

RAJYA SABHA

(1982)

Point of privilege

- (i) Laying of allegedly distorted minutes of Committee on Public Undertakings on the Table of the House;
- (ii) Request of the Chairman to reconsider his earlier ruling on a question of privilege; and
- (iii) Status of members of Rajya Sabha on Committee on Public Undertakings.

Facts of the case and ruling by the Chairman

On 26th July, 1982, the Chairman (Shri M. Hidayatullah) observed in the House as follows: -

"Shri Sadashiv Bagaikar, Shri Ramakrishna Hegde and Shri Surendra Mohan have given notices of breach of privilege against Shri Mahendra Mohan Mishra, a member of our House who laid on the Table of the House a copy of the minutes of the sittings of the Committee on Public Undertakings relating to its 47th Report on 14th July, 1982. The ground urged is that the minutes are not true to facts and do not faithfully reflect what transpired at the meeting of the Committee relating to the HSD deal. Shri Rama krishna, Hegde and Shri Surendra Mohan have stated that the minutes as laid on the Table of the House are a complete distortion and suppression of vital and critical information given to the Committee. Shri Ramakrishna Hegde and Shri Surendra Mohan have since forwarded to me a copy of an alleged verbatim record of the sitting of the Committee of April 2, 1982 regarding the file pertaining to the deal. Shri Piloo Mody and others also dumped copies of the alleged verbatim record on the Table of the House on 21-7-1982. Shri Sadashiv Bagaikar has also sought permission to move a breach of privilege motion against Shri Vairale, the Chairman of the Committee on Public Undertakings as well.

Shri Mahendra Mohan Mishra as a member of our House serving on the Committee on Public Undertakings laid on the Table of the House a copy of the Minutes of the sitting relating to its 47th Report on July 14, 1982. This was a purely ministerial function which he performed on behalf of the Committee in this House. The minutes have been authenticated by the Chairman of the Committee and Shri Mishra cannot be personally held responsible for inaccuracies, if any, in the minutes. No action for breach of privilege is called for.

Shri Ramakrishna Hegde and others have sent to me what is stated to be a verbatim record of the sitting of the Committee held on April 2, 1982. The minutes of the proceedings of a sitting of a Committee and the verbatim record of the evidence taken by the Committee are not the same thing. The verbatim records have not been authorised to be laid by the Committee. Therefore, no case of breach of privilege arises.

I therefore withhold my consent to the raising of the question of privilege against Shri Mahendra Mohan Mishra or the Chairman of the Committee on Public Undertakings.

Shri Jha's notice says that he wants to raise privilege question against the 'person manipulating file No. 20 of the Ministry of Petroleum and Chemicals'. This notice, to say the least, is vague and lacks in material respects. It is inadmissible.

There are three letters from Hon'ble members which may be taken up separately.

MR. MORARKA by his letter dated July 15, 1982, questions the authenticity of the Minutes which according to him, do not 'reflect what transpired at those meetings'. His charge is that the minutes are not only 'not competent' but are 'deliberately drafted in such a way so as to shield some transactions and certain individuals'. He has asked me to institute an inquiry and direct preparation of true minutes. He has also asked me to take steps to examine how such things may be avoided in the future. In a companion file I have ruled that the Rajya Sabha and its Chairman are incompetent to meddle in the affairs of the Committee on Public Undertakings which is constituted under Rules 312A and 312B of the Rules of Procedure and Conduct of Business in Lok Sabha. I have explained in detail the extent of the connection which this House has with the Committee and in what circumstances. The letter of Mr. Morarka seeks to impose on me a duty which, I regret, I cannot perform as I am incompetent. However, I can only send a copy of the letter to the Hon'ble Speaker for such action as he may deem necessary.

MR. ADVANI has complained by his letter of July 20, 1982, that he was denied access to the record of the proceedings of the Committee on Public Undertakings for a day on which he had participated in the work of the Committee. He says that the Hon'ble Speaker has ruled that Mr. Advani is not now entitled to see the record because he is no longer a member of the Committee. I have not seen the ruling but accept what Mr. Advani has said on that score. In view of the Ruling which the Speaker has given read with my ruling delivered today, I express my inability to intervene. It would be nothing short of sitting in appeal over the Hon'ble Speaker. The Comity between the two Houses demands that the Chairman and the Speaker between them must respect the views of the other, otherwise things would go round. However, in this case also I can only send a copy of the letter to the Hon'ble Speaker to inform him of the complaint of a former member of the Committee. The matter is governed by Rules 273(vi), 275(1) and (2). They are within his jurisdiction.

