

**COMMITTEE OF PRIVILEGES
(SIXTEENTH LOK SABHA)**

3

THIRD REPORT

Notices of question of privilege dated 5 December, 2014 given by Smt. Mausam Noor and Shri M I Shanavas, MPs against a correspondent of 'Times of India' newspaper for allegedly humiliating them and tarnishing their image by publishing a false and defamatory news item wherein they were reported to have been allegedly absent without prior sanction for leave from the House.

[Presented to the Speaker, Lok Sabha on 03 December, 2016]

[Laid on the Table on 07 December, 2016]



LOK SABHA SECRETARIAT

NEW DELHI

December, 2016/Agrahayana1938 (Saka)

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PERSONNEL OF THE COMMITTEE OF PRIVILEGES
(2016-2017)

Smt. Meenakashi Lekhi - Chairperson

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2. Shri Anandrao Adsul
3. Shri Kalyan Banerjee
4. Shri Anant Kumar Hegde
5. Shri Kesineni Srinivas
6. Shri J.J.T. Natterjee
7. Shri Jagdambika Pal
8. Shri Konda Vishweshwar Reddy
9. Shri Tathagata Satpathy
10. Shri Jyotiraditya M. Scindia
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12. Shri Rakesh Singh
13. Shri Sushil Kumar Singh
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Secretariat

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| 5. | Dr. Faiz Ahmad. | - | Legislative Officer |

THIRD REPORT OF COMMITTEE OF PRIVILEGES

(SIXTEENTH LOK SABHA)

I. Introduction

I, the Chairperson of the Committee of Privileges, having been authorized by the Committee to submit the report on their behalf, present this third report to the Speaker, Lok Sabha on the questions of privilege given notices of by Smt. Mausam Noor and Shri M. I. Shanavas, MPs against the Correspondent, Editor and Printer & Publisher of the Times of India Newspaper for allegedly humiliating them and tarnishing their image by publishing a false and defamatory news item wherein they were reported to have been allegedly absent without prior sanction of leave from the House.

2. The Committee held six sittings. The relevant minutes of these sittings form part of the Report and are appended hereto.

3. The Committee at their sitting held on 11 September, 2015 considered the Memorandum on the subject. The Committee, thereafter, decided to hear Smt. Mausam Noor and Shri M.I. Shanavas, MPs in the first instance.

4. The Committee at their second sitting held on 21 September, 2015 heard both the Members and also decided to call the Correspondent and the Editor of the Times of India newspaper at subsequent sittings to depose before the Committee .

5. At their third and fourth sittings held on 05 and 26 October, 2015, the Committee examined on oath Ms. Mohua Chatterjee, the Correspondent and Shri Arindam Sen Gupta, the then Managing Editor of the Times of India respectively.

6. The Committee, at their fifth sitting held on 16 February, 2016, further deliberated on the matter and directed the Secretariat to prepare a draft report in the matter for their consideration.

7. At their sitting held on 17 October, 2016, the Committee considered the draft report and after some deliberations adopted it. The Committee then authorized the Chairperson to finalize the report accordingly and present the same to the Speaker, Lok Sabha and thereafter, to lay the same in the House.

II. Facts of the Case

8. Smt. Mausam Noor, and Shri M. I. Shanavas, MPs in their above mentioned notices of question of privilege alleged breach of their privileges by the '*Times of India*' newspaper for allegedly humiliating them and tarnishing their image by publishing a false and defamatory news item, wherein they were reported to have been absent without prior sanction of leave from the House.

The impugned news item was published in the '*Times of India*' datelined 05 December, 2014, The Members enclosed a copy of the said news item in which it was reported as under:-

“8 ABSENTEE MPS AWAIT SPEAKER’S ACTION
mahuachatterjee@timesgroup.com, New Delhi:

Even while Prime Minister Narendra Modi has been insisting that BJP parliamentarians attend the House regularly while the sessions are on, two BJP MPs in Lok Sabha - Hema Malini and Sanwarlal Jat — have been absent from the House for long periods without sanction for leave from the House.

The Lok Sabha Committee on 'Absence of Members from Sitting of the House' has noted the names of eight such members for staying away without prior permission, which is expected to be tabled in the House on Friday. After the names are made public, the matter has to be taken up by Lok Sabha Speaker Sumitra Mahajan, who can then take any action she feels is appropriate in individual cases. The rule is that if members keep away from the House for 15 days or more at one go, they have to seek sanction to stay away.

Apart from BJP's Hema Malini and Sanwarlal Jat, among the eight members who have been absent from the House are Congress MPs Gutha S Reddy from Nalgonda constituency in Andhra Pradesh, Mausam Noor from Malda in West Bengal, M I Shanavas from Wayanad in Kerala, TMC members Deepak Adhikari and Tapas Pal from West Bengal. While TMC MP Kapil Krishna Thakur's name also figures in the list, he cannot be considered as he died before the House opened for the winter session.

The reason given by actor-turned-politician Hema Malini for her 25-day absence was that she was abroad. She also had just 15 % attendance in the House till the monsoon session ended on August 14, 2014. Jat, who had just 3% attendance till the monsoon session closed, is now a Minister of State for Water Resources. He stayed away for 37 days claiming that he was visiting his constituency during the time.

