

Prawn Fishing Operations

199. SHRI K. T. KOSALRAM: Will the Minister of AGRICULTURE AND IRRIGATION be pleased to state:

(a) whether the Government are aware that in the Coastal area, near Tiruchendur huge Prawn Fish operations without any fishing facility are going on; and

(b) if so, the quantum of such variety of fish taken for export through Cochin Harbour?

THE MINISTER OF STATE IN THE MINISTRY OF AGRICULTURE AND IRRIGATION, (SHRI BHANU PRATAP SINGH): (a) No Sir.

(b) Does not arise.

Fishing Harbour at Kulasekarapatnam

200. SHRI K. T. KOSALRAM: Will the Minister of AGRICULTURE AND IRRIGATION be pleased to state whether Government propose to consider constructing a Fishing Port at Kulasekarapatnam which was once functioning as a small port or at Veerapandianpatnam or at Punnakka-yaal where the sea is deep and also provide a processing Unit?

THE MINISTER OF STATE IN THE MINISTRY OF AGRICULTURE AND IRRIGATION (SHRI BHANU PRATAP SINGH): No, Sir.

12 hrs.

RE MOTION FOR ADJOURNMENT

REPORTED ASSAULT BY R.S.S. WORKERS ON SHRI DAMODARAN NAIR, A GUIDE AT GANDHI SMRITI

SHRI VASANT SATHE (Akola): Sir, I rise on a point of order. Under rule 56 of the Rules of Procedure and Conduct of Business in Lok Sabha I had given today a notice of an adjournment motion, which read:

"Recent assault by RSS workers on Shri Damodaran Nair a guide at Gandhi Smriti for quoting Shri Morarji Desai."

This was the adjournment motion sent by me under Rule 56 and has not been admitted by you.

Now, Rule 58 lays down the conditions under which the adjournment motions can be admitted or rejected. This rule says;

"The right to move the adjournment of the House for the purpose of discussing a definite matter of public importance shall be subject to the following restrictions, namely:—

(i) not more than one such motion shall be made at the same sitting;

(ii) not more than one matter shall be discussed on the same motion;

(iii) the motion shall be restricted to a specific matter of recent occurrence;

(iv) the motion shall not raise a question of privilege;

(v) the motion shall not revive discussion on a matter, which has been discussed in the same session;

(vi) the motion shall not anticipate a matter, which has been previously appointed for consideration....

(vii) the motion shall not deal with any matter which is under adjudication by a court of law having jurisdiction in any part of India; and

(viii) the motion shall not raise any question which under the Constitution or these rules can only be raised on a distinct motion by a notice given in writing to the Secretary-General."

It is only on these grounds that the motion can be ruled out of order. The Speaker gives his consent under Rule

60. You have been pleased not to give your consent but non-giving of the consent is not an arbitrary matter, is not a matter of the whims of the Speaker. It has to be within the Rules. If it is in order under Rule 56, then, consent has to be given. If objection is taken to the leave being granted, then Rule 60 will come into play. Rule 60 says:

"The Speaker, if he gives consent under rule 56 and holds that the matter proposed to be discussed is in order shall,

SHRI JYOTIRMOY BOSU (Diamond Harbour): Time of the House is very precious....

MR. SPEAKER: Mr. Bosu, you please sit down. I shall hear you also.

SHRI JYOTIRMOY BOSU: You have been an eminent Judge.

You please read rule 58, sub-rule (iii).

SHRI VASANT SATHE: Under Rule 60, therefore, after questions and before the list of business is entered upon, you shall call upon the member concerned who shall rise in his place and ask for leave to move the adjournment of the House:

"Provided that where the Speaker has refused his consent under rule 56 or is of opinion that the matter proposed to be discussed is not in order, he may, if he thinks it necessary, read the notice of motion and state the reasons for refusing consent or holding the motion as being not in order.....

(2) If objection to leave being granted is taken, the Speaker shall request those members who are in favour of leave being granted to rise in their places, and if not less than fifty members rise accordingly, the Speaker shall intimate that leave is granted. If less than fifty members rise, the Speaker shall inform the member that he has not the leave of the House."

