

11 Noon BULLING BY CHAIRMAN ON THE QUESTION OF PRIVILEGE AGAINST THE MINSTER OF HOME AFFAIRS REGARDING STATEMENT MADE BY HIM IN THE HOUSE ON THE 8TH JULY, 1980, ON THE BAGHJPAT INCIDENT.

श्री सत्यपाल मलिक (उत्तर प्रदेश) :
मान्यवर, मेरा व्यवस्था का प्रश्न है। . . .
(Interruptions)

श्री रामेश्वर सिंह (उत्तर प्रदेश) :
श्रीमन् इनका व्यवस्था का प्रश्न है। सुन लीजिए।

SHRI BHUPESH GUPTA (West Bengal):
I have a submission to make before you give the ruling, sir.

MR. CHAIRMAN: Just a minute.

SHRI BHUPESH GUPTA: I am only requesting you.

श्री सत्यपाल मलिक : मैं आपकी व्यवस्था चाहता हूँ। आपने कल सदन में जो मेरे विशेषाधिकार के मामले पर बातें कहीं उसके दोनतीजे निकलते हैं। एक तो यह कि विशेषाधिकार के मामले के सारे अधिकार आपके हैं इस पर मैं व्यवस्था चाहता हूँ? नियम यह कहते हैं कि यह जो सदन है यह विशेषाधिकारों का स्वयं मालिक है

'The Speaker's power basically is to see whether on the face of it the matter is such as deserve to be allow. ed to be raised as a matter of privilege giving it priority over other business.

मेरा निवेदन यह है कि आप खुद प्रिविलेज कमेटी की तरह से बिहेव कर रहे हैं। अगर यह मान लें कि आप ही प्रिविलेज कमेटी हैं तो मैं यह निवेदन करना चाहता हूँ कि मैंने जो बेसिक प्रिविलेज नोटिस दिया था उस पर आपकी जो बातें थी क्रोनोलोजिकल, तरतीबवार, उससे यह नतीजा निकलता है कि जैसे मैंने गलत डाकुमेंट्स दिये हैं। (Interruptions) मैं आपकी व्यवस्था चाहता हूँ। अगर आप प्रिविलेज कमेटी के तौर पर व्यवहार कर रहे हैं तो जो बेसिक डाकुमेंट्स

हैं उन सब को आपको मंगाना चाहिये।
(Interruptions)

श्री सभापति : मैं प्रिविलेज कमेटी की तरफ से नहीं कर रहा हूँ। आप समझे नहीं हैं। आप डाकुमेंट्स मेरे पास लेकर आएँ और मुझे दिखाएँ तो क्या मैं आँखें बंद कर लूँगा। अगर मैं नहीं देखूँ तो आप खफा और देखूँ तो वह खफा। मानू या न मानू मेरा दोनों—तरफ से नुनसान। (Interruptions)

श्री सत्यपाल मलिक : आपकी व्यवस्था चाहता हूँ। मैंने आपको बेसिक नोटिस दिया था। (Interruptions)

श्री रामानन्द यादव (बिहार) :
मेरा प्वाइंट आफ आर्डर है . . .
(Interruptions)

SHRI PILOO MODY (Gujarat): Why do you disturb the House? (Interruptions)

श्री सत्यपाल मलिक : मैंने यह कहा था कि इसमें रेप की संभावना है.. (Interruptions)
आप मेरा प्वाइंट आफ आर्डर सुन नहीं रहे हैं।

श्री सभापति : आप जरा सुनिये।

श्री सत्यपाल मलिक : चीफ मिनिस्टर ने भी उसे कारोबोरेट किया था . . .
(Interruptions)

श्री सभापति : आप सुनिये।

श्री सत्यपाल मलिक : आप अगर खुद फैसला दे रहे हैं . . . (Interruptions)

श्री सभापति : मैं खुद फैसला नहीं दे रहा हूँ।

श्री सत्यपाल मलिक : आप अगर खुद इस पर फैसला देंगे और इसको कमेटी को नहीं भेजने वाले हैं तो जो मेडिकल रिपोर्ट का रजिस्टर है that should be called चाहे उसमें दो दिन लग जाएँ मुझे कोई एतराज नहीं। (Interruptions)

श्री सभापति : यह फैसला नहीं हो रहा है कि रेप हुआ है या नहीं। आप इतना नहीं समझते हैं। आप सुनिये।

श्री सत्यपाल मलिक: प्राइमफेसी केस
बन चुका है। (Interruptions)

MR. CHAIRMAN: Please sit down. I am giving my ruling on the privilege issue.

