

(RAJYA SABHA)

(1981)

Point of privilege

Alleged misleading of the House by a Minister and alleged casting of reflections on the Minister by a journalist

Facts of the case and ruling by the Chairman

On 11th September, 1981, the Deputy Chairman (Shri Shyam Lal Yadav) informed¹ the House inter alia as follows: -

"Hon. Members I have just received a ruling from the Hon. Chairman on the privilege issues.....I am reading the ruling delivered by the Hon. Chairman on his behalf.

On September 2, 1981 the Finance Minister Shri R. Venkataraman, while replying to a Calling Attention, regarding reported irregularities in the matter of grant of Income tax exemptions to certain trusts in Maharashtra, made clarificatory statements. Notices of Breach of Privilege were received from the hon. Shri L. K. Advani, Shri Shiva Chandra Jha, Shri Ramakrishna Hegde, Shri Satyapal Malik and Shri Nageshwar Prasad Shahi in respect of the said statements stating that the Minister had deliberately misled the House. The matter related to the establishment of a trust called the Pratibha Pratishthan which was later described as the Indira Gandhi Pratibha Pratishthan. The question, in addition to the way the trust was operated, led to a question whether the, Prime Minister had consented to the use of her name in the name of the Trust and had herself inaugurated it.

In his clarificatory statement shri Venkataraman stated as follows: -

'Now what happened in this case was that the Chief Minister said that he wanted to establish a Pratibha Pratishthan, which would do all sorts of services, being an Eil Dorado into the world to help the poor people, serve the poor people, help everybody and so on. What she agreed to 'was that pratishthan should be established, and not that her name should be associated with it and when she came to know about it, she asked them to withdraw her name. Therefore, there is no question of her having called them to associate her name with these things.'

He also said, as he put it later in his reply to me, 'I had also stated that the Prime Minister did not inaugurate the Trust. These two facts were stated to be misleading.

On September 4, 1981, the 'Indian Express' reproduced a photograph obtained from the Directorate of Information, Government of Maharashtra, which was printed alongside a signed item from Shri Arun Shourie, Executive Editor, which carried the heading 'Petty little lies in Parliament'. Shri Shourie charged Shri Venkataraman with having told lies and challenged him to bring a privilege motion against him, i.e. Shri Shourie. The first set of Privilege Motions referred to these items, some enclosed cuttings and some said that evidence was in their possession.

A second set of notices of breach of privilege was received from the hon. Shri P. Ramamurti, Shri A. G. Kulkarni, Shri Dinesh Goswami and Shri N. P. Shahi between 4 and 7 September, this time against Shri Shourie.

According to the practice of the House both the sets were sent respectively to Shri Venkataraman and Shri Shourie for their comments Both these were replied. Shri Shourie in his detailed comments running into 23 Pages referred to a number of annexures from 'Sakal', 'Lok Satta', 'Lok Rajya' and 'Sunday Standard'. These he contended nailed the lies of the Finance Minister. I shall deal with the two sets of notices separately but I shall refer to the whole of the material produced before me including one more exhibit from the 'Indian Standard' which came before me on 9th September, in the following way.

Shri L. K. Advani sent two letters of even date (9th September, 1981) in continuation of his notice originally given and pointed to some additional matters including another cutting from the 'Indian Express' of 7th September, 1981.

The charge that the Minister misled the House is based on:

(a) A photograph showing the Prime Minister signing a document with the Chief Minister, Maharashtra, looking on with a caption under the photograph.

(b) The contents of that document.

(c) A photograph showing the Prime Minister addressing a gathering of members of the Maharashtra Assembly with its caption in the 'Indian Express' of 7th September, 1981.

(d) The accounts published in the newspapers of the happenings of the 11th October, 1980, the date to which the photographs relate.

Before I decide whether to give consent or not I wish to clear some points of procedure. In every case in which the Chairman does not reject the notice at the very threshold, the comments of the person charged with the breach or contempt, as the case may be, are obtained to see whether 'consent should be given or withheld. This is decided by linking at the allegations and the comments together. The first stage is the prima facie stage. The expression is misunderstood as relating to the second stage. The person moving for consent must prima facie (at first appearance) make a case sufficient to call for an answer. When the first stage is passed, what has to be looked for is prima facie evidence which must be sufficient to establish a fact. But if the explanation destroys the prima facie case or the evidence is completely insufficient or inconclusive, consent may be withheld. It must, however, be a clear case of a self evident situation.

