



FIFTH LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**COMMITTEE OF PRIVILEGES
(2010-11)**

Report on the notice of breach of privilege raised by Shri Francis D'Souza, MLA against the reporter, Editor and Publisher of 'The Economic Times' (Mumbai Edition) for misreporting the recommendations of a Committee report in their newspaper dated 28-7-2010.

Presented to the House on 4-2-2011

**GOA LEGISLATURE SECRETARIAT
PORVORIM, GOA**



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(i)

COMPOSITION OF THE COMMITTEE

(2010-11)

CHAIRMAN

Shri Mauvin Godinho

MEMBERS

Shri Francis D'Souza

Shri Agnelo Fernandes

Shri Dayanand Mandrekar

Shri Anant Shet

Shri Chandrakant Kavalekar

Shri Dilip Parulekar

LEGISLATURE SECRETARIAT

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|----|---------------------|---------------------|
| 1. | Shri J. N. Braganza | ... Secretary |
| 2. | Shri N. B. Subhedar | ... Joint Secretary |
| 3. | Smt. Ligia Godinho | ... Under Secretary |
| 4. | Smt. Blandina D'Sa | ... Section Officer |



INTRODUCTION

I, the Chairman of the Committee of Privileges (2010-11), having been authorized by the Committee to present this Report on the question of breach of privilege raised by Shri Francis D'Souza, MLA against the Reporter, Editor and Publisher of 'The Economic Times' for misreporting the Report of the Committee of the House in its daily dated 28.7.2010 under caption "Call to bring Catholic Church in Goa under the ambit of RTI".

The Committee held four meetings. This report was considered and adopted in its meeting held on 2-2-2011.

ASSEMBLY HALL
PORVORIM, GOA.

MAUVIN GODINHO
CHAIRMAN

DATED: 4-2-2011



REPORT

Shri Francis D'Souza, MLA tabled a notice (Annexure – I) of a breach of privilege on 2nd August 2010 against the Reporter, Editor and Publisher of the news papers viz. Herald, Times of India (Goa Edition) and Economic Times (Mumbai Edition) for reporting news items under heading 'Bishop's office under RTI?', 'Archbishop's office to come under RTI Act?' and 'Call to bring Catholic Church in Goa under the ambit of RTI' respectively in their dailies dated 28th July 2010.

2. The member's contention was that the newspaper reports contradict the recommendation of the Report of the *Ad hoc* Committee on Law (2010) which has cast serious aspersions on the member thereby committing grave offence of breaching the privilege of the member who chaired the Committee as per the directions of the Speaker and also the House.

3. The Hon'ble Speaker examined the matter and found that the article in the Herald under caption 'Bishops Office under RTI', and the article in the 'Times of India' under caption 'Archbishop's office to come under RTI Act?' have not contradicted the recommendations of the Committee in their news report. However, the article in the 'Economic Times' reported contrary to the recommendations of the Committee.

4. The Speaker felt that a prima facie breach of privilege was involved and referred only the article in 'The Economic Times' dated 28/7/2010 (Annexure - II) to the Committee of Privileges for further examination and report on 16/8/2010.

5. A Memorandum No. 4 of 2010 on the matter was circulated to the Members of the Privileges Committee (Annexure – III).

6. The Committee at its sitting examined the matter in detail. The portion of the objectionable news report in 'The Economic Times' dated 28/7/2010 under caption "Call to bring Catholic Church in Goa under the ambit of RTI" is as under -

The State Government's Ad hoc Committee on Law, in a report tabled on the floor of the House during the ongoing monsoon assembly session, has made this suggestion. It wants the State to make necessary amendments to various acts so as to bring Catholic religious and other practices under the purview of national laws.

"The holy Catholic Church in Goa has been found involved in malpractices not only in the religious services but all other activities undertaken by it," the Committee, chaired by former Law Minister and senior BJP leader Francis D'Souza, has noted.

7. The suggestion No. 51 made by Mrs. Antonia Michelle Abel in the Report of *Ad hoc* Committee on Law is as under -

Archbishop Patriarch, Fr. Filipe Neri Ferrao, should file his Apostolic letter of appointment in the Departments of Law and Judiciary of Goa for operating two sets of laws in Goa, viz. the Portuguese Law and the Indian Law.

