

12.16 hrs.

## QUESTION OF PRIVILEGE

**Shri Daji (Indore):** With your permission, I beg to move the following motion of breach of privilege:

"Shri Bhadoria, sub-inspector of police, attached to the Sarafa Police Station, Indore City arrested one Shri Santosh Kharade, under section 150 Cr.P.C. and started proceedings under section 107 Cr.P.C. against him and seized two forms of petitions addressed to the Lok Sabha demanding release of the students and reopening of the colleges at Indore. Shri Bhadoria was clearly informed that these forms were to be submitted to the Lok Sabha through the Member of Parliament from Indore. The printed forms seized were themselves self-explanatory. Nonetheless, he took the aforesaid action with a view to prevent Shri Kharade to collect signatures and to terrorise others from doing the same.

To petition the Lok Sabha is a constitutional right of a citizen, and Shri Bhadoria's action was aimed at preventing communication from the citizens of Indore to their Member of Parliament to raise the issue before Lok Sabha and was, therefore, clear and palpable breach of privilege of the House. A copy of the petition has been enclosed herewith.

I, therefore, move that Shri Bhadoria, S.I. Police, Sarafa Police Station, Indore, be summoned before the House and be committed for the breach of privilege of the House and be punished for the same as the circumstances of the case require."

**The Minister of Home Affairs (Shri Nanda):** This morning a little while ago, I had a talk with the district magistrate and enquired as to what the facts were. He said that he was

not aware at all of any arrest having been made under the circumstances and for the reasons mentioned here, but he would ascertain and find out as soon as possible what the facts were. If anything like what has been stated has happened, then certainly it is very reprehensible, but we shall ascertain the facts without any loss of time.

**Mr. Speaker:** All the same, because it is a new case, I think I shall refer it to the Privileges Committee so that they may go into this and see whether such a case really has happened and whether it amounts to a breach of privilege. Both the things are to be enquired into.

**Shri Hanumanthaiya (Bangalore City):** No, Sir; it cannot be referred to the Privileges Committee for two reasons. The first reason is that the hon. Minister has asked for time to make available to us the full details of the case before a decision could be taken. Unless we are in possession of full facts, it is not possible to know whether this is a *prima facie* fit case to be referred to the committee.

Secondly, we can also argue as my hon. friend has done and say that a petition may be deliberately used for the purpose of preventing arrest which would otherwise follow, for some other offence. Then that should not be made an excuse or a protection against arrest for some other offence that the person is likely to have committed.

These are matters that have to be examined. There is no *prima facie* case for you to refer this question to the Privileges Committee now, merely because the name of Parliament is used and a petition addressed to Parliament is in the hands of a person and it has been seized. At that rate, even a murderer can get a petition previously printed and keep it in his hands and ask the police officer not to arrest him.

**Shri Ranga (Chittoor):** May I submit that there is considerable force in what Shri Hanumanthaiya has said?

[Shri Ranga]

After all, there are several circumstances which have to be taken into consideration. We do not know at the moment what has happened. The hon. Home Minister has not got the information now. Therefore, would it not be possible for you to hold it over for a couple of days so that he would be able to get full information and then the House would know all the facts that would be available and thereafter we can take a decision?

**Shri Bade** (Khargone): My submission is....

**Mr. Speaker:** I have not called the hon. Member yet.

**Shri Bade:** I want to make a submission on this....

**Mr. Speaker:** He may just rise in his place and catch my eye....

**Shri Daji** rose—

**Mr. Speaker:** I have heard Shri Daji already.

**Shri Daji:** Since these questions have been raised, I would like to clarify certain things....

**Mr. Speaker:** There is nothing more to be clarified now....

**Shri Daji:** I have to clarify certain points about this.

**Mr. Speaker:** I shall call him later.

**श्री मधु लिमये** (मुंगेर) : आपने जो सुझाव दिया है, उसका मैं समर्थन करता हूँ। ग्राजकल पुलिस वालों की जबर्दस्ती बहुत ज्यादा चल रही है। हमारे क्षेत्र में एक वकील को उन्होंने पीट दिया। मैं समझता हूँ कि इस मामले को जरूर विशेषाधिकार समिति के सामने सौंपा जाना चाहिये।

