

Yesterday I had a request and I had given 377 I shall certainly consider further suggestions. You kindly come and discuss with me, I will further consider the matter.

श्री राम बिरास पासवान (हाजीपुर) :
377 में जिन मामलों को उठाया जाता है उनका सम्बन्धित मंत्री द्वारा जवाब नहीं दिया जाता है।

MR SPEAKER It is impossible for you to force me

(Interruptions)**

MR SPEAKER Don't record

The facts placed before me in support of the adjournment motion are revolting. An adjournment motion, as held by me earlier in a sense is a motion to censure the Government. The Central Government has no direct responsibility in the matter mentioned in the motion. Hence there will be no justification for granting consent to the motion. But all the same in view of the facts of the case I have permitted a calling attention motion so that the attention of the Central Government which has an overall responsibility in the matter of law and order may be called thereto.

12.10 hrs

RULING ON THE DEMAND FOR LAYING ON THE TABLE OF THE CORRESPONDENCE BETWEEN FORMER HOME MINISTER AND PRIME MINISTER

MR SPEAKER Weighty arguments have been advanced for and against the production of the correspondence that passed between Shri Charan Singh, former Home Minister, and the Prime Minister during the months of March to May last.

At the very threshold I have to go into the question whether I have competence to direct the Prime Minister or any other Minister to produce any document in their possession. Rule 368 of the Rules of Procedure and Conduct of Business in Lok Sabha relevant for the purpose is as follows:

If a Minister quotes in the House a despatch or any other State paper which has not been presented to the House, he shall lay the relevant paper on the Table.

Provided that this rule shall not apply to any documents which are stated by the Minister to be of such a nature that their production would be inconsistent with public interest. (emphasis added)

Provided further that where a Minister gives in his own words a summary or gist of such despatch or State paper it shall not be necessary to lay the relevant papers on the Table."

The first proviso to Rule 368 makes it clear that the question whether disclosure of a particular document would be inconsistent with public interest is entirely left to the discretion of the Minister. In other words the question of public interest is left to the subjective satisfaction of the Minister. The Speaker does not come into the picture in deciding that question. The basis of this rule appears to be that the question of public interest can better be left to the discretion of the Government which is responsible to Lok Sabha rather than to any other authority. The discretion given to the Minister is absolute and unconditional.

I have been asked to suspend the first proviso to Rule 368 or if that is not possible, to suspend the Rule as a whole so that justice may be done to the cause. It is not necessary for me to go into the question whether there is any justification to suspend the rule or whether I have any power to suspend either a part or the whole

**Not recorded

[Mr. Speaker]

of rule 368. Suffice it to say that the rule providing for suspension of the rules, viz., rule 368 provides:

"Any Member may, with the consent of the Speaker, move that any rule may be suspended in its application to a particular motion before the House and if the motion is carried, the rule in question shall be suspended for the time being."

In the present case no such motion has either been moved or accepted by the House.

My interpretation of rule 368 is supported by several rulings rendered by my predecessors. On 19 November, 1957, the Speaker ruled in this House:

"I do not know of any rule by which the Chair or the House could just compel the hon. Minister to lay on the Table a document. After all, if the hon. Minister says that it is not in public interest, we must accept it. There is no point of order."

On 3 April, 1963, the Speaker ruled thus:

"Ministers of the Government have that privilege, they can claim the privilege that it would not be in the public interest and they do not propose to place it (document) there. They have that privilege. Therefore, I cannot deny them. The Government has to decide it."

On May 9, 1968, the Speaker again ruled:

"It is, however, open to a Minister to decline to lay" a paper or document on the Table of the House if he states that it is of such a nature that its production would be inconsistent with public interest. The Chair cannot compel the Minister to lay such a paper or document on the Table of the House...."

The view taken by my predecessors is in accordance with the practice in the House of Commons in Great Britain.

On November 10, 1963, the Speaker of the House of Commons rules:

"...It is not the duty of the Chair to decide which papers are relevant. The question of relevancy must be argued out between hon. Members of the Opposition and hon. Members of the Government."