When Goa got liberated from the Portuguese Regime on 19.12.1961, the Archbishop Patriarch of Goa, Daman and Diu failed to report to His Holiness, the Pope, on the turn of events that took place in Goa after 19.12.1961. The Holy Catholic Church abides by the Divine Law of Goa that calls for the cessation of the Portuguese Constitution and Laws under the see of Portugal and to come under the Constitution of India and Indian Laws after His Holiness, the Pope, has executed the Judgment that Goa is under the see of India upon receipt of the Memorandum from Archbishop Patriarch of Goa, Daman and Diu. The Code of Canon Law reads:

Can. 34 §1. Institutions clarify the prescripts of laws and elaborate on and determine the methods to be observed in fulfilling them. They are given for the use of those whose duty it is to see that laws are executed and oblige them in the execution of the laws. Those who possess executive power legitimately issue such instructions within the limits of their competence.

§2. The ordinances of the institutions do not derogate from laws. If these ordinances cannot be reconciled with the prescripts of laws, they lack all force.

§3. Instructions cease to have force not only by explicit or implicit revocation of the competent authority who issued from or of the superior of that

authority but also by the cessation of the law for whose clarification or execution they were given.

From the above quotation it is clear that Archbishop Patriarch of Goa, Daman and Diu was bound to repeal the Portuguese Constitution, Laws, customs, cultures and traditions and report to His Holiness, the Pope, to come under the Constitution of India, Indian laws, customs, cultural and traditions for the survival of the Holy Catholic Church in Goa. Therefore, Archbishop Patriarch, Fr Filipe Neri Ferrao, is operating the Holy Catholic Church in Goa without any law in force and continues unabated in malpractices not only in the religious services but all other activities undertaken by him and the persons he appoints to act on his behalf.

It is not too late for Archbishop Patriarch, Fr Filipe Neri Ferrao, to submit a Memorandum to His Holiness, the Pope about the liberation of Goa from the Portuguese Regime, explain his negligence to duty on reporting to His Holiness, the Pope when Goa was liberated on 19.12.1961 and be open to receiving instructions, orders, decree and Judgment on the re-establishment of the Holy Catholic Church in Goa under the See of India.

When the Departments of Law and Law and Judiciary of Goa come under the Right to Information Act (RTIA) then Archbishop Patriarch of Goa, Daman and Diu, Fr Filipe Nery Ferrao, ought to open a Public Information Office for the Church Laws (Canons) that he follows and respond to applications made under the RTIA for information on the Code of Canon Law (the legislative document of the Church) and the Catechism of the Catholic Church (the sacred doctrines, traditions and teachings of the Church) as required by the public.

8. To this suggestion, the Committee recommended that the Law Department make a comprehensive study on the above and forward a detailed report to the Committee within 15 days.

9. The Committee noted that the *Ad hoc* Committee on Law did not make such recommendations as published in 'The Economic Times'. The wordings '*It wants the State to make necessary amendments to various acts so as to bring Catholic and religious and other practices under the purview of national laws*' has not been the recommendation of the Committee neither has the Committee mentioned that *the Church in Goa has been found involved in malpractices not only in the religious services but all other activities undertaken by it,*".

10. The Committee observed that there is a prima facie case of breach of privilege in the news item in question against the Reporter, Editor and Publisher of the daily 'The Economic Times' (Mumbai Edition) as the news item under caption 'Call to bring Catholic Church in Goa under the ambit of RTI' has deviated from recommendation of the Report of the Committee.

11. The publication of false or distorted, partial or injurious report of debates or proceedings of the House or its Committees or willful misrepresentation or suppression of speeches of particular members, is an offence of the same character as the publication of libels upon the House, its Committees or Members; and the persons who are responsible for such publication are liable to be punished for Breach of Privilege or Contempt of the House. (Practice and Procedure of Parliament; page 280-281)

12. The Committee therefore, decided to call the written explanation from the Reporter, Editor and Publisher of 'The Economic Times' (Mumbai Edition) by 29/11/2011 vide its letter dated 18/11/2010. As there was no reply from the news paper, the Committee decided to give them another chance to send their written explanation to the notice of breach of privilege by 7/1/2011 vide its letter dated 21/12/2010 failing which the Committee would proceed with the matter *ex parte*.