Gutha Reddy gave Parliament the miss for 24 straight days from July 16 to August 8, while Tapas Pal was absent for 39 days from July 7 to August 14 and Mausam Noor has not attended the House for 30 days. All three later informed the House that they were unwell. Bangla filmstar-turned-politician Deepak Adhikary (Dev), who has been away for 15 days from July 7 to July 21, had said that he was in his constituency and hence could not attend the House. Shanavas was away for 30 days at a stretch."

Along with the said news item, there appeared a tabular data with caption "PLAYING TRUANT" which gave details as follows:

PLAYING TRUANT

Name	Period of absence (in days)	Reason given
Tapas Pal (TMC)	39	Was unwell
Sanwarlal Jat (BJP)	37	Was in constituency
Mausam Noor (Cong)	30	Was unwell
M I Shanavas	30	-----
Gutha S Reddy (Cong)	24	Was unwell
Hema Malini (BJP)	25	Was abroad
Deepak Adhikary (TMC)	15	Was in constituency

9. Smt. Mausam Noor, MP in her notice rebutted the facts mentioned in the alleged defamatory news article, and contended that she had submitted a request for leave of absence to the Hon'ble Speaker's Office and to the Secretary General *vide* her letter dated 11 November, 2014 and had received a reply letter *vide* No. 18/1/2014/T dated 19 November, 2014 as per which, her request for absence will be placed before the Committee on Absence of Members from the sittings of the House in their next scheduled meeting. She further stated that she had been deeply hurt by the irresponsible accusations and abject lies circulated against her in the newspaper and it is evident that the reporter has not made even an attempt to contact her to verify the facts. She alleged that the reporter Ms. Mohua Chatterjee further stated in her report that "all three later informed the House that they were unwell." She has further stated that she had submitted her leave of absence on 11 November, 2014 prior to the commencement of the Winter Session of Lok Sabha, wherein she had informed that she was in the later stages of her pregnancy and that

she will be unable to attend the session. She has further alleged that the use of unsavoury remarks by the reporter in her report such as '*Playing Truant*' reveals a purposeful intention to humiliate her.

She, therefore, requested for necessary action against the reporter and ensure that a clarification and apology be published by the newspaper at the earliest as circulation of such malicious information amounts to insulting the dignity of the House and the privileges of the members.

10. Similarly, Shri M. I. Shanavas, MP also rebutted the facts mentioned in the impugned news report and contended that he had submitted a request for leave of absence to the Hon'ble Speaker's Office and to the Secretary General *vide* letter dated 26 November, 2014, wherein he had cited his hospitalization and ongoing medical treatment as the reason for his absence. He has stated that the news report is baseless and unsubstantiated and the reporter has not even attempted to cross verify the facts before publishing the article adding further that the use of terms such as 'Playing Truant' is undignified and divorced from facts.

He, therefore, requested for necessary action against the reporter and sought that a clarification and apology be published by the newspaper as the impugned news report attempts to conceal facts and disseminates defamatory information against a Member of Parliament and tarnishing the dignity of the member.

11. Comments were called from the Correspondent, Printer & Publisher and the Editor of '*Time of India*' for examining the matter, at the first instance.

12. Ms. Mohua Chatterjee, Correspondent of Times of India *vide* her letter dated 20 January, 2015 furnished her comments in the matter as under:-

"A careful reading of the news report under question 8 absentee MPs await

Speaker's action in The Times of India, dated December 5, 2014, brings out the following facts:

The report is primarily intended to highlight the fact that in spite of the Prime Minister insisting on his party MPs to attend sessions regularly, some ruling party members have been keeping away for considerable period of time. The introductory lines of the report make the point very clear.

Since the news report is based on the first report of the Committee on Absence of Members from the Sitting of the House, it had to give a fair impression of the report of the Committee, by giving out details of the other members who figure in the report. As one could see they belonged to various parties. It is obvious that neither a party nor an individual member was singled out in the news report. Nowhere in the report, as alleged by the two honourable members, Ms Mausam Noor and Mr M I Shanavas, it was said that the members were 'absent without intimating the House.' The usage of the caption 'Playing Truant' and the dotted lines against the name of Mr Shanavas in the graphics have inadvertently crept into the table of graphics. It may please be noted that in the running text of the report there are no such references. The news report under question does not, in any way, hinder the functioning of the honourable members of Parliament in due discharge of their responsibilities as law makers. Hence, in my humble view, the news report as it appeared does not constitute any breach of privilege of either the members or of the House. It may also be noted that The Times of India was very prompt in carrying a rejoinder (on December 13, 2014) issued by Lok Sabha Secretariat on this matter on December 9, 2014. It also carried another rejoinder on January 16, 2015. (Both copies enclosed). In view of the facts cited above you are requested to please treat the matter as closed. I take this opportunity to reiterate that I as a reporter and The Times of India as a leading national daily hold the supreme democratic institution of Parliament in very high esteem".

