

RAJYA SABHA

(1980)

Point of privilege

Describing of Finance (No. 2) Bill, 1980 as Finance (No 2) Act, 1980 in a book by a publisher before the said Bill had been passed by Parliament.

Facts of the case and reference to the Committee of Privileges

On 4th August, 1980, when the Finance (No 2) Bill, 1980, as passed by the Lok Sabha, was about to be taken up for consideration in the Rajya Sabha, Shri Ladli Mohan Nigam, a member, raised¹ a point of order and invited the attention of the House and the Government to the publication of a book by Messrs Law and Management House of Ghaziabad "fully incorporating all the amendments to the Finance (No. 2) Bill, 1980, as passed by the Lok Sabha." According to Shri Nigam, this amounted to lowering the dignity of Parliament and committing a breach of privilege of the House.

On the same day, Sarvashri Narasingha Prasad Nanda, Era Sezhiyan, Ajit Kumar Sharma, N. K. P. Salve, Sadashiv Bagaitkar, Ramanand Yadav, Dinesh Goswami, Murlidhar Chandrakant Bhandare and Shrimati Margaret Alva, members, gave notice of a question of privilege against the co-authors--Sarvashri Dinesh Chandra Garg, Anil Kumar Garg and Vishnu Kumar Garg and Messrs Law and Management House, Ghaziabad, publishers of the Book entitled "Garg's Income-Tax Ready Reckoner, 1980-81 and 1981-82", on the ground that the book incorporated the provisions of the Finance (No. 2) Bill, 1980, describing them as provisions of the Finance (No. 2) Act, 1980, even before the said Bill was passed by Parliament and became an Act.

2. On 25th August, 1980, the Chairman (Shri M. Hidayatullah) after considering the matter in the light of the comments received from Shri Dinesh Chandra Garg, referred² the matter to the Committee of Privileges for examination, investigation and report.

Findings and recommendations of the Committee of Privileges.

3. The Committee, after considering the oral evidence of Sarvashri Dinesh Chandra Garg, Anil Kumar Garg and Vishnu Kumar Garg, in their Nineteenth Report, presented to the House on 3rd December, 1980, reported, inter alia; as follows: --

(i) "The Committee understands that the Government of India in the Ministry of Finance (Department of Revenue) had issued a Press Note dated June 20, 1980 in which it was, inter alia, made clear to publishers that to describe, publish and sell the Finance Bill, 1980, as Act before it received the assent of the President infringed the provisions of the Copyright Act and the sale of any such publication would also amount to an offence of cheating under the provisions of the Indian Penal Code. The Press Note also stated that this undesirable practice was brought to the notice of the publishers concerned and they had 'given an undertaking to refrain from doing so in future'."

(ii) "In his oral evidence before the Committee Shri Dinesh Chandra Garg, owning full responsibility for publication of the book stated that he wrote the preface to the book on July 30, 1980, under the impression that the Finance (No. 2) Bill, 1980, had been passed by the Lok Sabha on July 29, 1980 or would be passed on July 30th, 1980. He also pointed out that in the title of the book, a reference was made to 'the Bill and it was designated as Act only while explaining amendments proposed to be made by the Act. The Committee, however, noticed that Shri Garg had been publishing the Garg's Income-tax Ready Reckoner since 1964 and as far as the Committee could ascertain, all the editions of the book from year to year had been brought out before the Rajya Sabha had considered and returned the Finance Bills to the Lok Sabha and the President had assented to them. When Shri Garg was confronted with the fact he again admitted it and stated that it was his error to have published the book and regretted and apologised for the same."

(iii) "During the oral evidence the Committee drew Shri Dinesh Chandra Garg's pointed attention to the Press Note issued by the Ministry of Finance and ascertained from him whether he was aware of the issue and contents of the Press Note and whether he was also one of the publishers who had given an undertaking to Government not to indulge in the undesirable practice of prematurely and unauthorisedly publishing the Finance Act. To both these queries, Shri Garg replied in the affirmative. In other words the Press Note was within the knowledge of Shri Garg and he as a publisher had given an undertaking to a Government not to publish the Bill as an Act in future."