MR. J. P. MATHUR by his letter of July 20, 1982, has asked me to reconsider my earlier ruling withholding consent to his moving a privilege motion against Mr. Arun Shourie. He has asked me to examine the proceedings of the Committee on Public Undertakings to see whether Mr. Shourie has published proceedings of the Committee which are confidential. He has also referred to the letter of Mr. Morarka considered here. He has also asked me to give an opportunity to representatives of the Opposition Parties to examine the records of the proceedings of the Committee. I regret that I am incompetent to order the Chairman of the Committee to allow access to the records. As to the privilege motion against Mr. Shourie, the matter is rightly before the Hon'ble the Speaker by another request in the other House. I can only act under Rule 187 and that does not afford any scope. My attention has been drawn to a ruling of the Speaker in Lok Sabha Debates dated 12-8-1966 Col. 4544. I am sure the Hon'ble the Speaker's attention will be drawn to it by his Secretariat.

Since I gave my ruling on the notices for breach of privilege in the Oil Case, I have received a number of letters asking me to reconsider the whole question. There is first, a fairly long and argumentative one from Mr. Dinesh Goswami, and next there are two others from Mr. A. G. Kulkarni and Mr. Shiv Chandra Jha. Mr. Jha only asks me to reconsider my earlier ruling and his letter does not require any separate treatment. Mr. Kulkarni has relied on some earlier Rajya Sabha debates of 1963 where statements regarding the status of Hon'ble members on some Committees of Parliament were made. Mr. Goswami has also drawn my attention to them I shall deal with them presently. Mr. Kulkarni has also relied upon a statement in Kaul and Shakhder but Mr. Kulkarni's paraphrase is inaccurate. What is stated there is not what Mr. Kulkarni says. Mr. Kulkarni has also requested me to take action against Mr. Shourie of the Indian Express. I have dealt with this matter in another ruling today. I have nothing further to add to what is said there. Finally Mr. Kulkarni has said that 'since this involves a vital question of status of Hon'ble members of Rajya Sabha in comparison to the Hon'ble members of Lok Sabha, a review should be taken...'. This is what I am about to do now.

The claim is to raise questions of privilege under Rule 187 of the Rules of Procedure and Conduct of Business of the Council of States. That rule is in Chapter XVI which deals with questions of privilege. The rule reads:

'187. Question of Privilege: Subject to the provisions of these rules, a member may, with the consent of the Chairman raise a question involving a breach of privilege either of a member, or of the Council or of a Committee thereof.'

This rule is so plainly worded that it hardly requires a deep knowledge of the constructions of laws. It is more a question of grammatical construction which is, the golden rule. Remembering that there are two disjunctive 'ors' in the rule, we notice that there are only three separate occasions when a question of privilege may be raised. They are first a breach of the privilege of a member. It need hardly be said that if a personal privilege of a member be broached, the right to raise a proper question will always be upheld by me. But the breach must be real and not imaginative. Here no one asserts that his personal privilege has been breached. Secondly a question of the breach of the Council will have my special attention but it must be the privilege of the Council. Lastly the breach maybe 'of a Committee thereof'. The word 'thereof' points only to the Council mentioned earlier in the rule and it means the Committee of the Rajya Sabha.

It should be remembered that the rules of both the Lok Sabha and the Rajya Sabha define certain terms identically. The definitions of the words 'Council', 'House' and 'Houses' are uniform. 'Council' means the Council of States, 'House' in the singular means the Lok Sabha and the word 'Houses' means the Lok Sabha and the Rajya Sabha. So according to the rule the breach must be of a Committee of the Rajya Sabha. After carefully considering these with the rules of the House (which hereafter shall mean only the Lok Sabha) I had ruled that the Committee on Public Undertakings, not being a Committee of the Council, did not entitle members, of the Council to raise questions of privilege concerning the Committee. It did not give any right to members of the Council because the Committee is not of the Council.

This is not a question of sentiment nor of imagination but of going by the language of the rules. Following the scheme of the rules of the Houses. I shall use the words 'Council', 'House' and 'Houses' in the sense explained above.