13. Shri Balraj Arora, Printer and Publisher of 'The *Times of India*' vide his letter dated 20 January, 2015 furnished his comments in the matter, which states as under:-

"We as a company and newspaper are known to maintain an impeccable standard of honest journalism. We foster and implement purely ethical and

professional practices in all the areas of our presence in media. Our newspaper 'The Times of India' believes in democracy and holds the Parliament and the elected representatives in high esteem. We firmly believe in maintaining the dignity of the Members of the Parliament as individuals and the Parliament as an Institution at all times and under all circumstances. The editor of the newspaper 'The Times of India' has already published a correction relating to the said article and has also expressed his regrets. The copy of the newspaper, TOI dated 16/01/2015 is attached with this reply for reference please. In view of the above it is our humble request to kindly take this reply on record and to please close the complaints".

14. On 16.01.2015 a Clarification/Correction was published by the *Times of India* which reads as under:-

“with reference to the *Times of India* report on December 5, 2014 headlined '8 absentee MPs Await Speaker's Action', two members of Parliament, Smt. Mausam Noor and M I Shanavas have clarified that they had taken prior permission from the Speaker for not attending Lok Sabha. They said their absence was due to compelling reasons and the Speaker was duly intimated. The news report was based on the first report of the Parliament's 'Committee on Absence of Members from the Sitting of the House. It was not our intention to cast aspersions on Members of Parliament as we hold the institution of Parliament in the highest esteem. **Any hurt caused is inadvertent and is regretted.**

Editor.”

15. In view of the allegations made by the Member(s), examined in the light of the replies received from Times of India, the Hon'ble Speaker, Lok Sabha, in exercise of her powers under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha, referred the notices of Smt. Mausam Noor and Shri M. I. Shanavas, MPs to the Committee of Privileges on 04 March, 2015 for examination, investigation and report.

III. Evidence

Evidence of Shri M. I. Shanavas, MP

16. Shri M. I. Shanavas, MP, during his evidence before the Committee on 21 September, 2015, *inter alia* stated as follows:-

“Hon. Chairman and hon. Members of the Privilege Committee, I would like to present the hurt feeling and agony that I had to undergo because of an unprecedented publication of a news item that has cast aspersions on my integrity and on my duty and work as a privileged Member of Parliament.

Now, I would draw your attention as to why I took up this matter. I want to bring it to the notice of the Chairman and hon. Members, in the present circumstances today it has become a habit on the part of certain journalists without any journalistic ethics targeting the Members of Parliament and their image is being tarnished without any proper investigation. The case which myself and my hon. colleague Shrimati Mausam Noor has undergone is a very tragic incident.

I was hospitalised for about three weeks in Kochi. This is my second term as a Member of Parliament. During my last tenure as Member of Parliament I had to undergo a serious surgery and I was not able to attend Parliament for about two-three months. I had to take rest for about one year but even then such a news item had not appeared. The people of my constituency knew what had happened to me. I was in hospital. I was wrongly diagnosed as having a very serious disease and that I would last for only one or two months. By the grace of God everything was detected rightly at correct time and I came back to life after two major surgeries.

During this Session I was fully aware that I wanted to make up for what I had lost in my last tenure. I was attending Parliament regularly. I was hospitalised during the concerned Session from 24th November to 23rd December and hence I was not able to attend the Session during that period. On 26th November I applied for leave through proper channel to the Secretary-General and to the Speaker also I gave my leave letter saying that I am hospitalised and hence I will not be able to attend the Session. I also gave a leave letter to my Party President mentioning that I will not be able to attend the Session.

I gave the letter on 26th November, 2014. The news item appeared in 'Times of India' on 5th December that I was having an unauthorised absence from Parliament for one month. The one month period was to end only on 23rd December. So, either the correspondent of 'Times of India' was aware that I have given a leave application for one month. Without going through my leave letter the correspondent cannot have a knowledge that I will be absent from Parliament for one month. The way it was presented, alarmingly it amounts to a bad mark on my duty as a Member of Parliament.

The sub-heading which appeared in the news item on 5th December was **Playing Truant** which means neglect of duty or responsibility; one who shirks duty or work; idle, lazy or neglectful. This is the meaning of the sub-heading that appeared in the 'Times of India'. Respected Chairman, certain Malyalam newspapers also carried this item. I was in the hospital.

You know Kerala is very vibrant and a politically active State. Some boards were erected by my political opponents saying, 'Where is Shanavas?' and 'Shanavas is not seen'. They said that he is not going to Parliament. I cannot go to each voter or each person and say that I was in the hospital. So such bad things have come. In the meantime, as a responsible Member of Parliament I have been watching so many unnecessary criticisms of Members of Parliament from various quarters with respect to canteen subsidy or regarding hike in the salary. For every small thing, the MPs are being targeted. My case is a case where I find that a clear offence has been committed against me and my prestige and duty as a Member of Parliament has been tarnished.

I do not want to take much of the time of this hon. Committee by quoting so many decisions which are there. So many lawyers are present here. So many eminent leaders are here but this activity of the Time of India newspaper amounts to a serious defamation against me. It is a libel. A libel is a false and malicious publication printed for the purpose of defaming a living person. I was in the hospital. What sadistic pleasure the newspaper or the journalists are getting my imputing laziness or irresponsibility on my part because it was not under my control.

