is necessary to take the public into confidence about the same. The question whether a particular disclosure made by a Minister was required for the discharge of his duties as such Minister, is a very difficult question to decide. On this matter there may always be difference

of opinion. So long as the Speaker is not in a position to say that the disclosure made was not required for the due discharge of duties of the Minister concerned, it is not possible to hold that there was breach of any constitutional provision.

Now coming to the second aspect, there is no doubt that the question raised is a matter of public importance. But I am unable to hold that it is a matter of urgent public importance. It is not sufficient that it is merely a matter of public importance. To disturb the business of the House, the occasion must be of such a character, that something very grave, something which affects the whole country, its safety, its interest on all those happenings has occurred and the House must pay its attention immediately. The adjournment of a listed business is a strong thing to do and it is wrong to do it except under exceptional circumstances.

In my judgement no such circumstance exists. For the reasons mentioned above, I decline to accord my consent to the motion in question.

SHRI VASANT SATHE (Akola):
What about your earlier ruling?

SHRI KANWAR LAL GUPTA
(Delhi Sadar): They want to hide all their sins.

(Interruptions)

SHRI VASANT SATHE: What about your ruling which was reserved on that day?

MR. SPEAKER: You are right, Mr. Sathe. You have asked a very important question. (Interruption)

MR. SPEAKER: Mr. Sathe has asked about my ruling about the other subject. That is again a very important subject. In fact I have been working like a student, more or less. Probably, I will be able to give it on Monday. I am at it.

SHRI C. M. STEPHEN (Idukki):
Not only your ruling, a very important matter....

SHRI MOHD. SHAFI QURESHI (Anantnag) (Interruptions)...under 377 pertaining to the same question. I do not understand why do you not give chance to the people from Jammu & Kashmir? This matter is intimately linked with us. It pertains to some secret understanding about demarcation of Kashmir either on the actual line of control or adjustment...

MR. SPEAKER: Have you given a full statements?

SHRI MOHD. SHAFI QURESHI: I had given notice under 377 last week. I am informed that you in your wisdom thought it was not important; you had shelved that. The same matter has been raised in the House three times. I do not understand why we have been denied this opportunity. After all the people of Jammu & Kashmir are not chattels that they can be sold away like this. It is very important matter that pertains to the State of Jammu & Kashmir. Neither Mr. Vajpayee, nor Mr. Bhutto, nor Shrimati Indira Gandhi has a right to enter into a secret understanding with any power. We are part and parcel of India and no single individual howsoever high he may be has a right to enter into secret understanding with any power to decide the fate of the State which is an integral part of India.

MR. SPEAKER: Mr. Qureshi, I may tell you, you gave a notice last week. The matter was under consideration. I wanted to allow it but you did not renew the notice. If you had renewed it certainly it would have been permitted.

SHRI MOHD. SHAFI QURESHI: The question of renewal would only arise if you had not allowed in the meantime discussion in the House.

MR. SPEAKER: This came in the House because there was a debate.

SHRI C. M. STEPHEN: I just wanted to put one specific query to you, which was raised here also, not about this matter. Now, over this, you

have reserved your ruling on the previous matter. The Minister had refused to place the so-called document on the floor of the House; he is keeping it back. In the meanwhile the question was whether the document was secret enough to be kept away from the Parliament. This is the matter on which you have reserved your ruling. In the meanwhile, here is a document which, is presumably in the possession of, which is alleged to be in the possession of, the Government. A paper which is reported to be the contents of the document has now become public. Two questions arise out of this. It cannot be kept away.

The first question is whether in permitting or in facilitating the publication of the contents of the document in a paper (when the question as to whether its publication to the proper forum of the Parliament is permissible or not is being considered by you)—whether that conduct is in violation of the privileges and the prestige of the Parliament, whether it is violated or not, is a question between the Parliament and the paper concerned. Again, if it is in violation of that, whether the persons concerned, who permitted the leakage of the document, if the document is in existence,—whether they did well by the Parliament, is the second question.

