

RE, WRIT PETITION BY A MEMBER

Mr. Speaker: I have to inform the House that I have been informed, though unofficially, through the Law Minister—I have not received a regular summons from the High Court—that a writ petition has been filed against me, the House and the Prime Minister. I have to get the permission of the House to put up a defence there. I hope the House will agree . . .

Shrimati Renu Chakravartty (Barackpore): On what matter?

An hon. Member: Who has filed the petition?

Shri Hem Barua (Gauhati): And for what?

Mr. Speaker: Shri Madhu Limaye has filed a writ petition before the Circuit Bench of the Punjab High Court that he had a constitutional right to table cut motions.....

An hon. Member: The court cannot go into this matter.... (Interruptions).

श्री मधु लिमये (मुंबई) : यह प्राप अदालत का अपमान कर रहे हैं ।

Mr. Speaker:....to put in cut motions, that he had put in certain cut motions and that they were not allowed by the Speaker, and that the Speaker, out of malice—there is the word 'malice' also used in one part—had disallowed him certain facilities that he was entitled to under the Constitution. It is a long petition.

I hope the House would give me permission to ask the Law Minister that proper representation be made there in the court.

The Minister of Food and Agriculture (Shri C. Subramaniam): Are you subject to the jurisdiction of the court? Can the Speaker be hauled up before the court? That is the question. I respectfully submit that it will be incorrect for you to go and make appearance there and plead there.

Shri Shivaji Rao S. Deshmukh (Parbhani): The question is before the House is not just one of putting up your appearance and a defence there. The question is that a Member of this House files a petition in a court attributing malice to the Chair and seeks relief which he has got to seek before this House. I submit a Member who does so commits a breach of privilege.

Therefore, the issue has not to be looked into of the mere filing of a petition.

13 hrs.

Mr. Speaker: That will be a different thing. We will look into that afterwards.

डा० राम मनोहर लोहिया (फर्रुखाबाद) :
अध्यक्ष महोदय, प्रापने इजाजत दी थी इसके लिये ।

अध्यक्ष महोदय : अब मुझे एक एक कर के सुनने दीजिये ।

Shri Hari Vishnu Kamath: (Hoshangabad): On a point of clarification, may I know whether the writ petition has been admitted, secondly whether a notice has been issued to you or to the House or both, and thirdly the wording of the notice, what it says?

Shri Shivaji Rao S. Deshmukh: The other remedy open to this House is that this House can direct the Member to withdraw the petition that he has filed, and his refusal will entail suspension for a period which this House will be entitled to decide.

Mr. Speaker: That is a different thing altogether. The only point before us is whether we should represent ourselves there, and whether the House gives me that permission.

Some hon. Members: No, no.

Mr. Speaker: No other point should be taken up at this moment because it has to be seen by the court. Other

[Mr. Speaker]

things on merits we can discuss afterwards. At this moment they should not be gone into. The only question that I am asking here is whether I have the permission of the House to ask the Law Minister to arrange for our legal advisers to be present there.

Shrimati Renu Chakravartty: The Law Minister is not here. He has very little work. I do not know why he is never present in the House.

Shri Khadilkar (Khed): In the Bombay conference of Presiding Officers you had very clearly stated the constitutional position regarding the legislature and the judiciary. It is a well established thing that this House is supreme or sovereign so far as procedural matters are concerned. If there is any grievance regarding a matter of procedure, is it open to the High Court or any authority in this country to entertain an application? If you put in an appearance, it means that we are bowing down before an authority which we have challenged. So, that would be contradictory. I would, therefore, plead that, before taking a decision, this matter must be clarified.

Mr. Speaker: We are not going into the merits. It is not known whether the High Court would admit it or not. Therefore, we ought to wait and not express any opinion at this moment. It is something intermediate between admission and hearing, because we have been asked to appear to show cause or explain.

Shri Surendranath Dwivedy (Kendrapara): It is not necessary that you should appear at this stage.

Mr. Speaker: I have not got the summons, therefore I cannot say anything, but the Law Minister informed me that they want to hear whether they have jurisdiction. That is perhaps the stage.

Shri Frank Anthony (Nominated—Anglo-Indians): May I make a submission? As far as I can gather from

the papers, the application or petition has not been admitted. Only a sort of *ad interim* show-cause notice has been issued to the Speaker. But a basic issue is involved. As far as I remember, even in that privilege case, the Supreme Court has accepted the proposition that as between a Member of the House and the Speaker, no court has any *locus standi* even with regard to an *ad interim* notice. Why should we or this House submit to the jurisdiction of the court? Some one from the Government may go there and have a watching brief, but I think it is quite wrong even for an *ad interim* show-cause notice to issue in a matter between a Member and the Speaker in the House.

Shri H. N. Mukerjee (Calcutta Central): Unhappily we are having to be accustomed to all kinds of things happening in this country, and especially in this House. We get a Member, during a session of Parliament, going to court for relief in regard to some procedural disadvantage he is alleged to be suffering from. I am not going into the merits.