Therefore, the whole scheme of the Rule is that it is for the House to either grant leave or not... (*Interruptions*). I am perfectly in agreement with the fact that you have to give your consent under Rule 56 before we go to the next stage. But, as I said in the beginning, you will refuse consent only if it is not in order. As I have pointed out, under Rule 58 my notice comes squarely within the rule. It is a specific matter and is of recent occurrence and is of grave concern to anyone who has any respect for the memory of Mahatma Gandhi and, therefore, everyone will be concerned. Therefore, you kindly consider leaving it to the House. If not less than 50 members stand, then the motion should be admitted. Please don't say yourself that you do not give consent because that will completely defeat the very purpose of the adjournment motion.

SHRI C. M. STEPHEN (Idukki): I have given a written representation on this matter.

MR. SPEAKER: I have received it just now.

SHRI JYOTIRMOY BOSU: Kindly apply your mind to Rule 58 (iii).

Shri Vasant Sathe has been conveniently reading a part of it. The whole sentence reads as under:

"(iii) the motion shall be restricted to a specific matter of recent occurrence;"

I would only like to be enlightened when did this incident take place?

I resume my seat.

SHRI KANWAR LAL GUPTA (Delhi Sadar): This is the discretionary power of the Speaker under Rules 56 and 59 either to accept it or not to accept it.

SOME HON. MEMBERS: No.

SHRI KANWAR LAL GUPTA: There are certain conditions by which the Speaker is supposed to be guided.

[Shri Kanwar Lal Gupta]

"58. The right to move the adjournment of the House for the purpose of discussing a definite matter of urgent public importance shall be subject to the following restrictions, namely:—

X X X X X X X

(iii) the motion shall be restricted to a specific matter of recent occurrence."

May I know when did this incident occur?

SHRI VASANT SATHE: 31st October.

SHRI KANWAR LAL GUPTA: I may invite your kind attention to Rule 59.

"59. No motion which seeks to raise discussion on a matter pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commission or court of enquiry appointed to enquire into, or investigate, any matter shall ordinarily be permitted to be moved:

Provided that the Speaker may in his discretion allow such matter being raised in the House as is concerned with the procedure or subject or stage of enquiry if the Speaker is satisfied that it is not likely to prejudice the consideration of such matter by the statutory tribunal, statutory authority, commission or court of enquiry."

MR. SPEAKER: What is your objections?

SHRI KANWAR LAL GUPTA: This is not a question of Indira Gandhi. Don't bother.

भाड़ में जायें महात्मा गांधी आपके मंत्री लोग कहते हैं ।

This incident was reported to the Poice Station and the Police Station authorities are making enquiries in

this matter. So, this is under investigation. Now it is for you, Mr. Speaker, to decide whether it is a matter of recent occurrence, whether it is under investigation or not and thirdly whether it is such a matter of public importance.

If you allow it Mr. Speaker, I do not mind.

MR. SPEAKER: Please put just one question.

SHRI KANWAR LAL GUPTA: You are exploiting Mahatma Gandhi Mr. Sathe. I know what are your feelings about Mahatma Gandhi. I know that about Indira Gandhi you have your own feelings."

"देश की नेता इन्दिरा गांधी और भाड़ में जायें महात्मा गांधी"

SHRI C. M. STEPHEN: Ordinarily, Sir, the ruling given by you—

MR. SPEAKER: I have not given any ruling.

SHRI C. M. STEPHEN: The decision taken by you is not to be revised. However, in the case of Chamber-decisions on the admissibility of adjournment motions a revision is permissible as per precedents.

Shakdher says, "If however, a Member would like to make a submission to the Speaker to re-consider his decision, he can do so either in person to the Speaker in his Chamber later during the day or by submitting a written representation to the Speaker in that behalf."

So, it was on that basis that I gave a representation to you that you may kindly reconsider your decision withholding permission for moving this motion. Now, Sir, the basic question is this. Shakdher says, "Where, however, the Speaker is satisfied that the matter proposed to be discussed is *prima facie* in order under the rules, he gives his consent to the

moving of the motion." And then, the procedure to be adopted was discussed on a former occasion. The procedure to be observed for disposal of such notices was discussed and decided upon at a meeting held on September 19, 1958 of the Speaker with the members and representatives of the parties and groups and this decision was announced in the Lok Sabha by the Speaker on August 19, 1959 and this was also published in the Bulletin of August 31, 1959. The procedure is spelt out as follows: "If *prima facie* it is in order, it must be allowed. Where, however, it is a border-line case or where the Speaker is not in possession of the full facts to decide the admissibility of a notice, he may mention in the House the receipt of the motion; and, after hearing a brief statement from the member and/or of the Minister concerned, give his decision on merit." This is the procedure which has to be followed. *Prime facie* it is admissible if the matter to be discussed is a definite matter of urgent public importance. Therefore, it can be discussed *prima facie*, unless it is barred by any of the restrictive provisions given under Rule 58.