(iv) "After careful consideration of the facts of the case and the evidence before the Committee, the Committee is of the opinion that the publication of the provisions of the Finance (No. 2) Bill, 1980, in the book entitled "Garg's IncomeTax Ready Reckoner, 1980-81 and 1981-82" (1980 Edition), jointly written by Shri Dinesh Chandra Garg, Shri Anil Kumar Garg and Shri Vishnu Kumar Garg and published by Messrs Law and Management House of Ghaziabad (U.P.) when the said Bill was yet to be considered by the Rajya Sabha, sought to create a misleading impression on the public mind that the aforesaid publication was the Finance (No. 2) Act, 1980, As finally passed by Parliament and assented to by the President when in fact it was not so. The Committee do not give credence to the plea of Shri Dinesh Chandra Garg that the publication took place prematurely because at the crucial time of its publication he was in jail, in view of the fact that he had been habitually publishing such Reckoner in similar circumstances since 1964. He had also admitted that he was aware of the Press Note of the Finance Ministry referred to above and had in fact given an undertaking that he would desist from publishing the Bill as an Act of Parliament. In view of these facts the Committee has no hesitation in holding that the publication of the book amounts to deliberate and wilful effort on the part of its authors and publishers to misrepresent the proceedings and action of the House and, therefore, constitutes a breach of privilege and contempt of the House."

(v) "Having come to the definite conclusion that Shri Dinesh Chandra Garg and his co-authors and publishers had committed a breach of privilege and contempt of the House, the Committee gave very anxious thought to the nature and extent of the punishment which should be awarded to the contemners. In this context the Committee considered the various alternatives or options or modes of punishment that could be awarded for the enforcement of its privilege, namely imprisonment, fine, reprimand or admonition."

(vi) "The Committee was of the view that looking at the circumstances of the case, mere reprimand or admonition especially to Shri Dinesh Chandra Garg appeared to be too inadequate. As regards the imposition of fine, the Committee felt that the type of contempt which had been committed by the co-authors who are also the publishers had also the characteristic of an economic offence inasmuch as these persons by their unauthorised publication had made pecuniary gains out of the same and as such fine would have been the most appropriate penalty that could be imposed upon them. However, after examining the law and precedents on the subject whether the House had the power to impose the penalty of a fine for the breach of its privilege and after taking competent opinion in the matter, the Committee doubted whether the House possessed any power to impose the penalty of fine."

(vii) "It is quite evident from the facts of the case that Shri Dinesh Chandra Garg has since long been habitually and regularly publishing a book based on the provisions of an annual Finance Bill before it became the Finance Act, thereby misrepresenting proceedings and action of Parliament and deliberately misleading the public into believing that Parliament has given its final seal of approval to the financial proposals. As a person qualified in the professions of law and accountancy, Shri Dinesh Chandra Garg cannot be considered to be ignorant of the constitutional provisions and parliamentary procedures and processes through which a Bill passes before it becomes an Act of Parliament. There is no doubt, therefore, that the only motive in such a publication is making quick money by being first in the market without caring for the privileges of Parliament and other laws of the land or penal consequences of infringement thereof. This offence of Shri Garg has been aggravated by his flouting the undertaking given to, and almost ignoring the caution sounded by the Ministry of Finance through the Press Note to which a reference has already been made."

(viii) "The Committee is, therefore, of the opinion that a serious view is required to be taken of the breach of privilege committed by Shri Dinesh Chandra Garg in his capacity as the principal author and publisher of the book. The Committee feels that the contemner should not be allowed to escape merely with a formal or customary expression of regret or apology on his part or by a mere reprimand or admonition even though in stern language administered to him in the House. The Committee is convinced that Shri Garg has committed contempt of sufficient gravity so as to deserve the penalty of imprisonment. The Committee, therefore, recommends that Shri Dinesh Chandra Garg be committed to jail till the prorogation of the House without prejudice to any action to which he may be liable for violation of any other law of the land. In the opinion of the Committee such a penalty will not only be justified in the present case but also operate as a deterrent against erring persons and publishers in future. It will also, the Committee hopes, help put an end to an undesirable commercial practice which is being indulged in for long by Shri Garg and others in this line of business."

(ix) "As stated above, Shri Dinesh Chandra Garg has owned fully the responsibility for the publication of the book. The two co-authors, namely, Shri Anil Kumar Garg and Shri Vishnu Kumar Garg were also heard by the Committee along with Shri Dinesh Chandra Garg. From the evidence, it appears that the two co-authors had a very limited role to play in the making of the book. Shri Anil Kumar Garg stated in his evidence before the Committee that he had revised a few chapters and Tables in the book and Shri Vishnu Kumar Garg stated that he had prepared 60-65 Tables of

tax calculation. Both of them, however, stated that they worked under the guidance of Shri Dinesh Chandra Garg. In view of the limited contribution of the two co-authors to the preparation of the book, the Committee recommends that though technically Shri Anil Kumar Garg and Shri Vishnu Kumar Garg are also equally liable as Shri Dinesh Chandra Garg, a lenient view should be taken in their case and they be summoned to the bar of the House and reprimanded."

