

**RAJYA SABHA  
(1976)**

**point of privilege**

*Expulsion of a member from the House for misconduct.*

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

On the 2nd September, 1976, Shri Om Mehta, Minister of State for Parliamentary Affairs, moved the following motion<sup>1</sup> :-

"That a Committee consisting of the following members who are members of the Committee of Privileges of the Rajya Sabha namely,-

- (1) Shri Godey Murahari
- (2) Shri Kamlapati Tripathi
- (3) Shri A.R. Antulay
- (4) Shri N.K. Bhatt
- (5) Shri C.K. Dapthary
- (6) Shri Bhupesh Gupta
- (7) Shri Suresh Narain Mulla
- (8) Shri Bhanu Pratap Singh
- (9) Shri D.P. Singh, and
- (10) Shri Om Mehta

be appointed -

(a) to investigate the conduct and activities of Shri Subramanian Swamy, member of the Rajya Sabha, during the past one year and more both within and outside the country, including anti-Indian propaganda calculated to bring the Parliament and the country's democratic institutions into disrepute and generally behaving in a manner unworthy of a member of this House;

(b) to report to this House by the first week of the next session whether the conduct and activities of the member were inconsistent with, and seriously fall below, the standards which this House is entitled to expect of its members; and

(c) to make such recommendation as the Committee may deem fit.

(2) That Shri Godey Murahari, Deputy Chairman of the Rajya Sabha, be appointed Chairman of the Committee.

(3) That the quorum of the Committee shall be five.

1. R.S. Deb., dt. 2-9-1976, cc. 8-10

(4) That the Committee shall have power to hear and/or receive evidence, oral or documentary, connected with the matters referred to the Committee, or relevant to the subject matter of the inquiry, and that the Committee shall have discretion to treat any evidence tendered or material placed before it as 'secret' or 'confidential'.

(5) That the Chairman may from time to time issue such directions to the Chairman of the Committee as he thinks necessary for regulating the procedure of the Committee and any other matter connected therewith."

2. While moving the motion in the House, Shri Om Mehta stated <sup>2</sup> inter alia as follows :-

"Reports have been received from time to time that Shri Subramanian Swamy, a member of this House, has been engaging himself during the past one year and more in activities which are wholly inconsistent with the standards of conduct expected of a member of Parliament. According to these reports, he has carried on since January last a virulent and systematic anti-India campaign in countries abroad. Through this campaign, he has maligned, and has sought to bring into disrepute and contempt, the Parliament, its members, the Government of India, and generally the image of the nation, in countries abroad. He has described our Parliament as a captive Parliament with only 33 per cent of the members attending'. By speeches and writings, and interviews published in the foreign press, he has distorted facts and spread deliberate falsehood concerning conditions in India and actions of the Government and Parliament.

Shri Swamy has also not spared members of this House from his foul innuendos.

During the 95th Session, it might be recalled that when Shri Swamy's leave application was placed before the House by the Hon'ble Chairman, some members raised some doubts about the genuineness of his signatures in the attendance register kept in the Lobby. As far as could be ascertained, he has not attended the sittings or participated in the proceedings of the House from the 93rd Session until August 10 during this 97th Session. The surreptitious manner in which he suddenly put in his appearance in the House on that day (August 10) and interrupted what was a most solemn occasion is within the knowledge of all the members of this House. The Chairman at that time was on his feet making obituary references to some of our ex-colleagues. Shri Subramanian Swamy, without any regard for decorum or decency, interrupted the solemn proceedings in order to have his presence recorded by uttering the words on a point of order' and literally ran away from the Chamber and from Parliament House immediately.

Sir, it is unnecessary for me to make any harsh comment on this behaviour of Shri Swamy except to say that this kind of conduct is unworthy of a member of this Hon'ble House. It was clearly an affront to the dignity of this House.... But for his appearance on August 10, the member would have completed 60 days of absence from the sittings of this House without permission on August 24, and his seat would have become liable to be declared vacant.

