

months, but I must restrain myself for the larger interest. I offered my resignation at the earliest stage when the false and mischievous allegations were first made. I pressed again for its acceptance before I knew Mr. Das's report. I did so, believing in certain basic values for which we in Parliament stand, and for which we are trustees for the people who have elected us.

If I did not know that I am in fact innocent of these scandalous accusations, I would, if the House will believe me, not continue as a member of this Parliament even for a day. For strange as it may sound to some, I do believe that to sit here as a representative of the people is perhaps more than any office holding can be.

My policies as a Minister are no secret; and I have no false modesty about some of the things I have tried to achieve, in furthering the policies and objectives to which we are all committed. I believe in these; and in the faith that they must prevail, I dedicate myself anew to strain every effort to that end.

As a Minister, I had the privilege of enjoying the support and the sympathy of this House, and was always able to count upon it. For that I express my gratefulness to the House.

I thank you, Mr. Deputy-Speaker.

12.44 hrs.

**STATEMENT re: ENQUIRY MADE
BY JUSTICE S. K. DAS INTO
CERTAIN TRANSACTIONS OF
MESSRS SERAJUDDIN & CO.**

**The Prime Minister, Minister of
External Affairs and Minister of**

**Atomic Energy (Shri Jawaharlal
Nehru):** Mr. Deputy-Speaker, as I informed the House on the 7th of May I had requested the Chief Justice of India to suggest the name of a Judge of the Supreme Court who might be

entrusted with an enquiry about some entries in the papers of Serajuddin & Co, purporting to relate to Shri K. D. Malaviya. This enquiry was entrusted to Shri Justice S. K. Das of the Supreme Court. At the Chief Justice's request I confirmed to him that the enquiry was only meant to help me in coming to a decision about this matter; that in the nature of things the enquiry would be secret and confidential; that Shri Justice S. K. Das would be complete master of the procedure and of the proceedings and also that all relevant papers in the possession of Government would be placed at the disposal of the Honourable Judge.

Shri Justice Das, acting in his discretion, decided not to allow any lawyers to be present. He had to arrive at his conclusions only *prima facie*. On many points his report was favourable to Shri K. D. Malaviya but on some points it was unfavourable to him. Shri Justice Das sent me his report on the 10th of June. As I said on the last occasion Shri Malaviya had offered to me to resign even when the matter first came up before me. He reiterated his wish to resign before he knew the result of the enquiry by Shri Justice Das. As you know his resignation has been accepted. Even though I am not personally convinced that Shri Malaviya has done anything which casts a reflection on his impartiality and integrity, yet I accepted his resignation and in doing so, I have followed and must follow those high principles of parliamentary government by which the office of a Minister is governed and I have discharged my duty accordingly. It was with deep regret that I had to take this action. I must acknowledge—and on this I hope the House will agree with me—that Shri Malaviya has rendered meritorious services to the nation during the time that he filled the office of a Cabinet Minister and other offices since 1950.

I am not placing the report of Shri Justice S. K. Das before this

[Shri Jawaharlal Nehru]

House for several reasons. Formerly I had stated in the Parliament that the condition on which the Judge had agreed to hold the enquiry was that the report was not to be published and discussed in Parliament or elsewhere. It is of a private and confidential character and was intended to guide me in the discharge of my functions as Prime Minister and was solely meant for my use. It is obvious that it is not in consonance with the dignity of the office which Shri Justice Das is holding that his report should be made the subject of comment or discussion either in Parliament or in the public. Moreover certain cases are pending investigation and are likely to be placed in court shortly. The disclosure of the contents of the report made by a Judge of the highest court in the land may prejudice the trial of those cases. It will be opposed to all notions of fairness and propriety, to make the report public. For these and other considerations, it is not in the public interest to place the report before the House.

Shri Hari Vishnu Kamath (Hosangabad): On a point of clarification.

Mr. Deputy-Speaker: Only one or two questions I will permit.