My attention has not been invited to any decision which has taken a contrary view. The Rule is based on an important principle.

The contention that I should have recourse to the residuary powers contained in Rule 389 is unacceptable as that power can be exercised only in the absence of a Rule positively governing the subject or where the area has not been covered by precedents.

I do not therefore, think that I will be justified in departing from the well-established Rule.

For the reasons mentioned above, I am unable to accept the request that I should direct the Prime Minister to lay on the Table of the House the documents mentioned earlier

SHRI VASANT SATHE (Akola): How did you show it to some members, I want to know? You have not dealt with that very important aspect. Just in your entire contention you say that under Rule 368 Government or the Minister concerned—here the Home Minister who is the Prime Minister—claims that this is a privileged document which it is not in public interest to show. If that was so, how is it that these documents were shown to certain members. Between a Member and a Member you cannot make a distinction. Once you allow it to be shown to certain members, how can you stop it from being shown to other members? Are you discriminating between Members?

Once it is shown it ceases to be a privileged document. It ceases to be a document which cannot be shown in public interest, because otherwise it could not have been shown to a single member. Once you show it to one member, then it ceases to be a privileged document under 388. You have not dealt with this. Kindly let me know.

You must show it to others. You cannot make a distinction between a member and a member.

SHRI MALLIKARJUN (Medak) It is a violation of Article. Every Member is equal in the eyes of the Constitution. You really cannot mention that they are not equal.

MR SPEAKER What is your point of order? Mr Sathe has mentioned it.

SHRI MALLIKARJUN You are competent enough to direct the Prime Minister to place the correspondence on the table of the House.

MR SPEAKER I have dealt with that aspect.

SHRI VAYALAR RAVI I am on a point of order. Article 105 (4) clearly states that every member is equal. I am not questioning your ruling. I have no intention at all. I was feeling that you will deal with that question also.

MR SPEAKER I will deal with that.

SHRI VAYALAR RAVI (Chirayinkil) 105(4) is very clear. Please read that.

MR SPEAKER I will deal with that.

SHRI K P UNNIKRISHNAN (Baddagara) On the last occasion, Mr. Mavalankar, myself and some other members had pointed out that this was going on under your chairmanship. You were wise enough to invite some members, whatever may be the status,

whether they are leaders they are also members. We had pointed out through the Chairman that this is a wrong procedure. We had also contended as has been done by Mr. Sathe earlier that this rank discrimination is not permissible. But you not only allowed it, you presided over the whole proceedings. So, it is legitimate for the House and for the Members to demand that this be placed on the table of the House.

I do not want to question your ruling for a moment. Please do not misunderstand me.

MR SPEAKER I do not misunderstand anybody.

SHRI K P UNNIKRISHNAN I am not questioning the wisdom of your ruling. I must point out that you have taken many precedents where they talk of public interest. No public interest has been claimed in this respect to this moment either in this House or in the other House. I do not know how you can construct and give that benefit of doubt to the Prime Minister and the Council of Ministers in this case. When you have based your rulings you have forgotten this line of argument entirely and given this ruling.

(Interruptions)

SHRI EDUARDO FALEIRO (Morugao) About fifteen days ago I gave notice of Short Notice Question to office on this matter. This Short Notice question was concerning the allegations made in the correspondence between the Prime Minister and the Home Minister.

About a week ago, I got intimation from office to clarify certain things. Up till now the Short Notice Question has not been disallowed. Does your ruling mean that the question which otherwise will be allowed will now be disallowed?

MR SPEAKER I have not decided that question. I am not deciding that question.

SHRI EDUARDO FALEIRO : In other words, does your ruling mean that even if a question is entitled to be tabled according to the rules, nothing concerning the contents of these documents will be allowed by you?

MR. SPEAKER: I cannot decide that question now.

SHRI EDUARDO FALEIRO: When can I expect your ruling?

MR. SPEAKER: In due course.

SHRI K. GOPAL (Karur): I am not going to dwell on the points already dwelt upon by my colleagues. Mr. Unnikrishnan pointed out that so far they have not claimed any public interest. I am not going to dwell on that. Also, they have not said so far that it is a privileged document. The only thing that the Prime Minister has said is that it is a privileged communication. I do not think there is anything called privileged communication. They have not said that it is a privileged document. I would request you to consider this point also.