To constitute an ingredient for defamation, the hon. Supreme Court said that there must be an imputation which must be made with the intention of harming or having reason to believe that it will harm the reputation of the person against whom it is made. I will give a copy of this note to hon. Committee and the Chairman. Kalyanji, this is a case where an imputation

is made that I was absent irresponsibly and it would affect my work and my future. To constitute a breach of privilege a libel must be a *mala fide* and it must concern the character or conduct of a person in his capacity as Member of Parliament. So, this clearly fits in this judgement of the Supreme Court. In the Hindustan Times case, the Supreme Court directed the newspaper to publish an apology on the front page of the newspaper. This is a case of unverified and wrong reporting of a news item. The Supreme Court took it up and asked the Hindustan Times to publish it on the front page. Is only the journalist responsible? Respected Chairman, according to me the Editor is also responsible. A news item has the potentiality of bringing dooms day for an individual. It has not brought any dooms day for me but it has caused adverse publicity for me. So many boards were erected in my constituency by my political adversaries that I am not seen. The Editor controls the selection of the matter which is published. He has to keep a careful eye on the selection. Editors have the responsibility of everything that they publish. So not only the journalist but the editor is also responsible for this defamatory publication. There is no statutory immunity for editors against any prosecution. Under Section 7 and the Preamble of the Press and Registration of Books Act, 1867, clearly shows that there could be a presumption against the managing editor/resident editor of a newspaper in the publishing of news items.

So, the Respected Chairman, I would like to present before you not to take it as a simple case of an individual MP from Lok Sabha. This is a case which is happening throughout but nobody is taking it up. I will give you an example which is connected with this. In one TV show, the Chief Anchor showed a masala dosa and said that all MPs are eating *masala dosa* at the rate of Rs.6 but more *masala dosas* are consumed by journalists in the Central Hall of the Parliament. But it is not shown.

I was advised by my friends not to play with the newspapers as in future they will publish adverse remarks against me. But I expect justice from you and I expect a very strong action so that these things do not happen in future. I was in the bed in a hospital. When I am in a hospital and if I am tortured like this, what will happen? We, the Members of Parliament, always succumb to pressures from the media. Therefore, a strong action should be taken not only against the journalist but the managing editor should also be held responsible. My request is that they should publish an unconditional apology on the front page of Times of India that they have erred in it and they have done some mistake in the case of a person who was not well and who had given his leave letter in advance and it was granted in

advance also. This is all which I wanted to present.... It (the news report) is a total distortion of facts.”

17. When the Committee wanted to know as to whether the correspondent or any other person from the newspaper contacted him before writing this news report, Shri M. I. Shanavas stated as follows:-

“Sir, there was nothing of that kind. Even my office was not contacted.”

Evidence of Smt. Mausam Noor, MP

18. **Smt. Mausam Noor**, MP, in her deposition before the Committee on 21 September, 2015, *inter alia* stated as follows:-

“Hon’ble Chairperson Sir, I was very upset with the news item dated 5th December, 2014 regarding the absence of eight MPs from the last Winter Session. I was absent in the last Winter Session because I was in the advanced stage of my pregnancy. On the 12th of December, 2014 I was blessed with a daughter. On the 14th of November much before the Winter Session had commenced, I had intimated the Secretary-General and the hon. Speaker that I will not be able to attend the Winter Session because I was in the advanced stage of my pregnancy and it was physically not possible for me to travel during that time. So, I was very upset with this news item and I think the news item was handled in a very irresponsible manner. The journalist had not even thought it right to even ask the reason of my absence. So, I would expect at least an apology from the journalist and some action should be taken against them.”

19. When the Committee wanted to know as to whether she gave any notice to the Editor of the Times of India in this regard, Smt. Mausam Noor stated as follows:-

“No. I had written directly to the Secretary-General on the 14th and again on the 5th of December that I had asked for permission to stay away from the House.”

Evidence of Ms. Mohua Chatterjee, Correspondent of the Times of India

20. Ms. Mohua Chatterjee, correspondent of the Times of India, during her evidence before the Committee on 5 October, 2015, *inter alia* stated as follows:-

“Mr. Chairman, Sir, I have received a letter from the Privileges and Ethics Committee regarding my article in The Times of India. I would like to submit that *The Times of India* published clarifications about the issues that were raised by the letter, not once but twice. Actually we carried two clarifications on two different dates.

Even after that, I have received a letter from the Committee asking for personal clarification to which I have replied in detail. The replies will be with you. There is very little other than what I have said in my detailed letter dated 20.01.2015 that I have to really say. Therefore, what I have to say before the Committee is that I have neither before writing an article, which is my daily job in the daily newspaper that I do, had any malicious intent against anyone in particular or in general. But, even then, as the letters to me from the two hon. MPs suggest, sort of, say that there are *mala fide* intent about it, it seems that, you know, without an intent, some people have been hurt. So, for that, definitely I should apologise. But I should make it very clear that the *mala fide* that has been talked about in the two letters addressed to me, there is no question of personal vendetta. In fact, since one of the two MPs hail from my home State, I know her by face but I barely know her. The other person who hails from Kerala is completely unknown to me. So, there is no question of any *mala fide* against them. That is all that I have to say. Everything else that I have to say has been submitted to you in a detailed letter, as I mentioned, which is dated 20.01.2015. Thank you.”