Shri Surendranath Dwivedy (Kendrapara): I wanted to ask about several things. I would like to know....

Mr. Deputy-Speaker: Only two or three questions.

Shri Surendranath Dwivedy: I want clarification only on two or three questions, not more.

Shri Balkrishna Wasnik (Gondia): On a point of order. Rule 199 of the rules of procedure says in sub-clause (4):

"There shall be no debate on such statement, but after it has been made, a Minister may make a statement pertinent thereto."

Shri Nath Pai (Rajapur): We know it.

Shri Balkrishna Wasnik: A Minister may make a statement pertinent thereto. The Prime Minister has made a statement. I do not think any kind of discussion or debate should be permitted.

Mr. Deputy-Speaker: There is no debate; I am permitting only two or three questions.

श्री रामेश्वरानन्द (करनाल) : उन
बिचारे निर्दोष को त्यागपत्र क्यों दिलाया
जा रहा है ?

Shri Surendranath Dwivedy: The House is at a great disadvantage on this question because the Prime Minister himself said that he is convinced about Shri Malaviya's impartiality etc. He has also disclosed a part of the report saying that it is favourable and also unfavourable to Shri Malaviya; and Shri Malaviya still maintains that he is innocent.

Under these conditions, it is proper that the Prime Minister should lay the report of Mr. Justice S. K. Das on the Table of the House. Or if even the Prime Minister feels and if he indirectly agrees with the insinuations made by Shri Malaviya, that the charges were false and mischievous, let him appoint a commission of enquiry which will go into the entire question of Surajuddin affair.

Mr. Deputy-Speaker: This is a speech, not a question.

Shri Surendranath Dwivedy: Secondly, I want to know from the Prime Minister—he may correct me if I am wrong—whether it is not a fact that neither the Chief Justice nor Justice Das wanted that only bits of the report may be given as he told us yesterday. The report it seems contains 70 or more paragraphs.

Some Hon. Members: How do you know?

Shri Surendranath Dwivedy: Let him contradict. Justice Das contends that there may be four or five paragraphs which contain personal remarks which should not be released, but the rest of the report is such which gives us an idea about the entire transaction that took place and which will reveal to a great extent how business houses and Ministries together are carrying on in this country.

Mr. Deputy-Speaker: You rose saying you were asking a question, but you are making a speech.

Shri Surendranath Dwivedy: I want this clarification whether Justice Das or the Chief Justice wanted, if the Prime Minister so desired, not to make public only four or five paragraphs which contain some personal remarks against certain persons. Regarding the entire report excepting these they have no objection. If that is so, I would like the report to come and a commission of enquiry to go into the matter.

श्री विभूति मिश्र (मोतिहारी) :
उपाध्यक्ष महोदय, माननीय सदस्य ने कहा है कि रिपोर्ट में य बातें लिखी हुई हैं। मैं जानना चाहता हूँ कि उन्होंने रिपोर्ट को कहाँ देखा।

Shri J. B. Kripalani (Amroha)
rose—

Mr. Deputy-Speaker: No more questions, please.

Shri J. B. Kripalani: May I say a word?

Mr. Deputy-Speaker: No speeches are allowed. I have to bring to your kind notice that no speeches are allowed. If you want any information, you can ask a question.

Shri J. B. Kripalani: Shri Malaviya has said that neither evidence was called, nor lawyers were allowed to come, and he says that he is innocent. Is it not necessary to see that his name

is not besmirched? For that, it would be necessary that a committee of enquiry may be held in his own interests, because without lawyers and without evidence being called, it would be a very poor judgment upon him.

Shri Hem Barua (Gauhati): On a point of order.

Mr. Deputy-Speaker: Your party Member has asked a question. Now you are raising a point of order.

Shri Hari Vishnu Kamath: It is not a party matter.

Shri Hem Barua: I rise on a point of order.

Shri Nath Pai (Rajapur): Which is above party matters.

Shri Hem Barua: It is above party matters. It was I who brought these charges against Shri Malaviya. He could not reply to any of the charges.