The notice of a privilege motion given by hon. Shri Satya Pal Malik on 23rd July, 1980 refers to a statement made by the hon. Home Minister in the House on the 8th July, 1980. I again repeat: It refers to a statement made on the 8th July, 1980. The privilege motion avers that the statement made by the hon. Home Minister was false and deliberately misleading.

As the motion relates to the statement of the 8th July, 1980, in view of an earlier ruling by me in the House, it is sustainable only on one of the three grounds, namely:

- (1) That the Minister made a statement which he knew was false; or
- (2) That he made a statement which he did not himself believe to be true; or
- (3) That he made the statement without due care and attention and negligently asserting something as true which turned out to be false.

The matter has been judged in this light as on 8th July, 1980. Mr. Malik's later inquiries and research and their results do not enter into this question. As the hon. Minister was not an eye-witness to the alleged rape or to the examination by the doctor, he could have only spoken on the statements of facts in his possession as on the 8th July, 1980 or before. We must judge the *bona fide* of his conduct only on this footing and the privilege motion itself is based on his conduct and *bona fides* as on a particular date.

In accordance with the established practice, the motion was drawn to the attention of the hon. Minister for his

comments before I took any decision. In reply to my query, the Home Minister only gave the contents of the report as he had with him and volunteered, perfectly *bona fide*, that he would "make further inquiry".

The matter thus boils down to this: what were the contents of that medical report on which the statement was based? And in reply to my query, the Hon'ble Home Minister said;

"The medical report dated 18th June, 1980 referred to by Shri Satya Pal Malik is not with us. We have another medical report of 18th June, 1980, a copy of which is enclosed. We have asked Government of Uttar Pradesh to verify the authenticity of the report sent by Shri Malik...."

Therefore, as late as 26th July, 1980 there was but one report before the Hon'ble Home Minister and that did not make a reference to rape or even a probable rape. It mentioned only an injury to the pudendum, which could be due to rape or other causes. This report was furnished by Dr. N. Pant, Medical Officer, Women's Hospital, Meerut, on examination at 7-15 p.m. on 18th June, 1980.

On 26th July, 1980 Dr. N. Pant, in reply to a query by the District Magistrate through the Senior Medical Superintendent, Women's Hospital, stated: "I have to say that I conducted"—which is a mistake; "I gave"

from M if H—

"no other report dated 18th June, 1980 on Shrimati Sudesh other than the report, a copy of which has already been submitted by me today at 11 a.m. Point is clarified accordingly."

These facts were communicated to me on 28th July, 1980 by the Hon'ble Home Minister. He again asked me "to request the hon. Member about the source and authenticity of the report produced by him."

It appears that the lady was later sent to P. L. Sharma Hospital and from there to the Dufferin Hospital and the Dufferin Hospital referred

her again to Dr. N. Pant. She examined her again on 19th June, 1980, that is, the next day, at 9 a.m. The second report thus came into existence on 19th June, 1980 at 9 a.m. In this second report Dr. N. Pant said:

"Vaginal injury noted by me yesterday, in my opinion, is probably a rape injury,"

Therefore, there were two reports*, one dated 18th June, 1980 and the second dated the next day, that is, 19th June, 1980.

Leaving out of account the word "probably" which makes the subject of rape an open issue still the second report was not brought to the notice of the Hon'ble the Home Minister on or before 8th July, 1980.

We are not concerned with the knowledge acquired by the Hon'ble Shri Malik, on his private inquiries. In fact, I was first shown a copy of the report in which the word "probably" figured and about which I made a comment that this is not a definite opinion. The word **गालिबन** was mentioned in the notice of 23rd July, 1980. However, the next day I was given a copy of the report in which the opinion of the doctor was made to read: "In my opinion it is a case of rape". It was dated also 18th June, 1980, which is a wrong date.