To begin with we may put aside the rules of the Council because they do not even name the Committee on Public Undertakings. We go to the rules of the House, and see if the Committee can be said to be a Committee of the Council remembering the force of the word 'thereof' which restricts the area. The Committee is one of the Committees named and formed under Chapter XXVI of the Rules of the House. That chapter is headed 'Parliamentary Committees'. At first blush I felt that the Committee on Public Undertakings being a Parliamentary Committee may be accepted to be as much of the House as of the Council because members of the Council sit on it. But this idea was dispelled. Ordinarily headings of chapters and marginal notes are not used to interpret the words of the sections or the rules unless they have the same legal foundation as the black letter. The draftsman took no chances that a bright person may induct the heading as an aid to construction. What the draftsman did was to make the word 'Committee' and the expression 'Parliamentary Committee' mean the same thing as defined in sub-rule (i) of Rule 2. This is rule 253. That definition may be read here:

'Parliamentary Committee means a Committee which is appointed or elected by the House or nominated by the Speaker and which works under the direction of the Speaker and presents its report to the House or to the Speaker and the Secretariat for which is provided by the Lok Sabha Secretariat'.

Remember that the word 'House' means only the Lok Sabha. Thus by this definition read with the heading to Chapter XXVI and Rule 253 the inclusion of a reference to the Council is completely excluded.

Now let us see the provisions regarding the Committee on Public Undertakings. Rule 312A deals with the functions and is not relevant here. Rules 312B(1) needs to be read here:

312B (1): The Committee shall consist of no more than fifteen members who shall be elected by the House every year from amongst its members according to the principle of proportional representation by means of the single transferable vote.

(Proviso omitted).

The important words are 'not more than fifteen members who shall be elected by the the House', and we must remember that House means only the Lok Sabha. Therefore, in so far as the written rules are concerned, the net effect is that there is really no place for members of the Council on the Committee under the rules of the Houses. This result must be accepted because the first requisite for construction of the rules is a freedom from desire to reach a desired conclusion and then to begin reading in and reading out the Words. Indeed if the House were to abrogate the rule's 312 A and 312 B, the Committee will disappear without a trace notwithstanding its so called members from the Council on it.

This leads us to see how the Council members get on to the Committee. The House has Published on the Committee on Public Undertakings a handbook named an Introductory Guide. Section II paragraph 13 reads:

'The public Undertakings Committee consists of 22 members, fifteen 'elected by the Lok Sabha and seven elected by Rajya Sabha, according to the principle of proportional representation by means of single transferable vote.'

This is not an accurate statement. What really happens is that the House adopts a motion in two parts. Last time the first part dealt with the members of the Committee from the House and the second part read:

'That this House do recommend to Rajya Sabha that Rajya Sabha do agree to nominate seven members from Rajya Sabha to associate with the Committee on Public Undertakings of the House for the term beginning on the 1st May, 1982 and ending on 30th April, 1983 and do communicate to this House the names of the members so nominated by Rajya Sabha'.

It is to be noticed that the members of the Council are not even described as members but are associated with the Committee. When the Council passes a motion in furtherance of the motion it says inter alia?

'...the Rajya Sabha do agree to nominate seven members from the Rajya Sabha to associate with the Committee on Public Undertakings of the Lok Sabha...'

The description in the handbook of the Committee on Public Undertakings as a Committee of Parliament (page 1) is supportable only if the definition of 'Parliamentary Committee' in the Rules of the House is also incorporated. Therefore my earlier ruling that the committee is a Committee of Lok Sabha was right in all the circumstances of the case and therefore rule 187 gave no right to move a privilege motion in the Council.

Certain statements by Mr. Jawaharlal Nehru, Mr. A. K. Sen and Mr. Kanungo on the status of members of the Council associated in this and other Committees were referred to by Mr. Dinesh Goswami and Mr. Kulkarni. Panditji said that the members of the Council have the 'same grade and status.' Mr. Kanungo said that they 'carry the same rights and duties.' These refer to their position in the Committee but not in the House or the Council. If rights are claimed in the Committee by reason of association with the members of the House (Lok Sabha) these statements may be called in aid for what they are worth. But outside, the right to move the Council for breach of their privileges is not possible, except marginally in very clear cases of breach from outside sources or even more remotely within the Committee itself.

If as a result of the force of the rules, such as they are, the members of Rajya Sabha, who sit with elected members of the Lok Sabha, do not have equal rights under rule 187 of our rules, it is just unfortunate...

1. R.S. Deb., dt. 25.7.1982