Mr. Deputy-Speaker: What is your point of order?

Shri Hem Barua: I will come to that. Now he has come out with a challenge and he describes my charges as false and malicious and I have a right to reply.

Mr. Deputy-Speaker: There cannot be any speeches.

Shri Hem Barua: I do not make a speech.

Mr. Deputy-Speaker: Please state the point of order.

Shri Hem Barua: Rule 199 of the Rules of Procedure and Conduct of Business of the Lok Sabha reads:

"A member who has resigned the office of Minister may, with the consent of the Speaker, make a personal statement in explanation of his resignation."

He can make a personal statement. When he was making a sermon on

[Shri Hem Barua]

socialism, we did not object to that just now. When he was describing himself as pure as an angel, we did not object to that.

Shri D. C. Sharma (Gurdaspur): On a point of order.

Mr. Deputy-Speaker: Shri Barua is commenting on his statement. If he wants to raise the matter, he may table questions later. On that statement there cannot be a speech.

Shri Hem Barua: It is linked up with the statement made by the Prime Minister.

Shri D. C. Sharma: I think all the the aspersions that have been cast by this gentleman must be expunged from the proceedings.

Shri Hem Barua: Taking the two statements of Shri Malaviya and the Prime Minister, how do you reconcile them, how do they go together? It is specifically stated in rule 199(4):

"There shall be no debate on such statement, but after it has been made, a Minister may make a statement pertinent thereto".

Mr. Deputy-Speaker: Will he please sit down now?

Shri Hem Barua: I seek your protection. It is not to be taken lightly. I seek your protection.

Mr. Deputy-Speaker: There is no point of order.

Shri Hem Barua: He said false and malicious. What about that? When the Prime Minister himself says that certain points in Mr. Justice Das's report are unfavourable to Shri Malaviya, I have got the right to say he has not been able to prove, and that is why I say that the Prime Minister should place the report on the Table of the House. Or else, we will not allow.... (Interruptions).

Mr. Deputy-Speaker: Order, order. When I stand up, the hon. Member should please sit down. I expect every hon. Member to observe the rules of

the House. Otherwise, we cannot carry on any proceedings in this House.

Shri Hem Barua has raised a point of order. There is no point of order in it. After Shri Malaviya's statement, we went to another business, and the Prime Minister has made a statement. After the Prime Minister's statement, a point of order cannot be raised on Shri Malaviya's statement. All that Shri Dwivedy wanted was to have some clarification. No point of order can be raised now.

Shri D. C. Sharma: What about the statement he has made?

Shri Shivaji Rao S. Deshmukh (Parbhani): On a point of order. My point of order arises out of Shri Hem Barua's statement. I may be permitted to make a statement.

Mr. Deputy-Speaker: Please sit down. Shri Ranga.

Shri Ranga (Chittoor): In view of the fact that Shri Malaviya has said that he is innocent....

Mr. Deputy-Speaker: We are now on the Prime Minister's statement.

Shri Ranga: What do you want me to do? Then I had better sit down. The House is impatient, and you are also impatient.

In view of the fact that Shri Malaviya has said that he is innocent and the Prime Minister also agrees with me, and a large number of those friends seem to agree with him because they clapped, we would like to know what is it that was contained in the report of Mr. Justice Das that persuaded or obliged the Prime Minister to take the decision that he should accept Shri Malaviya's resignation.

The next point comes in from it. There must have been in the mind of the Prime Minister, because he wanted to leave all these things to his own conscience, certain standards which should be conformed to by the Minis-

ters. and he must have come to the conclusion that in this case, in the light of the recommendations made by Mr. Justice Das, Shri Malaviya has been able to live up to those standards, and therefore he accepted the resignation.

श्री विभूति मिश्र : उप.ध्यक्ष महोदय,
 यह व्याख्यान है या क्लेरिफिकेशन है ?