**श्री बड़े :** अध्यक्ष महोदय, जो आपने प्रस्ताव रखा है, उसका मैं समर्थन करता हूँ। जो प्रोसिजर है वह तो तय होना ही चाहिये। लेकिन यहाँ एक अनाररेबल मੈम्बर इस पार्लिमेंट के जो कह रहे हैं उसको देखते हुए प्राइमा फेसाई केस तो बन ही जाता है। यह एक पेटिशन थी जो कि पार्लिमेंट को एड्रेस की गई थी। इस को चाहे आप रोक रखें लेकिन प्राइमा फेसाई केस तो बन ही जाता है। यह प्रिवलेज कमेटी का काम है कि देखे कि दरअसल में प्रिवलेज होता है या नहीं। जब एक मੈम्बर साहब इस बात को कह रहे हैं उसके सम्बन्ध में आपने जो प्रस्ताव रखा है, इन सब बातों को देखते हुए, उसका मैं समर्थन करता हूँ।

**Shri H. N. Mukerjee** (Calcutta Central): I agree entirely with your initial reaction that the matter should go to the Committee of Privileges. This is because whatever inquiry is necessitated might very well be done by the Committee of Privileges rather than by the Minister at this stage. This matter has been brought to your notice by a Member of Parliament and, therefore, I agree entirely with your initial reaction.

**Mr. Speaker:** In my opinion, the facts as well as the question of law, both are to be determined. I am not clear myself because this is a case of its own kind; it has not happened before.

Therefore, my first reaction was that we could send it on to the Privileges Committee. The facts also might be ascertained by the Committee and the question of law might also be decided. But if the hon. Home Minister wants that he should supply us facts which might also go along with the other thing to the Privileges Committee, then there is no harm. Let him give those facts. Shri Daji has given us the facts he knows. Let the Home Minister also give his facts. Let these be considered by the Committee. It is not that a discussion or inquiry

is to be made here in the House at the moment. So I do not think that what Shri Hanumanthaiya said would help us so much. Let the facts as we know from both sides be supplied to the Committee and they would proceed further in that context. Therefore, there is no harm if we wait for two days and then send it on. Of course, my reaction is that it should be sent to the Committee.

**The Deputy Minister in the Ministry of Law (Shri Jaganatha Rao):** The facts supplied by Shri Daji may be true. But it is open to us to find out the correctness or otherwise of those facts. When the facts are admitted, there is a *prima facie* case and then it may go to the Committee....

**Shri Daji:** No, no.

श्री मधु लिमये : यह समिति का काम है ।

**Shri Jaganatha Rao:** Please sit down. You have no business to stand up when I speak. (*Interruptions*).

श्री मधु लिमये : यह अध्यक्ष महोदय का काम है आप कौन हैं ।

**Mr. Speaker:** I will do that, not the Minister.

**Shri Ranga:** He should be pulled up for that.

**Mr. Speaker:** I have done that.

श्री हुकम चन्द कछवाय : उन को क्या अधिकार है कि वह ऐसा कहें ।

**Mr. Speaker:** I have asked him. He should sit down. I am doing my duty. But the hon. Member does not allow me to do so.

**Shri Jaganatha Rao:** If there was any arrest at all, the circumstances of such arrest should also be ascertained. A person known to be committing a cognisable offence can be arrested

by a police officer; a person who is likely to commit a breach of the peace or disturb public tranquillity can also be arrested under sec. 107(3) Cr. P.C. Those circumstances have to be ascertained. The mere fact that a petition to a Member of the Lok Sabha was in his pocket does not mean that a person cannot be arrested. The petition might as well be sent by post by the police officer.