Next I must remind the hon'ble Members of what I said on 6th August, 1980, that a charge of this kind is only sustained on one of 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 or attention and negligently asserting something as true which turned out to be false.

I have adverted to these matters of procedure etc. because from the discussion in the House as I have seen in this case it appeared that the contenders thought that I was merely to send the notices and the comments without seeing for myself whether consent can be properly and truly given in this particular case.

Coming now to the comments of the Finance Minister, I shall deal with the two allegations against him separately.

I. Re: the consent to the name of the Prime Minister

There is no document, letter or other in which this consent was given or asked for, except the document the Prime Minister is signing as shown in the photograph. The document mentioned the name of the Trust as 'Pratibha Pratishtan, Maharashtra'. There was no mention of the new name or that the old name would be changed. Ordinarily there is a letter of request to associate the name of the President or Prime Minister and there is a specific or categorical reply. There is none in this case. Looking at the photograph and the document (now produced) one finds no mention of a consent to a change of name. The heading also does not change the name. There is the signature and the place Bombay and date and no other writing in hand. The heading reads:

'Pratibha Pratishtan, Maharashtra brobar Sahabhagi houvas male atiyashe anand ahe'(Sd. Indira Gandhi)

Now the crux of the matter is what was the special fact that the document conveyed? It was a document which anyone could have signed, be he a Minister, a banker, a businessman, an M.P and even an editor without his name going into the title of the Trust. More than one such document could be signed by different persons and surely all the names could not be incorporated in the title. One needs a little more than this to reach an absolute conclusion.

Looking to its meaning all the force lies in the word 'sahabhagi'. What did it mean? Shri Advani in his letter to the Secretary General (9th September, 1981) gave the meaning from Prof. Deshpande's Marathi--English Dictionary as 'co-partner' That meaning hardly fits. Shri Advani himself gave the meaning in his second letter as 'associate.' The word as used only means 'I am with you and I am very happy.' It does not mean 'I agree to my name being used.'

The effect of the photographic representation is brought out by a caption and the future dealings with the trust, such as changing the name, the name in the bank accounts and what not. We have to assume that the Prime Minister knew all this. There is only one letter from the Prime Minister's office, dated June 23, 1981 in reply to the letter of the Chief Minister, dated 7th May, 1981. That was long before this matter in Parliament. In that letter the Special Assistant to the Prime Minister said:

`.....The Prime Minister does not approve of her name being used by the Pratishthan. She desires that the name may be changed even at this stage.'

Now the caption below the photographs showing her affixing her signature was most probably done by the Maharashtra Government.

It could not be the Prime Minister's doing. Otherwise, the letter would not be written in that way. It is asked by Shri Shourie what the Prime Minister was doing from 11th October, 1980 to 23rd June, 1981, when she asked that her name be dropped? If Government machinery moved the speed of an express train, it would be possible, but we know that it does not. The criticism against the Trust had not built up till lately. It appears that between the P.M. and the C.M. there was a communication gap and one thought that the consent was given and the other was clear that it was not.

II. Whether the Prime Minister inaugurated the Trust?

The reply of the Finance Minister was categorical that she had not. I begin with the last document, namely the photo from the Indian Standard reproduced in the Indian Express of 7th September, 1981. It was brought to my notice by Shri L. K. Advani. Here again, it is a question of captions. Now the photo in the Indian Express of the 7th September has two captions. In the reproduction of the block, there is a caption which reads:-

(1) 'Premier Indira Gandhi addressing Maharashtra Legislators and M.Ps. at Raj Bhavan on Saturday.'

In the photo this is easily read. Below this is another caption which reads:

(2) 'The meeting of the Congress(I) Legislators on October 11, 1980, at Raj Bhavan, at which Mr. Antulay thanked Mrs. Gandhi for permitting him' to name the Pratishthan after her. Express file photograph.'