Shri Ranga: We would like the Prime Minister to elucidate these two points: what are those particular standards that he placed before himself, which were more or less the same set of standards which were recommended or referred to by Mr. Justice Das, to which he thought the Minister concerned was not able to conform and hence wanted him to resign.

डा० राम मनोहर लोहिया: (फरुखाबाद):

उपाध्यक्ष महोदय, मेरा एक सवाल है ।

प्रधान मंत्री ने यह कह कर ...

एक माननीय सदस्य : प्रधान मंत्री को
 जवाब देने दीजिए ।

डा० राम मनोहर लोहिया : जब सब
 सवाल हो जायेंगे, तो प्रधान मंत्री उनका
 जवाब दे दें ।

श्री हरि विष्णु कामत : वह भूल
 जायेंगे ।

डा० राम मनोहर लोहिया : अच्छा ।

13 hrs.

Shri Jawaharlal Nehru: If the hon. Members listened to what I said, they would see this: I said that Mr. Justice Das, with such material he had and such evidence as he took, came to a *prima facie* conclusion. He did not go through all the matter and all the possible evidence. In fact, most of the important witnesses were not called on the ground that they are themselves entangled in court cases or are likely to be, and he thought it would be unfair to them to call them because they will have to stand their own chance. And, therefore, his opinion could only be based—*prima*

facie opinion and not final opinion after full trial—on such evidence as he took. He came to certain recommendations on that opinion. As I have said, out of six, four were in favour of Shri Malaviya and two were not in his favour.

An Hon. Member: What are the two cases?

Shri Jawaharlal Nehru: So, on looking through, or reading his decisions or recommendations and such other evidence as I could, I said I am not convinced. My words were:

"...I am not convinced that Shri Malaviya has done anything which casts a reflection on his impartiality and integrity."

But then the mere fact that *prima facie* such things were thought of, I thought, should result in his resigning and my accepting his resignation from the Ministry.

Shri Ranga: What are such things? (Interruption).

Shri Priya Gupta (Katihar): Is it a forced resignation?

Mr. Deputy-Speaker: The hon. Member must contain himself.

Shri Jawaharlal Nehru: It is not correct to say that it is a forced resignation because Shri Malaviya had resigned before all this took place, right when a charge was made, and then it was not accepted, and later on, before he knew what Justice Das's report was, he again resigned, and I accepted it later.

श्री रामेश्वरानन्द : अगर अपराध नहीं
 था तो क्यों रिज्वाइन किया ?

Shri Priya Gupta: Is your acceptance of the resignation on the findings of Justice Das?

Mr. Deputy-Speaker: Order, order.

Shri Jawaharlal Nehru: My acceptance of that resignation was certainly partly conditioned by Justice Das's

[Shri Jawaharlal Nehru]

report obviously. Although that report was in the nature of a decision—his decision was a *prima facie* decision and not a final decision—I thought that was enough. It might have been perhaps more desirable if a full judicial enquiry took place. That is a method. I might have made a mistake; and Justice Das was himself rather conditioned by limiting factors; it is not his fault. Maybe, it is my fault that I pursued this course. That may be so.

Shri Surendranath Dwivedy: Even now this judicial enquiry can be done.

Shri Hem Barua: Do you propose to hold an open judicial enquiry now?

Shri Jawaharlal Nehru: I have no such intention because—

Shri Priya Gupta: He is the Chief Judge of all things!

Shri Jawaharlal Nehru: There are in fact three or four cases in the courts; they are likely to come up; they are not actually in the courts. In three or four days they will come up. They have been under enquiry, which partly concerned all these matters, and many of these matters will come up in court—the entries in Serajuddin's books and other matters. I do not know what the result of those cases will be, but we shall watch those results and if it is necessary, we shall take further action. I do not think any further action is required in the present case so far as Shri Malaviya is concerned, because on the facts, a certain *prima facie* opinion was given about him in regard to one or two matters, and so far as this House was concerned, that led him to resign and me to accept his resignation. There the matter ends so far as this House is concerned more or less. If any other occasion arises—

Shri Surendranath Dwivedy: What are those two matters on which there was a *prima facie* decision and on which the resignation was accepted?