We see again the Law Minister who, as my hon. friend said very correctly, has very little work from what we can make out, communicating something to you, and choosing to absent himself and not give us the story which should not have come from your lips but somebody else. The Law Minister has reported something in an offhand way, and you consider it important enough to communicate to the House and even ask our view as to whether you should be represented in court in view of this particular proceeding against you. I do not understand this kind of thing.

Mr. Speaker: I go there only as a representative of the House. Therefore, I have to seek the permission of the House.

Shri H. N. Mukerjee: I know, but I do not understand the proceeding because, in the first instance, you have not got any written intimation from any quarter whatever. You told us yourself that it was an unofficial intimation, but you thought it important enough to be communicated because of the wonderful things happening to-day in all kinds of places.

Secondly, as Mr. Anthony pointed out, and Mr. Khadilkar has also said, it is settled law, as far as we know it is completely settled, that in so far as the proceedings of the House are concerned and their conduct is concerned, no court, howsoever majestic, has any say in this matter. I cannot imagine for the life of me the Speaker of the House representing the sovereignty of the country, going before a court of law to answer some pettifogging application.

श्री मधु लिमये : सार्वभौम तो जनता है ।

Shri H. N. Mukerjee: We are all representatives of the people, not a particular Member who chooses to arrogate to himself that right. Some Members in this House consider themselves to be the repositories of all patriotism. Some of them choose to make (*Interruptions*).

श्री मधु लिमये : मैंने कहा कि जनता और संविधान सार्वभौम हैं ।

Shri H. N. Mukerjee: The leader of the party to which Shri Limay belongs, that gentleman over there, had the gumption one day, in my absence, to make allegations against me which were dirty and completely false. That kind of thing goes on because of the kind of practice which these people are making this House habituated to. This sort of thing has got to be stopped. A member behaves in this fashion, contests the sovereignty of the House which is the repository of the sovereignty of the people, goes to a court of law, when the House is in session, in order to challenge your jurisdiction. It is the conduct of such

Members which brings the entire concept of democracy and good living and decency into jeopardy. That is the matter, that is what has to be considered.

In regard to what you have asked, you shall not appear before anybody in order to answer this kind of pettifogging accusation.

Shri N. Dandekar (Gonda): I have only two observations to make. The first is that the Constitution is quite clear that the internal procedures of the House are to be regulated by the House and by the rules made for the conduct of business by the Speaker. That, so far as we are concerned, should be final.

Secondly, we have support for that even from the opinion-judgment of the Supreme Court that in so far as anything done within this House is concerned, there is no court of any kind that has got any right whatsoever to interfere in the matter.

That being the case, our self-respect, our rights, our privileges, our duties, demand that you do not submit to any jurisdiction of any outside authority.

श्री लट्ठी सिंह (रोहतक) : अध्यक्ष महोदय, मुझे बहुत रंज हुआ है इस बात को सुन कर । मैं बड़े शाक से कहता हूँ कि आखिर ला मनिस्टर ने किस तरह से आप को यह रिफर किया । उन का यह फर्ज था, उन की तरफ से यह बात आनी चाहिये थी, कि वह आप को सलाह देते कि हाई कोर्ट या किसी भी प्रेजिडेंट को दखल देने का हक नहीं है । वर्ल्ड की कि भी पार्लियामेंट में किसी मेम्बर को स्पीकर के कंडक्ट के खिलाफ कहीं जाने का हक नहीं है । कोई भी कांस्टिट्यूशन इस की इजाजत नहीं देता, किसी जगह नहीं देता । मैं समझता हूँ कि इन मामलात में ला मनिस्टर को इतनी जल्दी रिफर नहीं करना चाहिये था आप को । वह बहुत काबिल हैं, बहुत होशियार हैं,

[श्री लहरी सिंह]

उन को बतलाना चाहिये या कि इस पालायामेंट की ओर सब की मर्जी है कि इस चीज को इग्नोर कर दिया जाना चाहिये ।

Dr. L. M. Singhvi (Jodhpur): We feel that parliamentary democracy would come to an end if this House were in every matter of procedure to submit to any court of law in this country. We are a self-regulating body. It is established and settled law that, so far as we are concerned, in our internal functioning and procedure, we are not subject to the jurisdiction of any court. We are not a part of the judicial hierarchy in this country. We are a court of records ourselves. Sir, Houses of Parliament enjoy the status of courts of record. The Lok Sabha is not subordinate to any court so far as its internal procedure is concerned. For you, Mr. Speaker, to submit to the jurisdiction of any court, howsoever august it may be would actually be a travesty of the principle of supremacy of Parliament and all the settled rights and privileges of this House. I would, therefore, submit that while the Union Government may watch the brief, the Speaker should not submit to the jurisdiction of the High Court of Punjab at Delhi.