21. When the Committee wanted to know as to how she could write about a Report which had not been tabled before the Lok Sabha, Ms. Mohua Chatterjee stated as follows:-

“Sir, as a journalist, with all humility, I would like to say that it is my job to get to know and report things which are already not in the public domain before anybody else. As seasoned political people and hon.

MPs, I am sure, all of you are aware of this journalistic job that we are into. As for legality, I have no knowledge of law or legality. So, I will not be able to answer your query on that part. Thank you.”

22. When asked about her familiarity with the Rules of Procedure and Conduct of Business in Lok Sabha, the conventions and proceedings of the House, which she covers for Times of India, as a Reporter, for long years, Ms. Mohua Chatterjee stated as follows:-

“The Rule Book is with you. I do not specialise in Parliamentary Rules, Sir, in my opening remarks, I have said that I have replied to this Committee to the best of my ability in my detailed letter. I really do not have anything beyond to say to you.”

23. To the Committee’s observation that she is giving evasive replies and not answering questions put to her, Ms Mohua Chatterjee responded as follows:-

“Sir, the queries are all a part of the initial letters that was sent to me and it is in accordance with that, I have made a detailed reply to this House. ... I do not have anything more to say to you beyond what I have already told this House. If I did, I would have made my letter even more detailed.”

24. When asked to clarify her stand that the news report under question does not in any way hinder the functioning of the Members of Parliament, Ms. Mohua Chatterjee stated:

“Sir, the line that you are quoting is also what I said just now and is also what I have replied to in my letter. It is a fact that it is the headline of the story and it does appear with my by line. Since we are going into technicalities, I will also like to explain to you very humbly that as you know, in the newspaper business, in the print media, desk and reporting are two different sections, and the Reporter is

not really the one who puts headlines to the news item that appears on the news pages. So, I would just like to point that out as a technicality in case you are interested.”

25. To a specific query as to who had done the graphics and the headline for the said news item— ‘8 absentee MPs await Speaker’s action’ and ‘PLAYING TRUANT’, Ms. Mohua Chatterjee stated as follows:-

“Hon’ble Chairperson Sir, since it has appeared in my name, I am responsible for the report that appears. But if you want to go into the technicalities, there are different sections of the Print Media, which are responsible for the presentation of the news report. But the responsibility is essentially mine since my name appears there. Therefore, I never said in my letter that I am giving this responsibility over to somebody else or I am blaming somebody else for it. In fact, I have owned it up and said that inadvertently if it has crept in, it could have inadvertently crept into my writing also. But I did not mention that it is because of somebody else that it has crept into it. I have said, ‘inadvertently if it has.’ I will read it out. It says that ‘the usage of the caption ‘PLAYING TRUANT’ and the dotted lines against the name of Mr. Shanavas in the graphics have inadvertently crept into the Table of graphics. It may please be noted that in the running text of the report, there are no such references... I am the public face of this news report and I am sitting right in front of you. I have nothing to protect. I do not want to drag my entire organisation into this.”

26. When the Committee sought her views on the wrong information that ultimately became a headline, which caused hurt to two members of Lok Sabha, their sympathisers, their voters, their constituents, Ms. Mohua Chatterjee replied:-

“Sir, I accept that...from my side, I have nothing to submit. I have already said it. If you pull me up for further questioning, then I will come up with answers. I do not have anything more to say.

All I have to say is, I just hope that from whatever has transpired, it should be very clear that my intention at any stage in regard to this report or in general has never been to hurt or harm any of the concerned MPs here or those people who have complained or any other person...

What I want to say is that the intent has never been for that and the intent in future will also not be that. It is a journalist’s job to do true stories and we are all liable to going wrong. That is where I stand. Thank you.”

Evidence of Shri Arindam Sen Gupta, Managing Editor of the Times of India

27. Shri Arindam Sen Gupta, Managing Editor of the Times of India, during his evidence before the Committee on 26 October, 2015, *inter alia* stated as follows:-

“Hon. Chairperson and hon. Members of the Committee, first of all I must say that there is no malice that *The Times of India* has ever held or will hold to the institution of Parliament. That is out of the question. Ours is a paper which is 175 years old and we respect Parliament fully.

In this case, it appears that there has been an error in the reporting of the developments, which we sought to make amends twice – once on the 13th of December and then again on the 16th of January, 2015. In fact, we expressed our regret for the error. It appears that it has not satisfied two Members of Parliament. So, I am here before you. Hon. Chairperson, I am here to give whatever information you would like to know from me.”

28. The Committee desired to know about the role of correspondent and Managing Editor as regards reporting of parliamentary proceedings and activities in the newspaper as also the experience and expertise of the correspondent in question (Ms. Mohua Chatterjee) who covers the Parliament proceedings for his newspaper for a long time. In response, Shri Arindam Sen Gupta, stated as follows:

“Sir, Mohua Chatterjee is a senior correspondent and has been covering Parliament for many years. She has by and large, in fact, mostly reported the proceedings of Parliament accurately and correctly over a period of time. There has been a certain amount of faith that I personally as an Editor and the newspaper as an institution has developed towards her. So, we take in good faith what she writes. There are several levels of checks even after a correspondent sends her report. In this case, the Chief of Bureau would be checking it and then, it would be clear and come in for publication.”