13. The Committee received the written explanation from 'The Economic Times' (Annexure IV) stating that they did not have any intention to hurt the integrity of the House in any manner and did not intend to cast aspersions on an esteemed Member of the House and apologized for the error which was carried out inadvertently. They also informed that they took note of the error and published the clarification to the readers of 'The Economic Times' in the newspaper edition of 31/12/2010 (ANNEXURE - V).

14. The Committee considered the written explanation and the clarification *suo moto* published by 'The Economic Times'. The Committee feels that though the act attracts breach of privilege and contempt of the House, it would be consistent with the dignity of the House not to take a serious view when the publishers have apologized and *suo moto* published the clarification in their newspaper dated 31/12/2010.

15. The Committee recommends that in view of the apology tendered for the error and the corrective publication made, the matter be dropped.

ANNEXURE – I

Francis D'Souza
MLA (Mapusa)

02nd August 2010

To,
Shri Pratapsingh Rane,
Hon'ble Speaker,
Legislative Assembly Complex,
Porvorim – Goa

Sub: Notice of breach of privilege against the newspapers reporting item under heading "Bishop's office under RTI Act?"

Sir,

Under Rule 76 of the Rules of Procedure and conduct of business of the Goa Legislative Assembly, I wish to raise a breach of privilege against the publisher, editor and reporters of the newspapers dated July 28, 2010 viz. Herald, Times of India, Goa Edition and the Economic Times, Mumbai reporting news item under heading "Bishop's office under RTI?" and "call to bring catholic church in Goa under the ambit of RTI" respectively that committee on law chaired by BJP Legislature Francis D'Souza asking law department to study whether office of Archbishop Patriarch of Goa, Daman and Diu could be brought under the ambit of Right to Information (RTI) Act. (copies enclosed). I have been appointed by the Hon'ble Speaker as Chairman of the adhoc committee on law with Shyam G. Satardekar and Vijay Pai Khot as members vide bulletin part II no. 105 dated 09th April 2010 (copy enclosed) while submitting the report on the suggestion by Mr. Antonia Michelle Abel at sr. no. 51 of the report committee recommended that **"the law department make a comprehensive study and forward a detailed report to the committee within 15 days."** Hence, this recommendation contradicts the newspaper items on subject casting serious aspersion on the member thereby the grave offence of breaching the privilege of the member as also of the whole house who chaired the committee as per the directions of the speaker and submitted the report.

I therefore request you to cause an inquiry into this breach of privilege and take appropriate steps to ensure that publishing misleading news items on assembly matters are punished as the same has become a habit nowadays. Kindly note that the misleading aspect of the matter came to notice of the undersigned only when news items appeared on newspapers on Wednesday 28th July, 2010

Yours truly,

Sd/-

(Francis D'Souza)
MLA (Mapusa) and
Chairman Ad-hoc Committee Law

ANNEXURE – II

Call to bring Catholic church in Goa under the ambit of RTI

WITH a huge landmass under its control, the demand to bring the Catholic church in Goa under the ambit of the Right to Information Act, or RTI, is gaining momentum.

The state government's Ad-Hoc Committee on Law, in a report tabled on the floor of the house during the ongoing monsoon assembly session, had made this suggestion. It wants the state to make necessary amendments to various acts so as to bring Catholic religious and other practices under the purview of national laws.

"The holy Catholic church in Goa has been found involved in malpractices not only in the religious services but all other activities undertaken by it, "the committee, chaired by former law minister and senior BJP leader Francis D'Souza, has noted.

For now the State government has avoided taking any decision, stating that it is beyond the State's authority under the prevailing local laws. In a written reply to the suggestion, the state government has expressed inability to control the church. "We do not know if institutions could be compelled to make their records open to public," the government said.

The report, however, points that this matter can be altered, simply by informing the Pope that Goa was liberated from the Portuguese regime in 1961 and, hence, it must be governed under the Indian laws, "the report points out.

The Catholic church is said to own the largest chunk of non-agricultural land. In Goa, the church has been known to play an active role in the state politics. It is even accused of issuing political sermons during elections. Often pamphlets are also distributed in churches explaining reasons behind the church's stand on various issues.

With 30% of Goa's 14 lakh population coming from the minority community, the church is known to have a major impact on the society, especially in the south Goa constituency where Christians dominate in 17 of the 21 constituencies. The church's views are also known to garner a lot of respect from even among non-Catholics.