PROF. P. G. MAVALANKAR (Gandhinagar): Sir, I want to raise a point of order on several aspects of this matter. I fully appreciate the ruling you read out. I can quite appreciate what you say and I can say that you are well fortified by the rulings of your predecessors as well as by the rules of procedure of this House. But may I point out certain other matters?

MR. SPEAKER: Is it a new matter?

PROF. P. G. MAVALANKAR: My first point is that this is not really a State paper.

MR. SPEAKER: You had argued it the other day.

PROF. P. G. MAVALANKAR: If it were a State paper or other docu-

ment involving some public interest or secrecy, then under no circumstances can I or you ask the Government to lay it. But in this case, three things have happened. One is that it is neither a State paper nor a secret paper. This is a correspondence.....

MR. SPEAKER: I have dealt with that matter.

PROF. P. G. MAVALANKAR:... which was gone into by several colleagues of ours and therefore, you cannot now treat this particular subject in that way. Secondly, the Chair always protects any member of the House particularly during Question Hour. When the Chair finds that members are eliciting information from the Government even on important matters which have a bearing on security and are confidential, the Chair has every right to tell the Minister, "Please come out with more answers" because the House must have the answer. Basically it is the right of the House to get more information.

MR. SPEAKER: Again you are arguing the same matter.

PROF. P. G. MAVALANKAR: That aspect you have not gone into. Thirdly, you referred to rule 389. Let me read that rule for the benefit of the House. It says:

"All matters not specifically provided for in these rules and all questions relating to the detailed working of these rules shall be regulated in such manner as the Speaker may, from time to time direct."

Therefore, rule 389 does give you scope on this particular matter....

MR. SPEAKER: You are arguing that my ruling is wrong.

PROF. P. G. MAVALANKAR: I am not saying it.

MR. SPEAKER: You are doing it in a different way. This is not a de-

bate on my ruling (*Interruptions*). On my ruling there can be no point of order. (*Interruptions*).

PROF. P. G. MAVALANKAR: Supposing one of the members who has seen the correspondence comes out with it by authenticating it, how can you prevent it? (*Interruptions*).

SHRI YESHWANTRAO CHAVAN (Satara): I am making a statement on behalf of my party that your ruling amounts to discrimination against a large number of Members of this House. We also disapprove the attitude of the Government in not placing the documents on the Table of the House despite the desire of the entire opposition and even some of the Members sitting silently on the other side.

(*Interruptions*)

I think, we are left with no alternative but to walk out in protest against this.

Shri Yeshwantrao Chavan and some other Members then left the House;

SHRI C. M. STEPHEN (Idukki): I want to make a statement about this. You have given the ruling. This ruling touches on the rights of the House. It has so happened that from the beginning, we have been asking the Prime Minister to make a statement about the resignations. This was not forthcoming. The Prime Minister said that he would lay on the Table of the House the letter that passed between him and Mr. Charan Singh asking for the resignation and tendering the resignation. In my speech, again I made the demand that these might be placed on the Table of the House. Even that has not been placed on the Table of the House. From the opposition, we have been demanding that they report to the House as to how they resigned, what are the reasons. But they have not cared to report to the House. I have been making an appeal to you and you have been taking an attitude that you are helpless in this matter.

If this is the position that even in a matter on which, the Prime Minister is answerable to the House, he cannot be compelled to even make a statement on that, even there, if the Speaker is helpless, then I do not know who is going to protect the rights of this House. You have given your ruling on suspension of rule under 368, if I remember correct. Nobody asked for suspension of 368.

MR. SPEAKER: There was demand for that.