And the third question is this. Now that the contents of the document have come in the Press, can the Minister refuse to tell the Parliament whether the report is correct or not? It has come in the Press and it is alleged that this is the content of the document. Can the Minister withhold information to the Parliament whether he confirms it or not?

These three questions arise which are governing the question of privileges of the House and the dignity of the House.

Also, Sir, from out of your ruling one clarification I would like to get.

I did not know whether it is your position—I can understand the Minister coming out with information on the floor of the House. He has withheld information saying it is too secret, I am not able to give it now, it is not in the public interest. That is the position he took. The Minister has taken up that position here but has come out with a statement in public meeting. Am I to understand your ruling as postulating the position that the Minister will not be violating the oath of secrecy, if he tells to the public, to the press and in the public meeting, something with respect to which he tells the Parliament, I cannot tell you, I cannot place the report before you? Is it your position, Sir, is it the import of your ruling that that will not be violating the oath of secrecy which he has taken?

MR. SPEAKER: That is not the import of my ruling.

SHRI C. M. STEPHEN: Am I to understand, you have said, there is no violation of the oath of secrecy?

MR. SPEAKER: I have merely held that I am not satisfied that there is a violation of the oath of secrecy.

SHRI C. M. STEPHEN: Which means what?

MR. SPEAKER: Which means that the last paragraph, last line of the oath, of being totally in the public interest is a very wide expression.

SHRI C. M. STEPHEN: Kindly consider this. I am not getting into a debate but kindly consider this. Kindly consider this. The Minister is not coming with the document; then he is going to the public and the contents of the document are announced saying that it is in the public interest. That means you are making out that the oath of secrecy has no effect. That would be a very dangerous precedent. I would like you to take....

MR. SPEAKER: I have not taken that position. I have said that on the basis of the material before me, I

am not satisfied that there is any breach in the oath of secrecy because, if the Ministers have done it in the past, the Ministers will have to do it in future.... (Interruptions)

PROF. P. G. MAVALANKAR (Gandhinagar): Mr. Speaker, Sir.... (Interruptions)

SHRI C. M. STEPHEN: Sir, we may have to move a censure motion against the Minister in this issue.

SHRI VASANT SATHE: Mr. Speaker, Sir, can you say that in the same breath?

MR. SPEAKER: In the matter of secrecy of oath, there is no difference between the statement in public and in the House. Therefore, if he cannot disclose in the House, he cannot disclose it in the public. What I have held is that the Ministers have been given the liberty to disclose it when it is in the discharge of their duty. Now, the question is whether it is in the discharge of duty. The Minister might think that a particular matter must come to the knowledge of the public and it is in public interest to know it.... (Interruptions)

SHRI VASANT SATHE: At the same time, you say that it cannot be brought to the notice.... (Interruptions)

MR. SPEAKER: Are we having a debate on my decision? I am not allowing any debate on my decision. (Interruptions)

PROF. P. G. MAVALANKAR: Mr. Speaker, Sir....

SHRI K. LAKKAPPA: Sir, we demand a white paper on this issue.

MR. SPEAKER: Whose submissions would they be able to record if half a dozen people speak? (Interruptions)

SHRI MOHD. SHAFI QURESHI: I want to make a submission. You have held that the Minister can disclose anything if it is in public interest. Now, the question is that

[Shri Mohd. Shafi Qureshi]

Mr. Vajpayee said that there was some understanding between the two Prime Ministers at Simla. I would like to know.... (Interruptions)

MR. SPEAKER: We are not having a discussion.

SHRI MOHD. SHAFI QURESHI: My submission is this. He is creating a suspicion or doubt in the minds of entire people. We must know where we stand. He must tell what it is. (Interruptions)

SHRI VASANT SATHE: We agree to your ruling.

SHRI SAUGATA ROY: We want to know whether the Minister has deliberately misled the House.

MR. SPEAKER: I am not at present engaged on this. That is a different question. (Interruptions).

PROF. P. G. MAVALANKAR: Mr. Speaker, Sir, I have got my submission to make. You have said just now.... (Interruptions)

MR. SPEAKER: I am trying to regulate.