Therefore, Sir, to my mind, the *sub-judice* question does not arise repetition does not arise; anticipatory decision does not arise.

MR. SPEAKER: Am I to take it from you that there is no investigation or no case pending in the matter? Is there no investigation or no case pending?

SHRI C. M. STEPHEN: No case is pending. Therefore, *sub-judice* question does not arise. The basic question is this. You have taken a decision. We are entitled to know the reasons—not that you are under legal compulsions to give the reasons. Unless these are restricted by any of the other provisions, and it is in order, namely, that it is definite, it is urgent and it is a matter of

public importance, then, Sir, under the proviso read out to you and under the procedure settled in those discussions announced through the Bulletin. I am certainly entitled to have my motion admitted. It is true, Sir, that you have got absolute discretion; with your judicial background, I need not tell you that that discretion is not expected to be any arbitrary discretion. It has got to be within the scope of the rules stipulated here.

My submission is that this is a matter of very great public importance because people are going to the Gandhi Smarak Nidhi. There are to be guides there. If a guide quoting Morarjibhai's book and telling others that Gandhiji was shot down here by Nathu Ram Godse, an RSS man,—if he told them such a thing—and if the guide is going to be beaten up,—the guide was actually beaten up—then, it certainly becomes a matter of urgent public importance. Because, the members of the public will not be able to go there without harassment. There is a sense of insecurity. There is no police protection given either to the public or to the guide in pointing out and explaining matters on the basis of the background.

Therefore, there cannot be anything much more important to the public than this. There cannot be anything much more definite and much more of relevance than this. Therefore, I submit that this to you, Mr. Speaker, that you owe it to this House, you owe it to this country, to tell us, why the Parliament of India cannot be allowed to discuss this matter and give a corrective. So that the public may have protection and facts about Mahatma Gandhi may be spelt out correctly and not distorted in any way.

[Shri C. M. Stephen]

Therefore, it is that I have given a written representation to you kindly to reconsider your decision and to give us permission to move this motion.

MR. SPEAKER: I have called Prof. Mavalankar.

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

SHRI JYOTIRMOY BOSU: But, the fact has not come out.

MR. SPEAKER: I have already called Prof. Mavalankar. You cannot interfere like that.

PROF. P. G. MAVALANKAR: Mr. Speaker, Sir, while making my observations on this issue, I want to state at the outset that I am not at all commenting on the merits of the subject-matter of the adjournment motion. Any Member, as you know, can move for an adjournment motion according to the procedure laid down in the rules.

I have heard Mr. Stephen and also Mr. Sathe with great attention and care. I am not arguing at this stage whether the subject-matter for the adjournment motions which they are seeking to move, namely, the attack on Mr. Damodaran Nair on a day in October at Gandhi Smriti is a matter of great public importance where Mahatma Gandhi's memory is involved and where our respect for Mahatma Gandhi is involved. That is not my point. My points are totally different. In my judgment, as you will see, the entire scheme of adjournment motion is laid down in our rules, and it is possible to implement that scheme only if the Chair gives its consent. (*Interruptions*).

MR. SPEAKER: Please have patience to hear him.

PROF. P. G. MAVALANKAR: It is not important that if 50 Members stand that gets admitted.

SHRI K. LAKKAPPA (Tumkur): It is not like that.

PROF. P. G. MAVALANKAR: It is not that if fifty Members stand up it gets admitted.

MR. SPEAKER: This much you must realise that the Chair consents only if the ground is reasonable.

PROF. P. G. MAVALANKAR: My argument is that the Chair must give its consent for that. The consent of the Chair is also restricted and bound, or rather more than restricted and bound, it is regulated by the wordings of the various rules.

Now, Sir, the matter for adjournment motion must be of urgent definite importance—and I agree that this particular matter is of such nature; but it must also be such for which the Government is directly and wholly responsible.

MR. SPEAKER: Where do you get that?

PROF. P. G. MAVALANKAR: This is the implication of the adjournment motion and its discussion. (*Interruptions*) My friends may laugh but they do not know the convention of the House. The Convention of the House is that the matter for discussion of an adjournment motion is considered to be important, both in the British Parliament as well as in our Parliament from the very beginning, and that the matter is of definite public and urgent importance, and of a very recent occurrence, that is, which happened only yesterday or day before, not even earlier, and for which the Government is directly and wholly responsible.