SHRI C. M. STEPHEN: There were four things. One is direction given, (2) an advice to be given, (3) a clarification to be given. On these three things you have got jurisdiction. And I also pointed out that directives are given in exercise of the residuary jurisdiction. All the four directives and the residuary jurisdiction I pointed out, but you have not dealt with that. Therefore, it comes to this, where the Government takes up a stiff attitude, whether it is completely against the rights of the House or not, we do not have a Speaker to protect the rights of the House. This is what it has come to. This is a fundamental proposition with which we cannot agree. Therefore, Sir, as the rights of the House are being attacked and as we have nobody to protect us and the Prime Minister who is answerable to the House, refuses and nobody is there to compel him to give us what we are entitled to ask him, ... even the letter about which he said he would lay on the Table of the House, in protest against that, in defence of the rights of the House, I and my party walk out of the House. (*Interruptions*)

Shri C. M. Stephen and some other Members then left the House.

श्री डी० जी० गर्ह (गुलडाना) :
अध्यक्ष महोदय, मैं काफी देर से बयवस्था का प्रश्न उठा रहा हूँ, लेकिन आप मुझे नहीं बुला रहे हैं। आप मुझे रा रहे हैं।

SHRI SAMAR MUKHERJEE (Howrah): We are not taking part in the walk out but we have expressed our view that the letters should be placed on the Table, because there is no good of keeping this as a mystery. When it is creating this atmosphere, it is not at all helpful. So, we will request the Prime Minister to consider the case and lay the letters on the Table of the House.

SHRI KANWARLAL GUPTA: I want to make a submission.

MR. SPEAKER: Are you walking out?

SHRI KANWAR LAL GUPTA: But the other point of view should also go on record.

MR. SPEAKER: Not at all Your leader is there. If there is anything, he would mention. You do not take up leadership.

SHRI A BALA PAJANOR (Pondicherry): When you have given a ruling, it is the ruling of the Speaker. I do not find anywhere any provision in the parliamentary procedure to walk out against the ruling of the Speaker. So, I will not take up that position. Our party will not walk out on that.

Secondly, it is a matter that we have discussed, and I am not in agreement with some of the Members. When it is a question of laying on the Table of the House, it becomes a public document. I am not going to argue on its legality.

SHRIMATI PARVATHI KRISHNAN (Coimbatore): We should be allowed to speak and walk out. Why should he go on?

MR. SPEAKER: People can walk out even without making a statement.

SHRI A BALA PAJANOR: This is party-wise. I am the stronger party with 20, you are only 7. You

have to wait. I must be heard first. You may walk out without speaking if you want. (Interruptions). I do not agree with the argument of Mr. Stephen. When it is a question of laying on the Table, it becomes a public document, anybody can publish it.

MR. SPEAKER: You agree with that part of my ruling.

SHRI A. BALA PAJANOR: I have to say that also.

I come to the other point. The Prime Minister is such a democratic person and the Janata Party is noted for its tolerance, accountability and also accommodation. Much ado about nothing is made on this matter. As a person who had the privilege to go through the letters, I can say there is not much in it, there is nothing in those letters. I feel a lot of time is wasted. I am sorry that today also precious time was lost. So, I request you to find out some other solution by means of a dialogue with the Prime Minister and the other Members, because some Members are expressing their feelings also and I do not know what they are going to do next. I abide by your ruling but I request you to find out some other solution.

SHRI M. N. GOVINDAN NAIR (Trivandrum): I am not questioning the correctness or otherwise of your ruling, but as has been pointed out here, the letters contain nothing. This insistence on the part of the Government that they will not place them on the Table of the House cannot be justified. I do not think once one becomes a Minister, he should give up his commonsense.

MR. SPEAKER: You must be knowing it much better.

SHRI M. N. GOVINDAN NAIR: Therefore, I again appeal to the Prime Minister that in good sense he should come forward and place the letters on the Table of the House. But unfortunately I find that he is not in that mood. I pray that commonsense may dawn on him and make him place the letters on the Table of the House. Since he is not doing it, as a protest we are also walking out.

Shri M. N. Govindan Nair and some other Members then left the House.

PROF. P. G. MAVALANKAR (GANDHINAGAR): There can be no walk-out against the Speaker's ruling and therefore I am not walking out, but I do express my strong displeasure at the denial of the right of the Members. I am not taking this as a political issue. The opposition is taking it as a political issue. There cannot be any walk-out against the Speaker's ruling. I agree with that, but I express my strong displeasure at the denial of the right of hon. Members of Parliament in terms of getting information from the Government.