PROF. P. G. MAVALANKAR: Mr. Speaker, Sir, you have said just now that your earlier ruling was to be on the procedure on which the debate has taken place on Tuesday the 18th evening. That has been reserved for your further consideration and study. You said you will give it on Monday. We are prepared to wait until that ruling comes on Monday or even later if you require more time. Apart from what the Leader of the Opposition said, may I submit for your further consideration two aspects? One is a very important matter of which the House is already seized. It was that on Tuesday evening the Minister of External Affairs made a statement when the discussion was going on. But, in the meantime, certain press reports have come.

MR. SPEAKER: Others have also said the same thing.

PROF. P. G. MAVALANKAR: Let me follow that up. If certain despatches, official or unofficial, knowledgeable or non-knowledgeable etc., come in the papers they anticipate your ruling or influence your ruling in the meantime. This is the point which I want you to consider. If you say that you will give your ruling on Monday then at least as far as I can see, between now and Monday, nothing should appear in the press which will influence or anticipate your ruling. If they anticipate that, will it not be a partial or partisan ruling?

Therefore, you give your ruling immediately or see that nothing appears in the papers to influence your ruling one way or the other.

SHRI KANWAR LAL GUPTA: I want to make my submission before you, Mr. Stephen अभी एक सवाल उठाया था कि अखबारों में . . .

MR. SPEAKER: Are we debating on my ruling?

SHRI KANWAR LAL GUPTA: One view has gone in the press. I want to give my point of view. Kindly permit me. You have been allowing these people to say many things. From this side also we feel that you should permit. I am speaking with your permission. Otherwise I will sit down.

मेरा कहना यह है कि श्री स्टीफन ने सीक्रेट पेकट के बारे में अखबारों में पढ़ा और यह प्रीज्यूम कर लिया कि नालेजेबल सर्किल मिनिस्टर हैं। उनके पास इसके झलावा और कोई सबूत नहीं है। अखबारों में जो छपा है वह सही है या गलत है, उसका कोई सबूत इनके पास नहीं है। आजकल अखबार कुछ भी छापने को स्वतंत्र हैं। उनकी तो यह कोशिश होती है कि वे चीजों को निकाल कर लायें और कहीं से भी निकाल कर लायें और उसे छापें। यह प्रस वालों का काम होता है और विशेष कर जब प्रेस आजाद हो।

यह जो प्रेस वाले देते रहे हैं और चाहे भी देते रहेंगे। मेरा कहना यह है कि स्टीफन साहब ने जो कहा है, उसके बारे में कोई तथ्य उनके पास नहीं है। यह जो सीक्रेट पेक्ट हुआ है उसके बारे में मंत्री महोदय को अधिकार है कि वे इस सम्बन्ध में डाकुमेंट सदन में रखें या न रखें। अगर वे यह समझते हैं पब्लिक इन्स्ट्रुमेंट में डाकुमेंट रखना उचित नहीं है तो वे नहीं रख सकते हैं। अगर वे रखना चाहें तो रख भी सकते हैं। मैं यह कहता हूँ कि यह सीक्रेट पेक्ट है और इसके बारे में किसी को भी जानने का अधिकार नहीं है।

SHRI SHYAMNANDAN MISHRA (Begusarai): Sir, I know it would be embarrassing to you but it requires to be said that it is one of the best rulings given by the Chair. However, there is one aspect of your ruling which requires some clarification. You were pleased to say that so far as disclosure of a particular information is concerned—whether it had been in due discharge of duties—would be judged by the Chair. There my humble submission is....

MR. SPEAKER: I have not said that.

SHRI SHYAMNANDAN MISHRA: You have said that it would be judged by the Chair.

MR. SPEAKER: No. No. I said that it is very difficult to judge. On the other hand, you are making a mistake I will read out:

"The question whether a particular disclosure made by a Minister was required for the discharge of his duties as such Minister, is a very difficult question to decide. On this matter there may always be difference of opinion. So long as the Speaker is not in a position to say that the disclosure made was not required for the due discharge of duties of the Minister concerned, it is not possible to hold that there was breach of any constitutional provision."