According to information available to me. Shri Swamy, in order to evade the law and certain legal processes, fled from the country early in January last. He has evaded the law and flouted lawful orders and he has carried on a systematic anti- India campaign to which I have already made a reference. There is also reasonable suspicion that the member has drawn TA/DA for meetings of this House and its Committees which he did not attend."

After some discussion, the motion moved by Shri Om Mehta was adopted by the House.

#### Points of Procedure in the Committee

3. The Committee asked Shri Om Mehta, Minister of State for Parliamentary Affairs, to furnish to the Committee a statement of particulars, regarding the objectionable activities of Shri Subramanian Swamy. Shri Om Mehta, accordingly, furnished to the Committee the statement of particulars and also certain documents in support of some of the particulars. A copy of the said statement was sent by the Committee to Shri Subramanian Swamy, M.P. asking him to state what he had to say in the matter and whether he would like to be heard in person.

4. Shri Swamy requested for permission to either be accompanied or be represented by a counsel as I choose to". The Committee decided that Shri Swamy should be directed to appear in person before the Committee.

Shri Swamy, however, failed to appear before the Committee on the required date. The Committee took a serious view of the failure of Shri Subramanian Swamy to comply with its directions but decided to give him yet another, and final, opportunity to appear in person before it at its next meeting. The Committee further directed that Shri Swamy should be specifically told that if he failed to appear in person before it on that date the Committee would proceed with the consideration of the matter on that day and come to its conclusions.

Shri Swamy again failed to appear before the Committee. The Committee, while deciding to proceed with consideration of the matter, expressed its displeasure at Shri Swamy's attitude in persistently defying its directions to appear before it.

#### Observations and recommendations of the Committee

5. The Committee appointed to investigate the conduct, and activities of Shri Subramanian Swamy, member of Rajya Sabha, in their Report presented to the House on the 12th November, 1976, made inter alia the following observations/recommendations :

- i. "The Committee examined all the material including the documents placed before it. The Committee was of the view that in coming to its conclusions, it was not so much concerned with

1. R.S. Deb., dt. 2.9.1976, cc.10-12

1.

abstract technical and legal niceties, but its concern was the conduct of Shri Subramanian Swamy, whether he had acted in a dishonourable manner unworthy of a member of the Rajya Sabha and his conduct was derogatory to the dignity of the House and inconsistent with the standard which Parliament is entitled to expect from its members. A number of objectionable activities of Shri Subramanian Swamy were brought to the notice of the Committee and the Committee decided to confine its attention primarily on the following :

(1) Attention of the Committee had been drawn to the four 'signatures'<sup>1</sup> of Shri Subramanian Swamy during the 93rd Session of the Rajya Sabha on the daily attendance register of the House. Shri Subramanian Swamy in his letter dated October 20, 1976 addressed to Shri Om Mehta and his, subsequent letter dated November 5, 1976, addressed to the Chairman, Rajya Sabha, claimed these signatures as his. On expert examination of these signatures, however, it was found that these signatures were not his. On the basis of Shri Subramanian Swamy's statement itself these signatures could not be his, because he had categorically asserted that it was the decision of his Party to boycott that session and therefore he did not attend it. Obviously therefore he could not have signed on the register to mark his presence. The question now arises as to the purpose for which these signatures were appended. The purposes could be two (i) He may not forfeit his seat in the House under the provisions of article 101 (4) of the Constitution due to continued absence from the sittings of the House, and therefore it was necessary for him through the agency of someone else, to have his signatures marked in the attendance registers. (ii) To support his claim for and obtain, daily allowance. Here it could be argued that if his mere presence in Delhi would have entitled him to daily allowance, then why should he have had to resort to have his signatures, on the register. The fact, however, remains that these signatures are there. It was in all probability done to lend credence to his assertion that he was in Delhi during the said period. Whatever the purpose for which the said registers were signed. The Committee is satisfied that the conduct of Shri Subramanian Swamy in claiming these four forged signatures as his, is reprehensible and far below the standards expected of a member of Parliament.