THE PRIME MINISTER (SHRI MORARJI DESAI): First of all there are two things. One is the letters which are marked "secret" between the Home Minister and myself.

AN HON. MEMBER: Former Home Minister.

SHRI MORARJI DESAI: Former Home Minister. Ultimately it applies to the office, not to the man.

Then, about the letter of resignation, I have myself offered that I can put it. But it was not demanded. If it is demanded, I can put it tomorrow. There is no difficulty about that letter. I do not consider that letter to be so as cannot be put before the House. But the question of correspondence between Ministers is a question which

is of primary importance for the functioning of Government. Therefore, it is not at all in public interest or in the interest of functioning of the Government to place such letters on the Table.

It is claimed that there is nothing in those letters. I do agree, but it is a matter of principle. It is not these letters which bother me. It is a question of the future. If precedents like these are created, Government will not be able afterwards to refuse to place any letters on the Table. That is the main difficulty that I have. I have no other difficulty. It is preposterous for my hon. friend, Shri Mavalankar, to say that Government is not carrying out the wishes of the Opposition. He is not the House.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND LABOUR (SHRI RAVINDRA VARMA): We are also Members.

SHRI MORARJI DESAI: He is not the House, nor is he the whole Opposition.

PROF. P. G. MAVALANKAR: Some Members of the House.

SHRI MORARJI DESAI: Some Members may be. But it is some Members who go wrong, and they do not show commonsense. There is no use saying that I do not have commonsense. You cannot have it both ways. I do not like this kind of an argument in this case. I never expected it from him, but he has every right to say what he likes. I have also every right to express my opinion on this. Therefore, I cannot avoid saying it.

SHRI G. M. BANATWALLA (Ponnani): Mr. Speaker, Sir, you have expressed your total helplessness in giving any direction to the Government to lay the papers on the Table of the House.

SHRI GAURI SHANKAR RAI (Ghazipur): Mr. Speaker, Sir, is it

[Shri Gauri Shankar Rai]

the right of every Member to make a speech before he walks out?

MR. SPEAKER: This is a well accepted convention when a Party walks out of the House.

SHRI GAURI SHANKAR RAI:
What convention?

(Interruptions)

MR. SPEAKER. They are waiting to come back. Why do you worry? Why don't you allow him? You are causing some delay. Now, Mr. Banatwalla.

SHRI G. M. BANATWALLA: Now, Sir, we have made a strong plea that the Prime Minister should lay the papers on the Table of the House. Our plea has fallen on deaf years. The Prime Minister says that he has a difficulty that he cannot create a dangerous precedent. It is not a question of precedent. It is an exceptional circumstance when the entire nation is agitated. There is an attempt on the part of the Government to shroud democracy with secrecy. I raise my strong protest and feel that there is no other alternative left for me but to join in the walk-out.

Shri G M Banatwalla then left the House.

श्री राज नारायण : अध्यक्ष महोदय, मेरा प्वाइंट ऑफ ऑर्डर यह है कि एक नोबेल प्थोरी हमारे मित्र रईसे पांडिचेरी ने उठाई है कि चेयर की रूलिंग के विरुद्ध वाक आउट नहीं किया जा सकता, मैं उनकी राय से कतई मुखालिफत रखता हूँ। चेयर की रूलिंग के दो तरीके हो सकते हैं। चेयर ने रूलिंग दी

I am not in agreement with the ruling of the Chair; If I am not to sit in the House, then I may say that I am not in agreement with the ruling, but I want to sit in the House to

take part in the proceedings. Therefore, I bow down before you even if your ruling is wrong.

दूसरा तरीका यह है कि अगर आपकी रूलिंग किसी गम्भीर समस्या को सबन में प्रस्तुत होने से डकती है तो हमें पूरा अधिकार है, हम खड़े होकर कह सकते हैं कि हम आपकी रूलिंग को बैलेज करते हैं और सदन का त्याग करते हैं। पार्लियामेन्ट्री प्रेक्टिस में दोनों प्रावीजन्ड हैं। जो नये लोग नहीं जानते हैं, वे सीख लें।

श्रीमन्, मैं आपसे यह जानना चाहता हूँ—
आप कृपा कर रूलिंग ऑफ प्रोसीजर की किताब अपने सामने रख लीजिये और रूल 368 को देखिये

MR. SPEAKER: You are not discussing my ruling?