Otherwise, the Chair has, continuously, by convention, not given its consent to adjournment motions moved

by so many parties and individuals in the last 25 years. Why? Because, there are other methods like calling attention, short notice, discussion under Rule 193 etc., etc. It is possible that my views and their views coincide in this particular subject matter; it is very important how you use the 'Parliamentary contrivance' or 'provisions' for moving an adjournment motion in the House for this purpose because, this is almost equal to a vote of no-confidence. And, if an adjournment motion is passed, it is considered as a vote of no-confidence, and then the Government must go. That is the crux of the matter.

Therefore, the subject must be weighty and serious. And, if that subject is weighty and serious, then the Government must be so directly responsible that the House must remove all other items from the business and spend three, four or five hours or whatever time you and the House suggest for this motion to be discussed. The House then cannot discuss any other matter. Now, Sir, this is not a very serious matter with which the Government is even instantly or remotely connected. Therefore, I feel that this is not a fit subject for the adjournment of the House, and for discussion of that subject in this House in this form, because there are other methods available for its discussion, but certainly not through the method of an adjournment motion.

SHRI JYOTIRMOY BOSU: Sir, Shri HANS RAJ GUPTA was arrested but he was given Padma Bhushan by Mrs. Gandhi. This is the relationship of the R. S. S. with the Congress!

SHRI K. LAKKAPPA: He cannot make a Kathakali dance on the floor of the House.

MR. SPEAKER: Please sit down.

This is an important matter. The reason why I have withheld consent is that an adjournment motion in essence amounts to censure of the government. In this case Government had nothing to do with the matter. I gave my thought over the matter. Every adjournment motion, as the book says, whether it is May's Parliamentary Practice or any other book, amounts to censure of the government. There is no act of the government done on this matter. That is what is passing in my mind. If you satisfy me that my thinking is wrong, I am certainly open to revise it. On this matter I want to hear both the Leader of the House and the Leader of the Opposition. The main question or the real difficulty is: Is it not that an adjournment motion amounts to censure of the government? If that is so, has government anything to do with it? Either you may take up this matter today or if you want, it can be postponed to tomorrow. I would like to know from the Prime Minister; whether he wants time to speak on this matter?

THE PRIME MINISTER (SHRI MORARJI DESAI): On what?

MR. SPEAKER: There is an adjournment motion on the ground that a guide of the Gandhi Smriti was assaulted by RSS workers. I disallowed it on the thinking that an adjournment motion is a censure of the Government and Government has nothing to do with the matter. Therefore, I think it should not be through an adjournment motion but it may be by other methods.

THE PRIME MINISTER (SHRI MORARJI DESAI): I do not require any more time. I can say it now if you want.

MR. SPEAKER: Okay.

THE PRIME MINISTER (SHRI MORARJI DESAI): Personally, Sir, I consider that an adjournment motion is an important motion. It is

[Shri Morarji Desai]

not an ordinary motion. I entirely accept your ruling that it ultimately amounts to censure of the government. In this matter Government has nothing to do with it. Government is not concerned with it at all. There are some private persons who are alleged to have assaulted the guide in the Gandhi Smriti. I have received no complaint about it myself; that I must say. But I may say when I was there I was told by some people—the allegation was against the guide—that he was alleging that the RSS was behind Mahatma Gandhi's murder. That is totally false. I can never accept that RSS did that because when I said that Godse was a member of RSS, that was much before the murder. He ceased to be in RSS or having any connection with the RSS long before he committed the murder. I explained to him that such controversial thing should not be brought in Gandhi Smriti. That is also what I brought to his notice. I told him this ought not to be done. I have also told the other people that they have no business to be rough with anybody even if he was wrong. The matter ended there. I do not know how it came up afterwards. It cannot be the subject matter of an adjournment motion by any stretch of imagination.

