

## **RAJYA SABHA**

(1974)

### **Point of privilege**

Alleged assault on a member by Police

### **Facts of the case and reference to the Committee of Privileges**

On the 19th February, 1974, Shri Niren Ghosh, a member, sought to raise a question of privilege in the House alleging that he was assaulted by the police during the course of his arrest on the 2nd February, 1974 from the Alliance Jute Mills Labour Lines, Jagatdal.

On the 14th May 1974, Dr. K. Mathew Kurian and some other members again, raised the matter in the House. The Chairman observed that relevant extracts from the proceedings of the House would be sent to the Minister of State in the Ministry of Home Affairs for factual comments.

3. The Minister of State in the Ministry of Home Affairs made a statement in the House on August 26, 1974 wherein he stated inter alia that the allegation that Shri Niren Ghosh was assaulted by the Police on February 2, 1974 had been denied by the West Bengal Government.

4. The Chairman referred the matter to the Committee of Privileges for examination, investigation and report.

### **Findings and recommendations of the Committee**

5. The Committee of Privileges, after considering the factual report received from the Government of West Bengal and after taking oral evidence of the concerned Officers of the Government of West Bengal and Shri Niren Ghosh, M.P., in their Sixteenth Report presented to the House on the 14th May, 1975, reported inter alia as follows:-

(i) "The Committee after careful consideration formulated the following two issues for its examination :-

(1) Whether an assault on Shri Niren Ghosh, member, Rajya Sabha on February 2, 1974, when he was 'talking to the workers' of the Alliance Jute Mills in Jagatdal area, constituted a breach of privilege of the member and of the House?

(2) Whether the report on the incident received from the West Bengal Government was factually incorrect and if so, whether the same was sent to the Rajya Sabha Secretariat with the knowledge that it was so and with the intention of misleading the House and the Committee of Privileges?"

(ii) "The privilege is available to a member only when he is obstructed or in any way molested while discharging his duties as a member of Parliament. Thus, it would be a breach of privilege and contempt of the House to obstruct or molest a member while

in the execution of his duties as a member, i.e., while he is attending the House or any of its Committees or when he is coming to, or going from the House or any of its Committees. The privilege, however, is not available in a case when the member is not performing any parliamentary duty."

(iii) "On the evidence adduced before the Committee it is clear that the alleged incident took place when Shri Niren Ghosh was talking to the workers near the Alliance Jute Mills, Labour Lines in Jagatdal area. It cannot, therefore, be said that Shri Niren Ghosh was performing any parliamentary duty at the time of the incident and as such, his arrest and the alleged assault on him in these circumstances do not, involve any breach of privilege or contempt of the House or of the member."

(iv) "While considering the second issue, the Committee noted the following facts which emerged from the evidence recorded by it:

(a) The Jute Mill workers were on strike and an order under section 144 Cr. P. C. prohibiting an assembly of 5 or more persons within the area of Jagatdal Police Station was in force at this relevant point of time.

(b) The police authorities knew that a member of Parliament and a trade union leader of eminence, was going to address the jute mill workers in the Jagatdal area.

(c) When the police party rushed to the spot and found an assembly of 300/400 persons, they got down from the police van, chased the mob brandishing lathis to disperse them.

(d) In spite of the categorical denial by the West Bengal Government in their report and by the officers in their evidence before the Committee, Shri Niren Ghosh reiterated that one blow from a lathi was struck against him by a policeman."

(v) "On the basis of the evidence before it, the Committee was of the view that in the melee described above, it is quite possible that Shri Niren Ghosh might have received a lathi blow from a policeman. The Committee sees no reason to disbelieve the testimony of Shri Niren Ghosh on this point and finds that he did receive a lathi blow from a policeman when the police approached him brandishing their lathis to disperse the mob."

(vi) The Committee then considered whether the West Bengal Government sent their report in the matter with the knowledge that it was incorrect and with the intention of misleading the House or the Committee. Acts which mislead or tend to mislead, must be done wilfully with the intention to mislead or deceive and that the element of deliberateness is an essential ingredient of the offence.... In the present case it is difficult to hold that the West Bengal Government had forwarded the report of the District Magistrate in the matter with the knowledge that it was incorrect or with the intention to mislead the House or the Committee of Privileges. So, on this score, the Committee came to the conclusion that no breach of privilege or contempt of the House was involved."

(vii) "The Committee, however, took note of the fact that the District Magistrate, 24 Parganas while conducting the inquiry relied completely on the statements of the police officials concerned and did not make any independent inquiry into the

matter.... Again, the officials in the Secretariat of the West Bengal Government did not exercise due care and caution in the matter.... The Committee takes serious view that a matter concerning a member of Parliament and raised More than once in the Rajya Sabha was not treated by the State Government with the gravity that it deserved."

(viii) "However unwarranted and open to censure the action of the police authorities may be, the Committee finds it difficult to spell out any breach of privilege from the findings arrived at in this case. The Committee, however, considers it necessary to emphasise that members of Parliament are entitled to the utmost consideration and respect at the hands of the public servants and as such the police or any other authority should not do anything or act in a manner as will hamper them in their functioning as public- men. The authorities, when dealing with members of Parliament, should act with great restraint and circumspection and show all courtesy which is legitimately due to the representatives of the people."

(ix) "In the view taken by the Committee and in the circumstances of the case, the Committee recommends that no further action be taken by the House in the matter."

#### **Action taken by the House**

7. No further action was taken by the House in the matter.

1. R.S. Deb., dt. 19.2.1974