(x) "In considering the present case and recommending the punishment to the contemnors, the Committee has kept itself confined to the examination of the issue from the point of breach of privilege and contempt of the House. The other issue, namely, whether the sale of the publication in the circumstances attracts the provisions of the Copyright Act and the Indian Penal Code, as warned that they do, by the Ministry of Finance in the Press Note referred to above, does not fall within the purview of the Committee. At the same time, the Committee is not oblivious of the fact that there are other publishers who indulge in such an undesirable and illegal practice. The Committee therefore, recommends that Government should examine the matter with a view to initiating legal proceedings not only against the authors and publishers of Garg's Income-Tax Ready Reckoner but also similar other publishers for offences under the Copyright Act and the Indian Penal Code."

Action taken by the House-Reference back to the Committee of Privileges

4. On 11th December, 1980, Shri Pranab Mukherjee, Leader of the House moved ³ the following motion in the House:-

"That the Nineteenth Report of the Committee of Privileges presented to the Rajya Sabha on the 3rd December, 1980, be taken into consideration."

The following amendment to the above motion was moved⁴ by Shri M. Kalyanasundaram, a member-

"That at the end of the motion, the following be added, namely:-

'and having considered the same, this House recommits to the Committee of Privileges for reconsidering its recommendations regarding imposition of punishment on the contemnors'."

The motion, as amended was adopted by the House and the Report of the Committee of Privileges was recommitted to the Committee for reconsidering their recommendations.

Recommendation of the Committee of Privileges

5. The Committee of Privileges, in their Twentieth Report, presented to the House on 19th December, 1980, reported, inter alia, as follows: --

(i) "When the Nineteenth Report of the 'Committee came up before the Rajya Sabha at its sitting held on December 11, 1980, the House adopted the following motion: -

'That the Nineteenth Report of the Committee of Privileges presented to the Rajya Sabha on the 3rd December, 1980, be taken into consideration and having

considered the same, this House recommits to the Committee of Privileges for reconsidering its recommendations regarding imposition of punishment on the contemners'."

(ii) "Accordingly the Committee at its sitting held on December 17, 1980, reconsidered the matter and adopted this report."

(iii) "In view of the adoption of the aforesaid motion by the House, the Committee, on reconsideration recommends that in the totality of circumstances it would suffice if Shri Dinesh Chandra Garg is also summoned to the Bar of the House and reprimanded along with the other two co-authors Shri Anil Kumar Garg and Shri Vishnu Kumar Garg. The Committee has no doubt that the authority of the House would be vindicated and safeguarded by reprimanding the offenders for the breach of privilege and contempt of the House committed by them."

(iv) "While suggesting the above modification in the punishment to be imposed on the principal contemner, the Committee reiterates its earlier recommendation contained in paragraph 21 of its Nineteenth Report that Government should examine the matter with a view to initiating legal proceedings not only against the authors and publishers of Garg's Income Tax Ready Reckoner but also similar other publishers for offences under the Copyright Act and the Indian Penal Code."

Action taken by the House

6. On 22nd December, 1980, Shri Pranab Mukerjee moved the following motion which was adopted⁵ by the House:-

"That the Twentieth Report of the Committee of Privileges presented to the Rajya Sabha on the 19th December, 1980, be taken into consideration."

7. Shri Pranab Mukherjee then moved the following motion which was also adopted ⁶ by the House: -

"That this House agrees with the findings contained in the Nineteenth Report of the Committee of Privileges presented to the Rajya Sabha on the 3rd December, 1980, and the recommendations contained in the Twentieth Report of the Committee presented on the 19th December, 1980, and resolves that Shri Dinesh Chandra Garg, Shri Anil Kumar Garg and Shri Vishnu Kumar Garg, authors of the book entitled 'Garg's income-tax Ready Reckoner 1980-81 and 1981-82', published by Messrs Law and Management House, 26, Nai Basti, Ghaziabad (U.P.) be summoned to the Bar of the House and reprimanded during the current Session of the Rajya Sabha on a day and time to be fixed by the Chairman."

8. In pursuance of the above decision of the House the following Summons was issued by the Secretary-General, Rajya Sabha, on 22nd December, 1980, separately to Sarvashri Dinesh Chandra Garg, Anil Kumar Garg and Vishnu Kumar Garg to appear in person at the Bar of the Rajya Sabha on 24th December, 1980, to receive the reprimand:-

"RAJYA SABHA

SUMMONS TO RECEIVE REPRIMAND

TO

Shri Dinesh Chandra Garg/Shri Anil Kumar Garg/Shri Vishnu Kumar Garg, 126, Nai Basti, Ghaziabad U.P.)