SHRI RAJ NARAIN. I am not discussing your ruling.

MR. SPEAKER: Then what is it?

श्री राज नारायण : आप तो जज रहे हैं, श्रीमन्, इसलिए मैं आपसे कुछ सीखना चाहता हूँ।

MR. SPEAKER. I think there is not much time.

श्री राज नारायण : मैं तो किसी से भी सीखने के लिये तैयार हूँ। मैं तो गांधीवादी हूँ और गांधी जी कहा करते थे

MR. SPEAKER: Both of us are too old either to learn or to teach.

SHRI A. BALA PAJANOR: I agree with the second portion.

श्री राजनारायण : प्रिविलेज का क्लेमेशन, प्वाइंट ऑफ ऑर्डर का क्लेमेशन, ये पार्टी की हिटिंग से नहीं चलते हैं।

MR SPEAKER You have not shown any breach of any rule You are only explaining the rule

SHRI RAJ NARAIN No, Sir Read it

MR SPEAKER I have read it

SHRI RAJ NARAIN Read it with my eyes The rule says

"If a Minister quotes in the House a despatch or other State paper which has not been presented to the House, he shall lay the relevant paper on the Table,"

If the Minister puts the letters or any documents in the chamber of the Chair then this rule will apply

MR SPEAKER So far as this is concerned, today we are not on issue

SHRI RAJ NARAIN May I say

MR SPEAKER No, Mr Raj Narain we are not on issue today on that

श्री राज नारायण मुझे मालूम नहीं था कि रूलिंग पर क्या करना चाहते हैं। लेकिन जब उन लेटर्स को आपके चेम्बर में रख दिया गया और कुछ लोगों को पढ़ने को मिला, कुछ को नहीं मिला—

Every Member of the House has got a right to see it

MR SPEAKER We are not discussing it That is not the point

श्री राज नारायण Article 14 should apply मेरा यही प्वाइंट है कि अगर वह सीनेट या तो आपके चेम्बर में नहीं रखना चाहिये या हमको उसी वक्त प्रोटस्ट करना चाहिये था—

"No, I will not put it in your chamber".

लेकिन जब चेम्बर में रख दिया और दस भादमी उसको पढ़ लेते हैं, तब सेन्स आती है कि चेम्बर में रखना गलत हुआ, अगर यहाँ में होता तो हरगिज चेम्बर में नहीं रखता।

MR SPEAKER There is no point of order

श्री डी० जी० गवाई (बलढाना) अध्यक्ष महोदय, मराठवाडा में पिछले आठ दिनों से गोली-बारी हो रही है। हमने इस प्रश्न को उठाया है, लेकिन आपने हम को कोई व्यवस्था नहीं दी है और गवर्नमेंट ने भी हमारे इस सवाल के ऊपर कोई बक्तव्य नहीं दिया है, न ही हम को दोनों तरफ से कोई सहकार मिला है। इसलिए हम इस सदन से वाक आउट करते हैं, धिक्कार करते हैं— ऐसे सत्ताधारियों का।

Shri D. G. Gawai and Shri Kacharulal Hemraj Jain then left the House.

12 40 hrs

PAPERS LAID ON THE TABLE

NOTIFICATIONS UNDER EXPORT (QUALITY CONTROL AND INSPECTION) ACT

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND CIVIL SUPPLIES AND CO-OPERATION (SHRI ARIF BEG) I beg to lay on the Table 1 copy each of the following Notifications (Hindi and English versions) under subsection (3) of section 17 of the Export (Quality Control and Inspection) Act, 1963 —

(1) The Export of Fruit Products (Quality Control and Inspection) Rules, 1978 published in Notification No S.O 1421 in Gazette of India dated the 20th May, 1978