Shri Shourie in his reply had annexed a photostat of the same photo and it bore the caption No. (1) above. Beneath this photo in the Sunday Standard of October 12th, 1980, there is an account of the meeting which the Prime Minister addressed. There is no mention of the Indira Gandhi Pratibha Pratishthan, much less its inauguration. In fact, no trust is mentioned at all. Therefore, the caption No. (2) above is a new thing. The photo is the same but the description of the things done at the meeting is different.

Now, there are news items in the remaining newspapers of which a list is given by me elsewhere. In the Sunday Standard (said by Shri Shourie to be of 12th October, 1980) the photo of the signing of the document appears and the caption is:

'Prime Minister Indira Gandhi affixing her signature on the document giving her consent to name the Maharashtra Government's trust for promoting talents in literature and fine arts as "Indira Gandhi Pratibha Pratishthan" at Raj Bhavan on Saturday. Watching keenly is Chief Minister, A. R. Antulay.'

I have referred to this caption common to all newspapers where this photo appeared either in English or its translation in Marathi. There is a news item which is reported separately when it could be reported with the news item about the meeting held at Raj Bhavan. In this news item it is stated what the trust was to do and this was based on an announcement by the Chief Minister on Tuesday (9th October, 1980). That must have been done at some other function and not the function on the 12th October, 1980.

In the Sunday Express of the 12th October, 1980 immediately below the report of the meeting which the Prime Minister addressed is another news item headed:

'Antulay assures P.M. of policy implementation.'

After reporting other matters the news item goes on to say that the Chief Minister announced that the Prime Minister had given her con. sent for naming the proposed trust after her. The "Indira Gandhi Pratibha Pratishtan" would grow very fast, Mr. Antulay said' I have read both the English and Marathi versions and I feel that Shri Antulay probably spoke in Marathi. If that were so the Prime Minister would not be fixed with knowledge with that move. Even if this was spoken in English, the purport could be missed.

Added to these are the following incontrovertible facts which the Finance Minister has mentioned. They may be taken from his reply.

(i) The Trust Was registered on 18th November and there could be no inauguration before that date;

(ii) The news item of September 4th, 1981. does not state that there was inauguration of the Trust on 11th October, 1980:

(iii) The official programme issued by the State Government in connection with the visit of-the Prime Minister to Bombay, 10--12th October, 1980 does not mention the inauguration of the Pratibha Pratishtan

(iv) When the document was signed by the Prime Minister there was nobody else apart from Shri Antulay and the photographers present as stated by Shri Antulay in the letter.

(v) Shri Antulay was trying to have the inauguration on the 19th November, 1980 (PM.s' birthday) but this could not be held (vide Indian Express Bombay Edition dated 17th December, 1980).'

To this may be added the last paragraph of Shri Dhawan's letter dated 23rd June, 1981 to which I have referred already. It reads:

'As desired by you, the Prime Minister would be pleased to meet the Trustees of the Pratishtan during her next visit to Bombay.'

All these facts speak for themselves.

I have not expressed any personal opinion, but have gone from facts to Facts only.' These facts clearly prove that if anybody told a lie it was not the Finance Minister. It is perhaps to be inferred that the Maharashtra Government went too far with so little from the Prime Minister. I accordingly withhold my consent to raise a question of privilege against the Finance Minister.

III. Shri Shourie's Case

As regards Shri Arun Shourie, I do not think this is a proper case for action. Newspapers always look into things closely and critically. They must, however, ascertain their facts better. Although the item is phrased in language which is not high-toned or polite, I am going to ignore it. Arun Shourie was doing a journalistic duty according to his lights. I have said before that the newspapers are the eyes and ears of the public and if every citizen has a right to criticize the actions of others, so also the newspapers whose profession is to turn the light of publicity on the irregularities of public actions. Perhaps the Maharashtra Government itself presented a wrong picture of the events and it is enough to show that Shri Shourie was wrong in his inferences. I must however say that Shri Shourie could have said the same thing in inoffensive language. He went too far because he accepted as true which was false and described as lies which were the real facts. I propose, therefore, to let this matter rest in his case. I withhold consent in his case also.'

1. R.S. Deb., dt. 11-9-1981.