(2) On the basis of the evidence placed before it and from the letters of Shri Subramanian Swamy received in the Secretariat, the Committee was of the view that Shri Subramanian Swamy knew about the impounding of his passport by the Government of India when he was still abroad. Instead of surrendering the impounded passport to the authorities concerned, as he was required to do, Shri Subramanian

Swamy continued to travel on the strength of that passport knowing fully well that it was not a valid document for the purpose of any further travel. The conduct of Shri Swamy in this regard, in the Committee's view, was inconsistent with the standards expected of him as a member of Parliament.

1. July 24 (1975) and August 8,9 (1976)

(3) The Committee considered the reported activities of Shri Subramanian Swamy in the United Kingdom, U.S.A. and Canada where it appears he gave interviews on the radio and television....Shri Subramanian Swamy does not deny that he gave interviews especially to the 'Toronto Star' and 'Washington Star'. Moreover, what he says in his letter is also an admission that he gave some interviews and wrote articles in some other journals during his visits abroad.... It would thus appear that Shri Subramanian Swamy had easy access to such mass media including radio and television. In this connection, the Committee cannot but take note of the fact that many of such journals in these countries as well as the TV and the radio were engaged in virulent anti-India propaganda after the proclamation, of emergency in the country. That Shri Subramanian Swamy was feeding their propaganda would be seen from what appeared, for example, in 'Toronto Star', Wed., February 11, 1976 under four column heading 'Mrs. Gandhi could be killed Indian MP in exile says' along with a photograph of Shri Subramanian Swamy. This report states:-

'There is a fear in India that Communists will assassinate Prime Minister Indira Gandhi, blame the democratic opposition and take over government, an Indian Parliamentarian in hiding says'.

'Harvard-educated economics professor Subramanian Swamy, 36, said,' the report further states

'They (pro-Moscow Communists) could find a new Prime Minister among their own party or a sympathizer in Mrs. Gandhi's Congress Party'.

In his letter dated 9th October, 1976 to the Rajya Sabha Secretariat, Shri Subramanian Swamy does not repudiate this news item but only says that 'I find the Toronto Star interview on the basis of the extracts quoted quite garbled.' He does not claim that he had sent any contradiction to what, he calls 'garbled' report to the editor of 'Toronto Star'. If this report in the 'Toronto Star' was substantially wrong, Shri Subramanian Swamy could easily have said so in his letters received in the Rajya Sabha Secretariat and placed before the Committee. There is, therefore, no reason for the Committee to believe that the report in the 'Toronto Star' is untrue. The propaganda unleashed through these media by him is also in keeping with the

line taken by the newspaper 'Motherland' which propagated the philosophy of the Party to which he belongs, when recently a Central Cabinet Minister was killed.

Reports and other public utterances of Shri Subramanian Swamy in U.K., U.S.A. and Canada are in tune with the anti-India propaganda carried on by certain mass media including radio and television in these countries. It is altogether inexcusable that Shri Subramanian Swamy should have carried on such activities in league with well known anti-India elements in these countries who made available to Shri Swamy the columns of some journals in the U.S.A. and Canada for running down and defaming the democratic institutions in our country."

(ii) "Full reports of Shri Swamy's activities in the U.K., U.S.A. and Canada are of course not known to the Committee, but whatever report is available would show that Shri Swamy was virtually acting as a tool of anti-India elements during his visits abroad. It may be reasonably presumed that these elements had a part to play not only in inspiring his anti-India campaign in foreign lands but actually organising it. This is the first ever case of a member of Parliament carrying on so blatantly his activities in collusion with anti-India elements abroad to malign our democratic institutions and to provide fuel to the fire of anti-India pro- paganda by the external enemies of our country. It may be noted that in the communications received from Shri Swamy in the Rajya Sabha Secretariat and elsewhere, there is not a word of regret for his patently unpatriotic and anti-national activities during his above mentioned foreign tours. On the contrary there is an attempt to justify his conduct. In the opinion of the Committee, Shri Subramanian Swamy's activities in the' U.K., U.S.A. and Canada which have', been amply publicised are unworthy not only of a member of Parliament but of any self-respecting patriotic Indian citizen."