SHRI SHYAMNANDAN MISHRA: What is the implication?

MR. SPEAKER: I am merely saying unless there is a complete proved case it will be very difficult.

SHRI SHYAMNANDAN MISHRA: Sir, my submission in this matter is that it should be the Government represented by a Minister who should be considered to be the judge.

MR. SPEAKER: I have said that also.

SHRI KRISHAN KANT (Chandigarh): Sir, I want to speak about the three points referred to by my friend, Mr. Stephen. Firstly, he has referred to what the Minister of External Affairs has said both in the public meeting as well as in the House. I would like to say that there is no difference between what he has said publicly and in the House. There is no difference between the two.

Secondly, he has said that a news agency meanwhile got the news. He is not responsible for that. News agencies do bring out news as had happened in the matter of Khetri also. The Minister is not responsible for that.

Thirdly, he has said that the Minister must today either say 'yes' or 'no' to the report. If the Minister is forced to say 'yes' or 'no' he will be disclosing a secret and violating the oath of office. Mr. Stephen has asked you to give a ruling on this. I would request you not to ask the Minister to reply 'yes' or 'no'.

Fourthly, Mr. Qureshi has raised the question of Kashmir. It is a very delicate issue. That is why we should see that the Minister is not forced by the House to say anything on this delicate issue so that no further trouble arises.

SHRI K. GOPAL (Karur): Mr. Speaker, Sir, I am really surprised by the way in which some of our senior Members like Shyam Babu and Krishan Kant have spoken on the issue. Here is a responsible Minister coming before the House, making a

[Shri K. Gopal]

statement and getting away with saying.... In the beginning he made a categorical statement. Finally, with the help of Mr. Jethmalani he came out with a new phrase, viz., circumstantial evidence. A responsible Minister cannot do any kite flying here. He made a statement on the basis of which there is a clear statement which has appeared in the Press and in the country.

MR. SPEAKER: I am trying to understand you. Are you speaking in connection with the 'order reserved' or you are speaking on the ruling given?

SHRI K. GOPAL: On the 'order reserved'. When he is not taking shelter under the oath of secrecy what he speaks in public he can say here. What he leaks out to the Press he can tell to the Parliament. He cannot get away like that. He says: I cannot say 'yes' or 'no'. It is an important thing. It is a matter of national importance. He must say either 'yes' or 'no'.

विदेश मंत्री (श्री अटल बिहारी वाजपेयी) : अखबारों में जो कुछ छपा है उसके बारे में मैं स्थिति स्पष्ट कर देना चाहता हूँ। आज अखबारों में पढ़ कर स्वयं मझे ताज्जुब हुआ कि यह खबर कैसे छपी। यह खबर मैंने नहीं दी। यह खबर हमारे मंत्रालय द्वारा नहीं दी गई—

श्री के० गोपाल : सच है ?

श्री अटल बिहारी वाजपेयी : सच है या गलत मैं इस में भी जाना नहीं चाहता। लेकिन जो भी खबर छपी है—

श्री बसन्त साठे : आपके पास कोई डाकुमेंट्स हैं ?

श्री अटल बिहारी वाजपेयी : जो भी खबर छपी है उसके लिए मैं जिम्मेदार नहीं। हिन्दुस्तान में प्रेस स्वतंत्र है। जो बह छपता है वह आपके सामने आता है। अगर आप चाहें तो प्रेस से जवाब तलब कर सकते हैं।

लेकिन मैंने खबर नहीं दी, मेरे मंत्रालय ने खबर नहीं दी।

(Interruptions)

SHRI VASANT SATHE: Sir, the matter is becoming even more serious.

SHRI K. LAKKAPPA: Sir, we will not enter into any controversy on 'his issue if the hon'ble Minister of External Affairs agrees to produce a white Paper on the entire issue. This can be settled in that manner.