But with large properties bought, often donated by members of the community, many Catholics believe that the state laws will bring more transparency in church matters.

The recent recommendations comes in the wake of Goa's NRI commissioner and former union minister Eduardo Faleiro's demand to bring church properties under the state laws. "All over the world, churches are subjected to the laws of the state. There cannot be a state within a state. Religious organizations cannot form a state within a state," Mr Faleiro had said at an All India Catholic Union Conclave held in Goa sometime back. His suggestion expectedly had irked religious sentiments with the All India Catholic Union (AICU) vehemently opposing any such move.

ANNEXURE - III**GOA LEGISLATURE SECRETARIAT****PRIVILEGES COMMITTEE****Memorandum No. 4 of 2010**

Subject: Breach of privilege against the publisher, editor and reporter of the 'Economic Times' (Mumbai edition) by Shri Francis D'Souza, MLA for misreporting the recommendations of a Committee report in their newspaper dated 28-7-2010.

Shri Francis D'Souza, MLA tabled a notice of breach of privilege dated 2-8-2010 against the editors, publishers and reporters of the dailies 'Herald', 'Times of India' (Goa edition) and 'The Economic Times' (Mumbai edition) for reporting news articles in their dailies 28th July 2010 under captions "Bishop's office under RTI?", "Archbishop's office to come under RTI Act?" and "Call to bring Catholic church in Goa under the ambit of RTI" respectively.

2. The Member has alleged that the news reports contradict the recommendation of the Committee to the suggestions made by Mrs. Antonia Michelle Abel at Sr. No. 51 of the Report of the Ad hoc Committee on Law thereby causing grave offence of breaching the privilege of the member, who chaired this Committee as per the directions of the Speaker and submitted the report; and also the whole House.

3. The Hon'ble Speaker examined the matter and referred the case only to the extent of the 'Economic Times' to the Committee of Privileges for examination and report.

4. The Hon'ble Speaker constituted 8 demands related ad hoc Committees of the House, each consisting of three members, to scrutinize the budget 2010-11 and report thereon to the House. Cut motions along with public suggestions were to form part of the Report.

5. In the Report presented to the House on Law, it is observed that there have been three suggestions made by Mrs. Antonia Michelle Abel. One suggestion is in respect to Demand No. 3 & 4 – Districts and Sessions Court, North Goa and South Goa (page 8 & 9 of the report) wherein the Department did not forward its reply to the suggestion and the Committee declined to make comments. The second suggestion (pages 38 to 40) was in respect to Demand No. 10 – Notary Services wherein the Committee declined to comment on the issue. The third suggestion (pages 60 to 62) is in respect to Demand No. 62 – Law. The Department did not forward its reply. The suggestion in summary states –

The Archbishop Patriarch of Goa, Daman & Diu is bound to repeal the Portuguese Constitution, laws, customs, cultures and traditions and report to His Holiness, the Pope, to come under the Constitution of India, Indian laws, customs, culture and traditions for the survival of the Holy Catholic Church in Goa. Therefore, Archbishop Patriarch, Fr. Filipe Neri Ferrao, is operating the Holy Catholic Church in Goa without any law in force and continues unabated in malpractices not only in the religious services but all other activities undertaken by him and the persons he appointed to act on his behalf.

The Archbishop Patriarch should submit a memorandum to His Holiness, the Pope about the liberation of Goa from the Portuguese regime, explain his negligence to duty on reporting to His Holiness, the Pope and be open to receiving instructions, orders, decree and judgement on the re-establishment of the Holy Catholic Church in Goa under the see of India.

When the Department of Law and Judiciary come under the Right to Information Act, then Archbishop Patriarch of Goa, Daman & Diu, Fr. Filipe Nery Ferrao, ought to open a Public Information Office for the Church Laws (Cannons) that he follows and respond to applications made under the RTI Act for information on the Code of Cannon Law and the Catechism of the Catholic Church as required by the public.

6. The recommendation of the Committee to this suggestion was that -

The Law Department make a comprehensive study on the above and forward a detailed report to the Committee within 15 days.

7. The daily 'Economic Times' dated 28/7/2010 under caption "Call to bring Catholic Church in Goa under the ambit of RTI" states that –

The Economic Times (Mumbai edition)

With a huge landmass under its control, the demand to bring the Catholic Church in Goa under the ambit of the Right to Information Act, or RTI, is gaining momentum.