SHRI YESHWANTRAO CHAVAN (Satara): I would deal first with that part of the matter when you asked whether Government has anything to do with the matter or not. One thing is accepted that Gandhi Smriti is under the supervision of the Government of India. Mr. Sikandar Bakht deals with it. So the Government of India has to do with it. Here is an institution which is of national importance connected with the memory of the Father of the nation. Here a large number of people from different parts of the country come and go to pay their homage and see things. There they are being advised and given certain information. Sir, I have read that

part of autobiography of the Prime Minister in which a reference is made that Nathuram Godse was connected with it as a member of R.S.S. You have said it and it is a fact. What you explained later on is a different matter. It is a question of document. This is one thing. Secondly, I would like to point out to you that when we read this news happening in Delhi It happened twice, it appeared in all the national papers, that I wrote a letter to the Home Minister pointing out that such incidents are happening in Delhi. I had no occasion, no machinery to verify the whole thing. It is for you to look into it. I wrote him a letter and I also said on the basis of the report that was appearing in the press that this was being done by the R.S.S. with the connivance of the Delhi Administration. I have made this specific allegation. I have charged and not only charged but I have also sent a copy of this letter to the Delhi Administration. I have mentioned this matter orally to the Chief Executive Councillor that these things are happening there. So, Sir, the Government is absolutely directly concerned with it. How can the Government say that this is not a Government matter? Somebody else beats somebody is a different matter, but no police protection is given. But here is a semi-government or government Institution where the memory of the Father of the Nation is involved, where some people go and hear a person who is dedicated to the cause of Gandhiji—a Sarvodaya man. He is being attacked by some goondas or may be RSS walas. Only because they happen to be RSS walas, do they get protection from the Government? I would like the Members like Shri Mavalankar and Shri Jyotirmoy Bosu to come to this side because we are not fighting for any party purposes (*Interruptions*). We are fighting for a certain issue. It is a more important issue. It may look very small, it may look that it is very insignificant. Mr. Kanwarlal

Gupta, it is convenient to you and therefore you consider it as insignificant. (*Interruptions*).

SHRI KANWAR LAL GUPTA: Let him prove that there was connivance of the Delhi Administration, I will resign my seat. Otherwise he should resign.

SHRI YESHWANTRAO CHAVAN: Let us discuss the adjournment motion and I will prove it. So, Sir, it is very much connected with the Government. It is the failure of the Administration to give protection to that man only because he has made a complaint. This is another failure of Government in this matter. Sir, instead of being given any protection, only because he has made noise about it, he has been removed from the job of Guide (*Interruptions*). This is doubly the failure of the Government and, therefore, it is a matter which requires the attention of this Government.

MR. SPEAKER: I have heard both sides. The decision is reserved. Now, Papers to be Laid on the Table.

12.34 hrs.

PAPERS LAID ON THE TABLE

REPORT OF ONE-MAN-COMMISSION OF INQUIRY RE. SAMASTIPUR INCIDENT AND PAPERS RE. PRESIDENTS RULE IN TRIPURA

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI S. D. PATIL): On behalf of Shri Charan Singh.

I beg to lay on the Table—

(1) A copy each of the following papers (Hindi) and English versions) under sub-section (4) of section 3 of the Commissions of Enquiry Act, 1952:—

(i) Report of the One-Man-Commission of Inquiry to enquire into the incidents of explosions

that took place on 2nd January, 1975 at Samastipur (Bihar).

(ii) Memorandum of Action taken on the Report. [*Placed in Library. See No. LT-993/77*].

(2) (i) A copy of the Proclamation (Hindi and English versions) dated the 5th November, 1977 issued by the President under article 356 of the Constitution in relation to the State of Tripura published in Notification No. G.S.R. 679 (E) in Gazette of India dated the 5th November, 1977 under article 356 (3) of the Constitution.

(ii) A copy of the Order (Hindi and English versions) dated the 5th November, 1977, made by the President in pursuance of sub-clause (i) of clause (c) of the above Proclamation, published in Notification No. G.S.R. 680 (E) in Gazette of India dated the 5th November, 1977. [*Placed in Library. See No. LT-994/77*].

(3) A copy each of two Reports dated the 2nd November, 1977 and 3rd November, 1977 of the Governor of Tripura to the President (Hindi and English versions). [*Placed in Library. See No. LT-995/77*].

BOMBAY IRRIGATION (GUJRAT AMENDMENT) ACT, 1976

THE MINISTER OF WORKS AND HOUSING AND SUPPLY AND REHABILITATION (SHRI SIKANDAR BAKHT): On behalf of Shri Surjit Singh Barnala.

I beg to lay on the Table a copy of the Bombay Irrigation (Gujarat Amendment) Act, 1976 (President's Act No. 45 of 1976) published in Gazette of India dated the 23rd December, 1976, under sub-section (3) of section 3 of the Gujarat State Legislature (Delegation of Powers) Act, 1976. [*Placed in Library. See No. LT-996/77*].