SHRI MOHD. SHAFI QURESHI: Sir, the Minister has neither confirmed it nor denied it. The report says that the Minister has said what it contains. He neither accepts the report nor does he deny it. The report says that Mrs. Indira Gandhi and Mr. Z. A. Bhutto reportedly agreed at Simla in 1972 that the only solution to the Kashmir issue would be to freeze the ease-fire line with minor adjustments. (Interruptions).

MR. SPEAKER: This point has been raised. Please, leave it at that.

SHRI MOHD. SHAFI QURESHI: Let him either confirm the report or deny it.

SHRI NATHU SINGH (Dausa): Sir, on a point of order....

MR. SPEAKER: Under what rule? (Interruptions)

SHRI NATH SINGH: Under Rule 368.

MR. SPEAKER: What is the rule that has been broken?

श्री नाथू सिंह : जो समाचार-पत्र में समाचार आया है और यह जानना चाहते हैं कि उसके बारे में मंत्री जी हाँ कहें या न कहें.....

MR. SPEAKER: Everybody mentioned about it already.

श्री नाथू सिंह : यह जरूरी नहीं है कि किसी भी मंत्री के लिये कि समाचार-पत्र

में जो चीज चाहे उसके बारे में कोई भी सत्री ऐक्सप्लेनेशन दे

MR. SPEAKER: What is the point of order that you are raising? This matter has sufficiently been discussed. I think we go to the next item. (*Interruptions*)

SHRI VASANT SATHE: Sir, under rule 382, about the publication of the reports of this House, I want to draw your attention.

MR. SPEAKER: If you raise, then a number of others will raise point of order. You give notice to this.

SHRI VASANT SATHE: How can this be published?

MR. SPEAKER: You give notice to this. I have not received anything. You have not given notice of Privilege Motion.

SHRI VASANT SATHE: You want me to first move a.....

MR. SPEAKER: I want to go according to the rules. Nothing more than that.

MR. SPEAKER. Don't record anything hereafter.

(*Interruptions*)**

MR. SPEAKER: I Will not make any observation. Now Papers to be Laid on the Table.

12. 47 hrs.

PAPERS LAID ON THE TABLE

CORRECTION OF ANSWER TO S.Q. No. 154 DATED 2ND MARCH 1978 RE. NOON-DEPOSIT OF CONTRIBUTION UNDER ESIS BY EMPLOYERS

THE MINISTER OF STATE IN THE MINISTRY OF LABOUR AND PARLIAMENTARY AFFAIRS (DR. RAM KIRPAL SINHA): I beg to lay on the Table a statement (i)

correcting the answer given on the 2nd March, 1978 to Starred Question No. 154 by Shri C. M. Visvanathan regarding Non-Deposit of contribution under ESIS by Employers and (ii) giving reasons for delay in correcting the reply.

Statement

(i) The Corporation works out one year old stabilised figures of arrears on half yearly basis. As per latest available information, a total number of 11, 671 employers in various States have defaulted in payment of Employees' State Insurance contributions amounting to Rs. 18,97,34,629.00 upto 30th September, 1978 as on 30th September, 1977.

(ii) There was a typographical error in the amount of Employees' State Insurance contributions mentioned in the reply, which could not be detected earlier and the delay in correcting the reply is regretted.

COMPANY'S LIQUIDATION ACCOUNT (AMDT.) RULES, 1978 AND NOTIFICATION UNDER COMPANIES ACT, 1956

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI NARSINGH YADAV): I beg to lay on the Table—

(1) A copy of the Company's Liquidation Account (Amendment) Rules, 1978 (Hindi and English versions) published in Notification No. G.S.R. 472 in Gazette of India dated the 8th April, 1978, under sub-section (3) of section 642 of the Companies Act, 1956, [Placed in Library. See No. LT-2134/78].

(2) A copy of Notification No. S.O. 1028 (Hindi and English versions) published in Gazette of India dated the 8th April, 1978, under sub-section (3) of section 637 of the Companies Act, 1956.

**Not recorded.