**Mr. Speaker:** Exactly those merits are being discussed.

I am not doubting that. My intention in suggesting sending it to the Privileges Committee was that the Committee might examine both aspects. The facts as might be in the possession of both parties might also be sent on to the Committee. Therefore, we will wait for two days and send those facts to the Committee. It is for the Committee to determine and say.....

**Shri Hanumanthaiya:** May I make a submission.....

**Shri H. N. Mukerjee:** I take it that you are sending it on to the Committee of Privileges and the facts that may be placed later on would also be placed before the Committee.

**Shri Hanumanthaiya:** So far as the Speaker is concerned, he should be, and he is, impartial, to the Treasury Benches and to the other side of the House. We have perfect confidence in you and we take your judgment as binding. There is no question of challenging that.

The only submission I make is that before you refer the matter to the Privileges Committee, according to the rules and conventions, there must be a *prima facie* case. If in your judgment there is a *prima facie* case, you can refer it. If there is no *prima facie* case merely for the purpose of discussing and finding out, it cannot be sent to the Committee.

**Mr. Speaker:** Even without my finding out whether there is a *prima facie* case or not, I can send it on to the Privileges Committee, before coming to that conclusion. In some cases, I do come to the conclusion that there seems to be a *prima facie* case; in some others, if I want that help from the Committee, I can send it on to them and ask for their opinion so that I may be guided by that. That was because this is the first case of its kind and the facts are very peculiar. Therefore, my initial reaction is that the Committee might find out the facts as well as give us the guidance or aid of the law. There is no harm in that. I am not holding that there is a *prima facie* case; I am not just deciding that.

**Shri Nanda:** Of course, your direction will be followed. But I may also further submit that it may be that tomorrow or the day after, as early as possible, I may have facts which will show that there was absolutely no case in support of the motion, that is, that the person had been arrested for something very clearly an offence of a different kind. If that is proved, then the other things do not arise. (Interruptions).

**Mr. Speaker:** I had said I would call him.

**Shri Daji:** You said so, but you have not called me though I have been standing. If we stand without speaking, we never catch your eye, that is the difficulty with your ruling.

**Mr. Speaker:** My difficulty is this, that even though I am taking the side of the Member, then too he wants to speak. Now, let him speak.

**Shri Daji:** There is no ascertainment of facts required, because my motion is not based so much on the arrest, because I know that even if the police may arrest for a specific purpose, they can always cook up something else. My motion is specifically on this point, that two forms have been seized

by the police from the custody and house of this person, forms which were addressed to the Lok Sabha. If your own forms addressed to the Lok Sabha are seized even after the Inspector was told that they were to be sent to a Member of Parliament to be presented to the Lok Sabha, it constitutes contempt without any further ascertainment of facts.

**Mr. Speaker:** After hearing him, I am inclined to hold that we will wait for the facts.

**Shri Surendranath Dwivedy (Kendrapara):** You have changed your mind.

**Mr. Speaker:** I have not changed it. I stand by it.

**Shri Surendranath Dwivedy:** The only question was that it would be sent to the Privileges Committee.

**Mr. Speaker:** There is no change in my attitude. I am supporting the Member, and he goes on speaking.

**Shri Daji:** A Member who submits to your ruling is always penalised.

**Mr. Speaker:** There is no penalty.

12.26 hrs.

#### PAPERS LAID ON THE TABLE

CINEMATOGRAPH AMENDMENT RULES, 1964

**The Deputy Minister in the Ministry of Information and Broadcasting (Shri C. R. Pattabhi Raman):** I beg to lay on the Table a copy of the Cinematograph (Censorship) Amendment Rules, 1964, published in Notification No. G.S.R. 1396, dated the 26th September, 1964 as corrected by G.S.R. 86 dated the 9th January, 1965, under sub-section (3) of section 8 of