(iii) "These are all acts which no member of Parliament should indulge, in keeping in view the dignity of the office of such membership. These acts seriously impair a member's right to represent his constituents in Parliament and detract from the trust reposed in him as such member. It is the Committee's view that members of Parliament should observe the highest standard of rectitude in matters concerning drawal of allowances for, otherwise, they are liable to be accused of committing a fraud on public funds. There is no doubt that Shri Subramanian Swamy has deliberately violated the law by travelling on a passport which he knew was impounded and also when he drew TA/DA when he had no intention of attending the meetings of the House Committee. He also did not appear before this Committee in spite of repeated directions in that behalf. His description of Parliament as 'our captive Parliament' and the innuendoes he has made against the members show his utter disrespect to the parliamentary institutions of the country and amount to contempt of the House and its members. All these facts constitute a grave breach of the elementary standards of conduct expected of a member of Parliament."

(iv) "The Committee would, therefore, recommend that Shri Subramanian Swamy be expelled from the membership of the Rajya Sabha as his conduct is derogatory, to the dignity of the House, its members and inconsistent with the standards which the House is entitled to expect of its members. In making this recommendation, the Committee would like to quote with approval the following observations of the Committee (18th edition, p. 128):

"The purpose of expulsion is not so much disciplinary as remedial, not so much to punish members as to rid the House of persons who are unfit for membership,"

(v) "The Committee is conscious that this is the first time in the Rajya Sabha that a recommendation for expulsion of one of its members is being made to the House. However, the Committee would be failing in its duty if it overlooked serious deviations, as in the present case, from the standards of conduct which the House has a right to expect of its members."

#### Action taken by the House

6. On the 15th November, 1976, Shri Kamalapati Tripathi, a member of the Committee and Leader of the House, moved the following motion in the Rajya Sabha :-

"This House, having considered the report of the Committee appointed in pursuance of the Motion adopted by it at its sitting held on September 2, 1976, to investigate the conduct and activities of Shri Subramanian Swamy, member, Rajya Sabha, accepts the findings of the Committee that the conduct of Shri Swamy is derogatory to the dignity of the House and its members and inconsistent with the standards which the House expects from its members and resolves that Shri Subramanian Swamy be expelled from the House."

7. Sarvashri Krishan Kant and O.P. Tyagi, members moved the following amendment :-

"for the words 'accepts the findings of the Committee that the conduct of Shri Swamy is derogatory to the dignity of the House and its members, and inconsistent with the standards which the House expects from its members and resolves that Shri Subramanian Swamy be expelled from the House.'

substitute the following:-

'is of the opinion that ground No. (3) in the said report for the expulsion of Shri Subramanian Swamy does not warrant any action against him and directs that Shri Subramanian Swamy be present in the House on the first day of the next, session to explain his position regarding grounds Nos. 1 and 2 contained in the Report'."

After a lengthy discussion, the above amendment was put to vote and negatived by the House.

8. The main motion of Shri Kamalapati Tripathi (See para 6 above) was then put to vote and adopted by the House.

9. The following Notification was thereafter published in the Rajya Sabha Bulletin Part II dated the 15th November, 1976 and the Gazette of India Extraordinary Part, I-Section 1 dated the 15th November, 1976 :

"Consequent on the adoption of a Motion by the Rajya Sabha on 15th November, 1976, expelling from the Rajya Sabha Shri Subramanian Swamy, a member elected to the Rajya Sabha from Uttar Pradesh, Shri Swamy has ceased to be a member of the Rajya Sabha with effect from the 15th November, 1976 afternoon."