Shri J. B. Kripalani: May I enquire from the Prime Minister if Shri Malaviya's resignation would be considered by the public as a blot on his conduct and in order to see that justice is done to him, should not a greater probe into the matter be taken in hand, and if necessary a judicial enquiry be made? Because the impression on the public mind will remain that there was something shady on account of which the Prime Minister was constrained to accept the resignation of one of his senior colleagues.

Shri Joachim Alva (Kanara): May I be permitted to just refer to what happened in the House of Commons only a few weeks ago? Mr. Richman—(Interruptions).

Mr. Deputy-Speaker: Order, order. The Prime Minister is replying now.

Shri Joachim Alva: I would ask your permission, in view of the questions that have been put—

Mr. Deputy-Speaker: Not at this stage.

डा० राम मनोहर लोहिया : उपाध्यक्ष महोदय, प्रधान मंत्री ने यह कह कर कि दास जी ने मालवीय जी के खिलाफ दो मुद्दे मान लिए और चार छोड़ दिये, हम लोगों की भूख को जगा दिया है, लोक-सभा और देश की भूख को जगा दिया है। इससे मालवीय जी को ज्यादा नुकसान होगा, ज्यादा फुसफुसाहट होगी और लोग समझेंगे कि दो मुद्दे कुछ खतरनाक मुद्दे थे। सवाल दो मुद्दों या एक मुद्दे का नहीं है। अगर पांच छोड़ दिये जाते हैं और एक मान लिया जाता है तो वह एक मुद्दा भी बड़ा गम्भीर मुद्दा हो सकता है, बहुत खतरनाक हो सकता है। मैं निवेदन करता हूँ कि जज खाली जांच करता है और रिपोर्ट दे देता है। वह यह नहीं कह सकता है कि उसको छपा जाए या न छपा जाए और न ही कोई आखिरी फैसला दे सकता है (Interruptions).

Justice S. K. Das into
certain transactions of
Messrs Serajuddin & Co.

Mr. Deputy-Speaker: He is only repeating the argument made earlier... (Interruptions).

Shri Nath Pai: Under what provisions of the Constitution can a private opinion of the judge of a high court and the Supreme Court be obtained? What are the provisions of the Constitution under which opinion of the high court or the Supreme Court can be obtained?

Mr. Deputy-Speaker: Order, order.

Shri Jawaharlal Nehru: I do not know what articles of the Constitution are necessary for an opinion to be requested.

Shri Nath Pai: Can I ask for an opinion from a judge of the Supreme Court?

Shri Jawaharlal Nehru: I did make a request to the Chief Justice of India and he, after consulting his colleagues, agreed to that request, but I do not know, if Shri Nath Pai makes a request what his response will be.

Shri J. B. Kripalani: Was Shri Malaviya a private employee or a public employee?

Some Hon. Members rose—

Mr. Deputy-Speaker: No more questions.

Shri Jawaharlal Nehru: Maybe it might have been a wrong step on my part to proceed on these lines, because the other course would have been to have a statutory enquiry governed by certain rules laid down. That would be under the Constitution, and the laws, etc. It was then decided, as is often done—it is not the first case—that a private advice on the papers that we have, on the evidence we have, would be better. That question is not so much of Shri Malaviya but of the Supreme Court judge himself. It puts him in a very false position if the opinion he has given in a private enquiry is made public because he himself is not protected then; it is not a statutory thing; the judge is not protected.

vate enquiry is made public because he himself is not protected then; it is not a statutory thing; the judge is not protected.

Shri Nath Pai: He cannot undertake a private enquiry then. It becomes an inquisition. Shri Malaviya can rightly charge you that it was an inquisition and not an enquiry because he was precluded from giving evidence.