WHEREAS the Committee of Privileges of the Rajya Sabha in its Nineteenth Report presented to the Rajya Sabha on December 3, 1980, in the matter of publication of the provisions of the Finance (No. 2) Bill, 1980, as the Finance (No. 2) Act, 1980 in the book entitled 'Garg's Income Tax Ready Reckoner 1980-81 and 1981-82', before the said Bill was passed by Parliament and assented to by the President, was of the opinion that the authors of the said book were guilty of committing a breach of privilege and contempt of the House;

AND WHEREAS, the Committee in its Twentieth Report recommended that Shri Dinesh Chandra Garg, Shri Anil Kumar Garg and Shri Vishnu Kumar Garg be summoned to the Bar of the House and reprimanded;

AND WHEREAS the Rajya Sabha has on December 22nd, 1980, adopted the following motion: -

"That this House agrees with the findings contained in the Nineteenth Report of the Committee of Privileges presented to the Rajya Sabha on the 3rd December, 1980 and the recommendations contained in the Twentieth Report of the Committee presented on the 19th December, 1980, and resolves that Shri Dinesh Chandra Garg, Shri Anil Kumar Garg and Shri Vishnu Kumar Garg, authors of the book entitled 'Garg's Income Tax Ready Reckoner, 1980-81 and 1981-82' published by Messrs. Law and Management I-louse, 126, Nai Basti, Ghaziabad (U.P.), be summoned to the Bar of the House and reprimanded during the current Session of the Rajya Sabha on a day and time to be fixed by the Chairman"

NOW, THEREFORE, in pursuance of the decision of the House, you are hereby summoned to present yourself in person at 10.30 A.M. on Wednesday, the 24th December, 1980 in the Parliament House, New Delhi, to receive the reprimand at the Bar of the Rajya Sabha at 11.00 hours on that day.

Herein fail not.

Dated this Twenty-second day of December, 1980.

Sd/

(S. S. BHALERAO)

SECRETARY-GENERAL

Rajya Sabha.

By order and in the name of Rajya, Sabha'

9. On 24th December, 1980, Sarvashri Dinesh Chandra Garg, Anil Kumar Garg and Vishnu Kumar Garg were brought to the Bar of the House by the Watch and Ward Officer and were reprimanded⁷ by the Chairman. In this connection, the following proceedings, took place in the House: -

"MR. CHAIRMAN: We shall now take up the item of business regarding the reprimand to Shri Dinesh Chandra Garg, Shri Anil Kumar Garg- and Shri Vishnu Kumar Garg.

I urge upon all the Members to observe silence while the contemnners are, being reprimanded so that the authority of the House and the significance of the occasion are realised.

Watch and Ward Officer.

WATCH AND WARD OFFICER: Yes, Sir.

MR. CHAIRMAN: Are Shri Dinesh Chandra Garg, Shri Anil Kumar Garg and Shri Vishnu Kumar Garg in attendance?

WATCH AND WARD OFFICER: Yes, Sir.

MR. CHAIRMAN: Bring them in. (Shri Dinesh Chandra Garg, Shri Anil Kumar Garg and Shri Vishnu Kumar Garg were then brought in. They bowed to the Chair and stood at the Bar of the House).

MR. CHAIRMAN: Dinesh Chandra Garg, Anil Kumar Garg and Vishnu Kumar Garg, the House has adjudged you guilty of committing a breach of privilege and contempt of the House for publishing the provisions of the Finance (No. 2) Bill 1980 as if it was an Act of Parliament before the said Bill was passed by Parliament and assented to by the President, in the book entitled "Garg's Income-Tax Ready Reckoner 1980-81 and 1981-82", of which you are the joint authors. The publication of the provision of the Finance (No. 2) Bill, 1980, in the book when the said Bill was yet to be considered by the Rajya Sabha, sought to create a misleading impression on the public mind that the aforesaid publication was the Finance (No. 2) Act, 1980, as finally passed by the Parliament and assented to by the President when in fact it was not so. This was a deliberate and wilful effort on your part as the authors to misrepresent the proceedings and actions of the House and, therefore, constituted a breach of privilege and contempt of the House.

In the name of the House, I accordingly reprimand you for committing breach of privilege and contempt of the House." (pause)

"I now direct you to withdraw."

(Shri Dinesh Chandra Garg, Shri Anil Kumar Garg and Shri Vishnu Kumar Garg then bowed to the Chair and withdrew).

1. R.S. Deb., dt. 4.3.1980, cc.204-08
2. Ibid, dt. 25.8.1980
3. Ibid, dt. 11.12.1980, c.209
4. Ibid, c.209
5. Ibid, dt. 22.12.1980, cc.43-44
6. Ibid, c.47
7. Ibid, dt. 24.12.1980, cc.1-2