I do not agree with Mr. Malik that these changes were not of any consequence. I am also entitled to get a proper copy of the alleged report; otherwise there would be no difference between the conduct of the Hon'ble Member and the alleged conduct of the Hon'ble the Home Minister. When on the 23rd it was already said that the opinion was that "This is probably a case of rape" written in the notice itself, on the 24th the word "Probably" could only have been dropped to make rape of a certainty. This report without the word "probably" was presumably also put to the House by another Hon'ble Member who had shown it to me in my chamber.

The statement of the Hon'ble the Minister as of 8th July, 1980 was, therefore, made bona fide based on the information then in his possession, on the 4th August, 1980.

श्री रामेश्वर सिंह श्रीमान् :

(Interruptions)

MR. CHAIRMAN: Every word of this is correct and I have got it judicially examined. Do not talk while I am reading.

On the 4th August, 1980, the hon. the Home Minister has written to me the following:

"I have ascertained that a copy of these proceedings was sent to my office for scrutiny as usual, when it was suggested that word may be added in the sentence

“इस रिपोर्ट में डॉक्टर ने यह नहीं माना है कि उसके साथ कोई रेप हुआ है”

PJOM. aqi Ja:j'3 ' 'f^" indicate that the doctor has not definitely said ____ I find that this correction has not been carried out yet, even though suggested within the normal time given for such corrections.

Even otherwise if my above statement is read as a whole it gives a clear impression that I had never said that there was a rape committed, I have mentioned that it is yet to be proved whether the rape was committed or not on the lady. Further, I have also clarified that I would ascertain further details from the persons (i.e. the doctor) concerned. I have also clarified that it would not be proper to make any definite statement when a judicial enquiry has been ordered.

I would also request the Chairman to make proper note of the fact that the Member of the House had relied on a patently false report to write his first letter alleging breach of privilege against me

without taking the common precaution of at least satisfying himself that the document is *prima facie* true before making such a serious allegation against a Member of the Council of Ministers."

On the 5th, that is yesterday, the hon. the Home Minister has sent me two further reports which state that the X-ray showed that the age of the lady was between 19 and 20 years and there was no fracture of any bone. The report of the smear test was also negative. I am not deciding whether there was rape or not. I have only to decide whether the hon. the Home Minister's statement was false and misleading in all the circumstances of this case. The fact that the Chief Minister of Uttar Pradesh gave a different version on a later date does not make any difference. It was after the critical date, 8th July 1980.

Whatever may be the later developments after 8th July 1980, the question for me to consider is whether the Home Minister wilfully misled the House on that date. It is clear from the records that what the Minister stated in the House was based on the information in his possession which had been supplied to him by the Government of U.P. and which did not mention about rape and he had no reason to doubt it. Thus he has not misled the House wilfully or otherwise. I have fully explained the reasons for the decision because of the tension this unfortunate incident has evoked in the House and outside, I am not concerned with the facts as they later emerged or may further emerge. I am only concerned with the statement of the Home Minister on 8th July, 1980.

Basing myself on this fact I withhold consent to Shri Malik to raise the matter as a matter of privilege or contempt of the House as in my

opinion not even a *prima facie** case has been established

SHRI NAGESHWAR PRASAD SHAHI (Uttar Pradesh): We do not agree with this. You will permit me to say (Interruptions.)

MR. CHAIRMAN: I have given my ruling. I do not want to enter into an agreement.... (Interruptions.)

SHRIMATI PURABI MUKHOPADHYAY (West Bengal): Is it appreciation for rape? You should be ashamed of it.

SHRI RAMANAND YADAV: You abide by the ruling (Interruptions). On a point of order... (Interruptions.)

श्री नगेश्वर प्रसाद शाही : चेयरमैन साहब, एक बात मुन लें . . (Interruptions)
रामानन्द जी, आप नहीं बोलने देंगे ।

चेयरमैन साहब, होम मिनिस्टर ने जान-बूझ करके तथ्य को छुपाया है। होम मिनिस्टर के हाथ में मेडिकल रिपोर्ट थी। उन्होंने जान-बूझ कर उसको छुपाया है ।

MR. CHAIRMAN: I have given my ruling and I have nothing to add.