29. When asked as to whether his media house in general has any policy in place for true and objective reporting, particularly with regard to Parliament and its proceedings, Shri Arindam Sen Gupta, stated as follows:

“Sir, we do have it. In fact, the senior people like the Chief of Bureau, etc. regularly instruct, tutor and educate reporters on how to cover Parliament. It is an institution, as I said, which we have been covering since many, many decades. Therefore, there is an institutional decorum, etiquette and understanding that the newspaper has towards covering Parliament.”

30. On being enquired whether his media house has any code of conduct and if so, does it not stipulate that the correspondent has to verify the veracity of the facts before writing a libelous article against Parliamentarians, Shri Arindam Sen Gupta stated as follows:

“Sir, There is a Code of Conduct. There has never been an intention on the part of the newspaper or the Editor or the Correspondent to publish libelous matters about any Parliamentarian. I would like you to appreciate that the newspaper comes out everyday. It is a daily product. To that extent, on the

margins there might be an error at times which when is pointed out we want to speedily correct and rectify. It is never our intention to carry libelous or even unfairly hurtful matters about any Member of Parliament.”

31. When the Committee sought his comments on the role of Press to reduce democratic deficit of Parliament and Parliamentarians by informing and educating the public in an objective manner, Shri Arindam Sen Gupta replied as follows:-

“Sir, that is the role of the Press in making the public understand that the institution of Parliament is above all, its pivotal role in the democracy and hence the importance of its effective functioning in passing laws, in upholding democratic traditions. That is the role that media needs to play in creating larger awareness which in a democracy makes every institution play their designated role.”

32. The Committee sought to know about the steps taken to stop recurrence of misreporting by correspondents and whether as Managing Editor he feels regrets over this incident. In response, Shri Arindam Sen Gupta stated:-

“I feel deeply regretful. It is indeed regretful that a newspaper like the Times of India has committed an error, which I am admitting. It should not have happened even if it is a daily product and there is a certain rush in bringing out the newspaper. Even so it should not have happened.

The reporter has already been counseled more than once. She has been provided with rules which she said she had not read carefully. She admits it herself. The seniors have also spoken to her apart from me. As a matter of process, we do not treat reports as of Parliament at all lightly. Senior people do look at it. But, Sir, as I said, at times errors do occur which are inadvertent.”

33. When the Committee sought to know about his own responsibility in the matter, Shri Arindam Sen Gupta replied:-

“Sure, Sir. My name goes in print line and to that extent, as I said, the responsibility rests finally with me. The buck will stop at me, that is, with the Editor. That is true.”

34. When the Committee sought to highlight that the matter involves not only a case of misreporting but also use of insulting language against MPs, Shri Arindam Sen Gupta, replied:-

“Firstly as regards carrying more prominent corrective measures, I am not saying the word ‘clarification’ corrects this thing. This is the temple of wise people. If you think so, we will carry it. My word on that and we will carry it on top of a page so that it is sufficiently prominent.

We did not carry the word ‘clarification’. We said ‘correction’ very prominently when we set the record right. We understand that it was wrong.

You would probably be aware of the way the newspaper works. While the constructive responsibility lies with me, giving caption or headlines, at times although senior people are supposed to look at, but is often left to or done by a Sub-Editor who is a relatively junior person. In this case, there has not been sufficient understanding of the importance of the institution or the gravity of the institution. I am sorry if you think that is insulting... **We will further remove the said content from our website and also write the Google to remove it from the website.”**

35. When enquired about the person who made the headlines of the news report in the back office and whether the Editor has identified the person responsible in the instant case; and the corrective steps that are being contemplated, Shri Arindam Sen Gupta replied as under:-

“First of all she (the correspondent) would not know it. After it had happened, we have identified the person. He has been counselled, as it happens, in any newspaper. He was counselled.

However, he has left only recently... I think of a refresher course on Parliamentary rules, procedures for the desk dealing with Parliament and its Members. Further, we wish to be responsible. That is not to say, we have not made mistakes.”

IV. Findings and Conclusions

36. The Committee noted that the main thrust of Smt. Mausam Noor, and Shri M. Shanavas, MPs' allegations in their notices of question of Privilege is as follows:-

- (i) The '*Times of India*' newspaper allegedly humiliated them by unsavory remarks and tarnished their image by publishing a false and defamatory news item wherein they were reported to have been absent from the House during the winter session of year 2014, without intimating any reason therefor, which is contradictory to the records.
- (ii) The correspondent did not seek to verify the veracity of the facts from them, before writing a libelous article.

37. The Committee took note of the fact that Ms. Mohua Chatterjee, correspondent of Times of India sought to justify her report under the guise of her professional journalistic duties which *inter alia* bounds her to report things which are not yet in public domain, before anybody else does it. The Committee also take note of her unabashed admission of lack of knowledge of the parliamentary rules and conventions, despite her proclaimed standing as a correspondent of Times of India, covering Parliament for over 15 years.

38. The Committee further take note of the honest admission of lapse on the part of Times of India by the then Managing Editor, Shri Arindam Sen Gupta (passed away recently on 28 January, 2016). Shri Arindam Sen Gupta graciously admitted and owned up the lapse and took the responsibility as the Editor of the Times of India for the incorrect and defamatory reporting about the absence of Smt. Mausam Noor and Shri M.I. Shanavas MPs, during the winter session of year 2014.