डा० राम मनोहर लोहिया : अध्यक्ष महोदय, इन दो दसवालों को एक साथ जोड़ दिया जा रहा है । एक तो यह कि प्रक्रिया ठीक हो रही है या नहीं, जिसको ये लोग कहते हैं इरेग्युलेरिटी आफ प्रोसीज्योर । उस सम्बन्ध में किसी अदालत को आप के ऊपर विचार करने का कोई अधिकार नहीं है । लेकिन एक दूसरी बात है कि संविधान के अनुसार प्रक्रिया हो रही है या नहीं हो रही, प्रक्रिया का खातमा हो रहा है । इन दोनों बातों को अलग

अलग रखिए । एक तो प्रक्रिया गलत हो रही है और दूसरी प्रक्रिया खत्म हो रही है । तो जो अरजी दी गयी है वह 113 (1) और 113 (2) के ऊपर है जिसमें प्रती याएं बनायी गयी हैं कि रुपया देने वक्त हमको अधिकार है कटौती प्रस्ताव करने का * * *

अध्यक्ष महोदय : आप मैरिट में न जाएं ।

डा० राम मनोहर लोहिया : मैं दोनों में फर्क बता रहा था . . .

अध्यक्ष महोदय : उसका सवाल पैदा नहीं होता ।

डा० राम मनोहर लोहिया : आपने खुद फरमाया था कि अदालत में जाने में कोई हर्ज नहीं है, वहां तो जाना चाहिए, ये आपके अपने शब्द हैं ।

और मैं आपको बताऊं कि 'द्वेष' शब्द का इस्तेमाल किया गया । मैं बहुत शान्त आदमी हूं । यह याद रखिए कि * * *

लोग चाहे मेरी गन्दी बातों का जवाब न दें जैसा कि हीरेन मुखरजी साहब ने कहा, लेकिन * * *

लेकिन जब द्वेष का सवाल आता है तो मैं कहना चाहता हूं कि मेरे मन में या मधु लिमये के मन में कोई द्वेष नहीं है । सवाल कोई उठता है . . .

अध्यक्ष महोदय : सवाल का मुझे पता है ।

डा० राम मनोहर लोहिया : मैं अर्ज करूँ कि प्रश्न सामने क्या है । सदन में क्या संसदीय है और क्या गैर संसदीय है इसका फैसला अध्यक्ष को करना चाहिए । शोभा और अशोभा का नहीं ।

अध्यक्ष महोदय : सवाल यह है कि हाई कोर्ट में रिप्रेजेंटेशन किया जाए या नहीं ।

डा० राम मनोहर लोहिया : अध्यक्ष महोदय, कई दफा हमारी राय_देश हित के बारे में प्रधान मंत्री की राय से अलग जाएगी । इसलिये यदि हमारे प्रति आप संयम दिखाते हैं तो अच्छा ही रहता है । एक बात और है कि मैं किसी के खिलाफ आरोप नहीं लगा रहा हूँ ।

अध्यक्ष महोदय : पिटीशन में क्या है यह बात हमारे सामने नहीं है । हमारे सामने यह बात है कि हम कोर्ट में रिप्रेजेंटेशन करें या न करें । इसमें आपकी क्या राय है ?

डा० राम मनोहर लोहिया : मेरी राय यह है कि इस में आपको बिल्कुल गैरजानिबदार हो जाना चाहिए और जो असली बीज हैं उनका फसला होना चाहिए इसमें आप अपने को बिल्कुल मत मिलाइए ।

Shri Raghunath Singh (Varanasi): It is already incorporated in the Constitution under article 122. May I read it? No officer or Member of Parliament in whom the powers are vested by or under this Constitution for regulating....

अध्यक्ष महोदय : यह तो हर एक आदमी जानता है कि रघुनाथ सिंह जी । इसके पढ़ने से क्या फायदा ?

श्री रघुनाथ सिंह : नहीं जाना चाहिए ।

The Prime Minister and Minister of Atomic Energy (Shri Lal Bahadur Shastri): I have followed what has generally been said in this House. I would like to say that I share the feelings expressed in the House by the hon. Members. In the internal working or proceedings of this House, this House is completely sovereign and I do not think that you, as the Speaker, should submit to any court or to any summons which are served

on you. In so far as the Government is concerned, of course we would like to examine the legal implications further immediately. But we will on behalf of the Government watch the proceedings and I think therefore the matter should end there. If there is anything else we can consider it later on.

श्री मधु लिमये : मेरा एक प्वाइंट ऑफ ऑर्डर है ।

अध्यक्ष महोदय : यह बात खत्म हो गयी ।

Shri Priya Gupta (Ketihaar): Sir, On a point of order.

श्री मधु लिमये : मेरी बात सुनिए ।

Mr. Speaker: I have the direction from the House that this House and the Speaker would not be represented there.

श्री मधु लिमये : मेरी बात सुन लीजिए ।

अध्यक्ष महोदय : नहीं ।

श्री मधु लिमये : तो ठीक है, मत सुनिए ।

BUSINESS OF THE HOUSE

The Minister of Communications and Parliamentary Affairs (Shri Satya Narayan Sinha): With your permission, Sir, I rise to announce that Government Business in this House for 10th and 11th May, 1965, will consist of:—

- (1) Consideration of any item of Government Business carried over from today's Order Paper.
- (2) Consideration and passing of:

The Representation of the People (Amendment) Bill, 1965.