[MR. DEPUTY CHAIRMAN IN THE CHAIR]

श्री नगेश्वर प्रसाद शाही :
.. (Interruptions) .. यू० पी० गवर्नमेंट दूसरी रिपोर्ट नहीं भेज सकती है। यह विरोधी पक्ष के साथ अन्याय है। गृह मंत्री जी ने जो फैक्ट्स थे उनको जानबूझकर छुपाया है। हम इसको मानने को तैयार नहीं हैं (Interruptions) उनके हाथ में, होम मिनिस्टर के हाथ में मेडिकल रिपोर्ट थी (Interruptions) हम यह मानने को तैयार नहीं हैं । (Interruptions)

श्री उपसभापति : इस पर बहस नहीं हो सकती है । (Interruptions)

श्री नगेश्वर प्रसाद शाही : हम यह नहीं मानते हैं (Interruptions)

18 तारीख को और दूसरा 19 तारीख को. ..
(Interruptions) इसके विरोध में हम वाक-
झाऊट करते हैं। होम मिनिस्टर को इस्तीफा
देना चाहिए। होम मिनिस्टर ने जान-बूझ
कर असत्य बोला है (Interruptions) हम
लेगे इसके विरोध में वाक-झाऊट करते हैं
(Interruptions)

[At this stage, some hon. Members left the
Chambers.]

SHRI PIARE LALL Urf PIARE LALL
TALIB UNNAVI (Uttar Pradesh); Sir, he has
no right to challenge the ruling.
(Interruptions.)

SHRI P. RAMAMURTI (Tamil Nadu):
Sir, just one word. (Interruptions)

MR. DEPUTY CHAIRMAN: Order,
please.

SHRI P. RAMAMURTI: Sir, just one
word.

SHRI BHUPESH GUPTA: Sir, I
am rising on some other matter.
(Interruptions.)

MR. DEPUTY CHAIRMAN: Just a
minute. Now, Papers to be laid on the Table.

PAPERS LAID ON THE TABLE

The Assam Alienation of Land
(Regulation) Act, 1980

THE MINISTER OF AGRICUL-
TURE AND RURAL RECONST-
RUCTION (RAO BIRENDRA
SINGH): Sir, I beg to lay on the
Table, under sub-section (3) of
section 3 of the Assam State Legis-
lature (Delegation of Powers) Act,
1980, a copy (in English and Hindi)
of the Assam Alienation of Land
(Regulation) Act, 1980 (No. 1 of
1980), enacted by the President.
[Placed in Library. See No. No. LT-
1202/80]

RE: QUESTION OF PRIVILEGE AGAINST THE MINISTER OF HOME AFFAIRS

SHRI P. RAMAMURTI (Tamil
Naidu): Mr. Deputy Chairman, Sir,
just one word. In all fairness to this
House, after the Home Minister got
possession of the new Report, he
should come before the House and
said: "I have got a different Report."
and he should have placed all the
facts before the House. This is
required in all fairness to the House. Not
doing that means that you are supressing
these facts. This is a wrong thing. I hope you
will direct them to do it hereafter.

SHRI BHUPESH GUPTA (West Bengal):
Sir, I am raising on some other matters. When
Mr. Rama-murti has said, I support. I, support
it. But some other matter I have got to raise
now.

MR. DEPUTY CHAIRMAN: Just a
minute. Mr. Mathur now.

SHRI BHUPESH GUPTA: That is not in
connection with the ruling of the Chairman.
The ruling is there.

MR. DEPUTY CHAIRMAN: Just a
minute. Mr. Mathur, please.

REQUEST FOR LAYING ON THE TABLE THE INQUIRY COMMITTEE REPORT ON THE LATHI CHARGE BY THE POLICE ON BLIND PERSONS

श्री जगदीश प्रसाद माथुर (उत्तर प्रदेश):
उपसभापति जी, अंधों के ऊपर जो लाठी चार्ज
किया गया उसके पश्चात सरकार ने उनको
नौकरियाँ देने की लीगल व्यवस्था करने की
घोषणा की है मैं अंधों के नेता श्री रंगटा और
अंधों की जो संस्था हैं उनको, सरकार को भी
इस बात के लिए बधाई देता हूँ। इसका अच्छा
परिणाम निकला है लेकिन इसका दूसरा भाग
अभी बाक़ी है। पुलिस के लाठी चार्ज की