Shri Jawaharlal Nehru: Shri Malaviya may charge or may not charge me, but that is the reason why right at the beginning the Chief Justice and Das stated that his report should not be published.

Shrimati Renu Chakravartty. How can some portions be published and some portions cannot be published. My hon. friend here even knows that it is a 70-page report.

Shri Jawaharlal Nehru: I do not know how he has got that. He said that parts of the report, a substantial part of the report, containing his main recommendations should not be published and the rest describing how it took place, the preliminary part which has not great importance can be published. (Interruption) First of all they said, both the Chief Justice and Das, that this report as a whole should not be published; but they added, because I had myself pleaded with them to get their permission to place it before the House, that they do not want to publish it but if we think it absolutely necessary even then we should not publish these parts, which would make the report truncated and pointless because important parts which the hon. Members are interested in are not to be published and the other descriptive parts might be published.

An Hon. Member: It is most unconstitutional.

Shri Hari Vishnu Kamath: Sir, I rise to a point of order. May I invite your attention to articles 124 to

[Shri Hari Vishnu Kamath].

147 of the Constitution which deals with the duties and functions and also powers of the judges of the Supreme Court in connection with the point raised by my colleague, Shri Nath Pai. There is no article among these, in this Chapter IV, relating to the Union Judiciary, which empowers a judge of the Supreme Court to take up private enquiries for the benefit of the Prime Minister. The other relevant Act is the Commission of Enquiries Act, 1952. These articles in the Constitution and the Commission of Enquiries Act, 1952 are the only provisions under the Constitution and law which can empower or entitle a judge of the Supreme Court to take up an enquiry. He was a Minister. Shri Malaviya, I am glad, was a Minister—I am sorry he is not a Minister now—and an enquiry was held into the conduct of a Minister of the Union, and the Prime Minister as head of the Government drafted or got a judge drafted for private duty for his own benefit. I submit in all humility, and if I may say so with all respect, that it is wholly unconstitutional, wholly illegal, and the only way to rectify it is for him to place the report of the judge on the Table of the House. That only can rectify the mistake, the blunder he has committed in this respect. I submit, the statement he has made in the House is wholly out of order.

Mr. Deputy Speaker: Anyway, it has nothing to do with the procedure of the House, and there is no point of order.

Shri Hari Vishnu Kamath: I have raised the point of order and I want your ruling. If you are not able to give it, then it is all right.

Mr. Deputy-Speaker: If it is unconstitutional you can contest it in a court of law, but it has nothing to do with the proceedings in the House.

Shri Hari Vishnu Kamath: This is deviating from the procedure, Sir.

You may kindly say that you are unwilling or unable.

Mr. Deputy-Speaker: There is no point of order.

Shri Hari Vishnu Kamath: Are you unwilling or unable?

Mr. Deputy-Speaker: I am not allowing. Let us proceed.

Shrimati Renu Chakraverty (Barackpore): I want to put a question. May I know.....

Mr. Deputy-Speaker: You should have got up earlier.

Shrimati Renu Chakraverty: I am standing up from the very beginning.

Mr. Deputy-Speaker: Nobody from her party got up.

Shrimati Renu Chakraverty: One full hour has been taken over this and we have not been allowed to ask a question.

Mr. Deputy-Speaker: The Prime Minister has replied.

Shrimati Renu Chakraverty: One party has been allowed to have the monopoly.

Mr. Deputy-Speaker: I said that I would allow two or three questions, and I have allowed nearly five or six questions.

Shri Bade (Khargone): I want to put one question.

Mr. Deputy-Speaker: No more questions.

श्री राम सेवक यादव उपाध्यक्ष महोदय,
मेरा एक प्रश्न है। प्रधान मंत्री ने अपनी आदत के अनुसार कहा कि मालवीय जी न दोषी हैं और न निर्दोषी हैं। जानना चाहता हूँ कि अगर वे यह दोनों नहीं हैं तो फिर हैं क्या वे ?

Mr. Deputy-Speaker: No more questions. Let us proceed now.