39. The Committee also note that both the correspondent and the Managing Editor of the Times of India repeatedly emphasized that there was never any intention to carry libelous or even unfair or hurtful report about any member of

Parliament and that they hold the Parliament in utmost respect and can never hold any malice against it.

40. Having taken note of the allegations made by the members in their notices of question of privilege, the plea taken by the correspondent alleged to have breached their privilege and the explanation offered by the Managing Editor in the matter, the Committee are of the view that the matter primarily involves the following issues:-

- (i) Whether by publishing a false and defamatory news item The '*Times of India*' subjected the members to humiliation and tarnished their image, resulting in breach of their privileges?
- (ii) Whether the said news report was in violation of the Rules of Procedure and made a premature disclosure of the First Report of Committee on Absence of Members from the Sitting of the House, before it was laid at the table of the House?

ISSUE NO. 1

Whether by publishing a false and defamatory news item The '*Times of India*' subjected the members to humiliation and tarnished their image, resulting in breach of their privileges?

41. The Committee note that Media is the fourth pillar of democracy and by its constructive role makes the democracy participative, lively and inclusive. In fact considering its prime role as disseminator of information, the Lok Sabha has a separate TV channel exclusively devoted *inter alia* for broadcast of the proceedings of the House, besides holding of discussions, on matters of parliamentary practice and general issues concerning the public. However, when

the media discharges its responsibility without due diligence and care, the result can at times be catastrophic and to the detriment of all stake holders.

42. The Committee are of the view that the media in general has to uphold the principle of truthfulness. The 'Breaking News' syndrome or the first to (Press) report approach has at times led to publishing of half-baked and unverified reports which do more damage and result in consternation and embarrassment to all concerned.

43. The Committee are of the view that in the instant case, the Times of India published a news item about the alleged absence of members from the sittings of Lok Sabha based on the story filed by its correspondent Ms. Mohua Chatterjee. Apparently the content and inputs given by her are based on half baked conclusions and incorrect surmises portraying a picture contrary to the factual position coupled with grave ignorance of parliamentary rules, practices and conventions.

44. The Committee note that as per Parliamentary practice "a member desirous of seeking permission of the House to remain absent from the sittings thereof to escape penalty under the constitutional provisions, is required to make an application in writing specifying therein the period for which leave of absence is required together with the date of commencement and of termination of such leave and the grounds for it. Applications for leave of absence have to specify the grounds for leave. The reasons given in the applications should be proper, sufficient and convincing. Leave should not be asked for on flimsy and frivolous grounds or on grounds which tend to lower the prestige and dignity of the House. Further, where a member does not state in his application the grounds on which he desires leave of absence, he is asked to furnish them before his application is

considered. If the reasons given by a member are vague, he/she is asked to specify them to enable the Committee on Absence of Members from the sittings of the House to recommend to the House for grant of the leave (Kaul & Shakhthar, 6th edition, pp 407-410).

45. The Committee in view of the position stated above observe that a plain reading of the news report published by the Times of India portrays a negative image of not only Smt. Mausam Noor and Shri M.I. Shanavas, MPs but also of five other MPs whose names have been tabulated under the heading "*Playing Truant*". Further, to highlight the gravity of the alleged conduct of these members the main caption was titled "*8 Absentee MPs await Speaker's Action*", whereby it is implied that some penal action is being contemplated on these MPs by the Speaker, Lok Sabha, even when there is no such possibility in the given situation under the extant rules of procedure applicable as enumerated in the above para.

46. The Committee, therefore, emphatically conclude that the instant news item was not only incorrect but was misleading both on facts and procedure. The intention of the news item appears neither to be informative nor probe-centric but to portray the alleged casual approach of the concerned Members of Lok Sabha, in absenting themselves from the sittings of the House.

47. As regards privilege implications of defamatory news items published in the media are concerned the position in this regard stands settled as laid down in Practice and Procedure of Parliament by Kaul and Shakhthar (6th edn. P. 293).

"It is a breach of privilege and contempt of the House to make speeches, or to print or publish any libels, reflecting on the character or proceedings of the House or its Committees, or any member of the House for or relating to his character or conduct as a member of Parliament...Speeches and writings reflecting on the House or its Committees or members are punished by the House as a contempt on the principle that such acts tend to obstruct the

Houses in the performance of their functions by diminishing the respect due to them...In order to constitute a breach of privilege, however, a libel upon a member of Parliament must concern his character or conduct in his capacity as a member of the House and must be based on matters arising in the actual transaction of the business of the House.”

48. The Committee are left with no alternative but to conclude that the news item published by the Times of India against Smt. Mausam Noor and Shri M.I. Shanavas, MPs is defamatory, imputes motives and casts reflection towards their discharge of parliamentary duties and responsibilities, which has lowered their public image in general and particularly among their constituents, a majority of them perhaps being unaware of the sanction of their leave by the House based on the First Report of the Committee on Absence of Members from the sitting of the House.

