

RAJYA SABHA

(1956)

Point of privilege

Non-acceptance of recommendation of Subordinate Legislation Committee by Government.

Facts of the case and action taken by the House

On the 28th August, 1956, during discussion on a motion for concurrence in the resolution adopted by Lok Sabha on 22nd August, 1956, for modification of Displaced Persons (Compensation and Rehabilitation) Rules, Diwan Chaman Lall, a member, stated that on the recommendation of the Advisory Board as well, as the support of the hon. Minister for Rehabilitation, the House had passed Rule 19 in September, 1955. On 12th January, 1956, an officer of the Ministry of Rehabilitation issued the following communication to the Chief Settlement Commissioner:-

"I am directed to refer to Rule 19 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955, and to say that sons and grandsons, whether major or minor, should not be counted as members of the joint Family, in the lifetime of their fathers and grandfathers, for the purposes of computing compensation under sub-rule 2 of the said Rule".

2. The member contended that the result of the communication was to nullify the total effect of that rule as accepted by Parliament. According to Rule 19, sons and grandsons were part and parcel of the undivided Hindu family, but the above interpretation of the rule deprived them of that benefit.

3. The member remarked that even the Committee, on Subordinate Legislation of Lok Sabha had Opined that there was no justification for the modification of Rule 19 so as to exclude the sons from the benefit of getting compensation when the father was alive and when both were members of a Hindu undivided family. He said that the recommendations of the Committee on Subordinate Legislation as well as those of the Advisory Board attached to the Rehabilitation Ministry, had been ignored by the Rehabilitation Minister. Above all, the decision of Parliament had also been flouted by his department, which constituted a breach of privilege of the House.

4 In support of his contention, Diwan Chaman Lall quoted the following lines from May's Parliamentary Practice.

"Disobedience to the orders of either House, whether such orders are of general application or require a particular individual to do or abstain from doing a particular act, or contravention of any rules of either House, is a contempt of that House."

5. Referring to the above objections of Diwan Chaman Lall, Shri H. V. Pataskar, Minister for Legal Affairs, said:--

"... A matter of breach of privilege has been raised on two counts: Firstly, there is an Advisory Committee. I am not concerned as to whether the advice of the Advisory

Committee should be preferred or the advice of the hon. Minister of the Government should be preferred.

...If the Government appoints an Advisory Committee but does not act on the advice of the Advisory Committee, how can you say that it is a breach of privilege?

"Another ground is that there is a Subordinate Legislation Committee.....

They have suggested, I am told, that this sub-rule 2 should be deleted. Whatever advice it is, it is not correct to say that supposing that Committee makes some recommendations and Government does not carry out those recommendations, it is not to be regarded as a breach of privilege of the House.

My friend read from May's Parliamentary Practice, the object of which is that if there is a direction given by Parliament which the Government or anybody does not carry out, then it becomes a breach of privilege, but that is not the object with which this Delegated Legislation Committee was formed.....

The Committee is to examine and make recommendation. Those matters may be considered. In this case, not only that but that Committee was appointed by the Lok Sabha and when this matter went there, the Lok Sabha itself had passed this amended rule which has come before this House for confirmation. How can it be any breach of privilege so far as that other House is concerned, because the Committee may say something, but the House is superior to that Committee. So, I submit that both these points with respect to the breach of privilege, are not valid."

6. Replying to the debate, Shri Mehr Chand Khanna, Rehabilitation Minister, said that the Government's Rehabilitation scheme was fair and exhaustive.

7. The question of breach of privilege was not further discussed and original motion of the Rehabilitation Minister regarding modification of sub-rule (2) of rule 19 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 was put to the House and adopted.