49. The Committee feel constrained to note the casual approach of Ms. Mohua Chatterjee, the correspondent of Times of India newspaper in filing of her story and further as observed during her deposition before the Committee. Her replies to the Committee were evasive and non-serious, besides displaying her total lack of familiarity with parliamentary rules and convention along with basic journalistic prudence, which is surprising for a journalist who has covered Parliament for many long years. The Committee, however, also take note of her defence plea that there was absence of any malafide intention on her part in the publication of the news item. However, Shri Arindam Sen Gupta, the then Managing Editor of the Times of India had put it on record in his deposition that Ms. Mohua Chatterjee has been counselled more than once about this report and that it was an inadvertent error on the part of the newspaper for which he as an Editor owned up the responsibility and assured the non repetition of such reports in the Times of India.

50. The Committee also note that the Editor, Times of India had published a clarification/correction in their edition datelined 16 February, 2015 whereby it was stated, “It was not our intention to cast aspersions on Members of Parliament as we hold the institution of Parliament in the highest esteem. Any hurt caused is inadvertent and is regretted.” Expressions of regrets by Shri Arindam Sen Gupta, the then Managing Editor of the newspaper were again put on record by him during his deposition before the Committee.

51. Thus the Committee cannot but conclude that the incorrect and defamatory news item as published by the Times of India not only defamed Smt. Mausam Noor and Shri M.I. Shanavas, MPs but was also humiliating and tarnished their image besides resulting in the breach of their privileges.

ISSUE NO. 2

Whether the said news report was in violation of the Rules of Procedure and made a premature disclosure of the First Report of Committee on Absence of Members from the Sitting of the House, before it was laid at the table of the House?

52. The Committee would like to draw attention to Rule 275 of the Rules of Conduct of Business in Lok Sabha which lays down that evidence, report and proceedings of a Committee which has not been laid on the Table are treated as confidential. Further as per direction 55(1) of the Directions by the Speaker of Lok Sabha, the proceedings of a Committee shall be treated as confidential and it shall not be permissible for a member of the Committee or anyone who has access to its proceedings to communicate, directly or indirectly, to the Press any information regarding its proceedings including its report or any conclusions arrived at, finally or tentatively, before the report is presented to the House.

53. According to the practice obtaining in the United Kingdom, a premature publication of a Parliamentary Committee's proceedings or evidence constitutes a breach of privilege. As Erskine May has stated:-

“By the ancient custom of Parliament ‘no act done at any Committee should be divulged before the same be reported to the House. Upon this principle the Commons, on 21 April 1837, resolved, That the evidence taken by any Select Committee of this House, and the documents presented to such Committee, and which have not been reported to the House, ought not to be published by any member of such Committee or by any other person. Where the public are admitted this rule is usually not enforced. The publication of proceedings of Committees conducted with closed doors or of draft reports of Committees before they have been reported to the House will, however, constitute a breach of privilege.” (May’s Parliamentary Practice, 16th Edition p. 119)

May has further stated:

“It is a breach of privilege for any person to publish any portion of the evidence given before, or any document presented to, a Select Committee before such evidence or document, has been reported to the House...” (May’s Parliamentary Practice, 16th Edition, p. 627)

54. The Committee reiterate the settled position that it is a breach of privilege and contempt of the House to publish any part of the proceedings or evidence given before, or any document presented to a Parliamentary Committee before such proceedings or evidence or documents have been reported to the House. In the instant case the recommendations made in the First Report of the Committee on Absence of Members from the sittings of the House were published by the Times of India even before the report was laid at the table of the House. The Committee would not like to dwell upon the happenings which resulted in the leakage of the report but emphatically state that due precautions must be taken by all concerned to

protect the confidentiality of Parliamentary reports and papers, before they are laid on the table of the House.

55. The Committee hold the Times of India newspaper for having committed a breach of privilege of the Committee on Absence of Members from the sittings of the House by premature publication of its report before it being laid on the table of the House.

RECOMMENDATIONS

56. The Committee wish to reiterate the guidelines enunciated by the Press Council of India which state that the fundamental objectives of journalism is to serve the people with news, views, comments and information on matters of public interest in a fair, accurate, unbiased, sober and decent manner. To serve this end, the Press is expected to conduct itself in keeping with certain norms of professionalism, universally recognized namely, accuracy and fairness in report, pre-publication verification of report, caution against defamatory writings and to faithfully report the proceedings of either House of Parliament without malice. **The Committee are of the view that the Times of India newspaper failed to adhere to these basic tenets of journalism expected from a newspaper of its standing and reputation but given the assurance of non-recurrence of such incidents in future, do not wish to make any recommendation in this regard.**

57. **The Committee, however, keeping in view the clarification published by the newspaper about the inadvertent error made by it in the publication of the news item followed by the honest admission of lapse and error of judgment coupled with expression of genuine regrets by the then Managing Editor, Shri Arindam Sen Gupta, who sadly passed away in the interregnum of finalization of the report, recommend that the matter may be allowed to rest,**

as against the Correspondent and Printer and Publisher of the newspaper particularly in view of the apology placed on record. The Committee hope that the newspaper would discourage such irresponsible reporting in future particularly about Parliament and its constituents and would sensitize its correspondents and reporters for strictly complying with the journalistic ethics.

**SMT. MEENAKASHI LEKHI
CHAIRPERSON
COMMITTEE OF PRIVILEGES**

December, 2016