The State Government's ad hoc Committee on Law, in a report tabled on the floor of the House during the ongoing monsoon assembly session, has made this suggestion. It wants the State to make necessary amendments to various acts so as to bring Catholic religious and other practices under the purview of national laws.

"The holy Catholic Church in Goa has been found involved in malpractices not only in the religious services but all other activities undertaken by it," the Committee, chaired by former law minister and senior BJP leader Francis D'Souza, has noted.....

8. Shri Francis D'Souza, MLA has alleged that the recommendation of the Committee contradicts the article in the newspaper, thus casting serious aspersion on the member and causing grave offence of breaching the privilege of the member who chaired the Committee as per the directions of the Speaker and submitted the report, as well as the whole House.

9. The sentence in the news report, **'It wants the State to make necessary amendments to various acts so as to bring Catholic religious and other practices under the purview of national laws' has not been the recommendation of the Committee, chaired by Shri Francis D'Souza, neither has the Committee mentioned that the Church in Goa has been found involved in malpractices not only in the religious services but all other activities undertaken by it,"**.

10. Excerpts from the Practice and Procedure of Parliament' by Lok Sabha Secretariat (page 280-281) may be perused for evaluating the matter.

.....When the debates are reported mala fide, that is, when a willful misrepresentation of the debate arises, the offender is liable to punishment for committing a breach of privilege and contempt of the House.

The publication of false or distorted, partial or injurious report of debates or proceedings of the House or its Committees or willful misrepresentation or suppression of speeches of particular members, is an offence of the same character as the publication of libels upon the House, its Committees or members; and the persons who are responsible for such publication are liable to be punished for a breach of privilege and contempt of the House.

11. To conclude whether a breach of privilege is committed it is essential to ascertain whether the misreported news item in the newspaper is a willful misrepresentation of the Report of the Ad hoc Committee on Law.
12. The Hon. Speaker having referred the matter to the Committee of Privileges, the matter needs to be examined in-depth for report.
13. The Committee may consider.

ANNEXURE - IV

By R.P.A.D.

THE TIMES OF INDIA GROUP

December 31, 2010

MR. N. B. SUBHEDAR
Jt. Secretary, Legislature
Goa Legislature Secretariat
Secretariat, Porvorim
Bardez-Goa – 403 521

Dear Sir,

Subject: Your letter No. LA/Priv/2010/3099 dated December 21, 2010 ("Letter") relating to an article in The Economic Times, Mumbai titled "Call to bring Catholic Church in Goa under the ambit of RTI" dated July 28, 2010 ("Article").

We have received your Letter and note the contents therein.

The wording of the Article suggested that the Committee had desired that amendments be made so that institutions linked to the Catholic Church could be brought under the Right to Information Act.

We have perused the report and confirm that the Committee only made a recommendation to the Law Department to make a comprehensive study on the subject and forward a detailed report to the Committee within 15 days.

It is our humble submission that we did not have any intention to hurt the integrity of the House in any manner and we have not intended in any way to cast an aspersion on an esteemed member of the House. We apologise for this error and wish to submit that the same was carried out inadvertently.

Sir, we are pleased to inform you that taking note of this error, we have proactively provided the following clarification to the readers of The Economic Times in today's newspaper edition:

A Clarification

"In an article which appeared on 28 July, 2010 we referred to certain recommendations of the Adhoc Committee of Law formed by the Goa legislature. The wording of the article suggested that the committee had desired that amendments be made so that institutions linked to the Catholic Church could be brought under the Right to Information Act. We clarify to our readers that the committee had only asked the law department to study the subject and forward a report to it. The error is regretted."

We apologise again for this error and humbly request you to accept our apology and close the matter initiated under the Letter.

Thank you.

Yours Sincerely,

For **Bennett, Coleman & Co. Ltd.**

Mritunjay Katania

Authorised Signatory



ANNEXURE V

THE ECONOMIC TIMES

dt. 31-12-2010

A Clarification

"In an article which appeared on 28 July, 2010 we referred to certain recommendations of the Adhoc Committee of Law formed by the Goa legislature. The wording of the article suggested that the committee had desired that Amendments be made so that institutions linked to the Catholic Church could be brought under the Right to Information Act. We clarify to our readers that the committee had only asked the law department to study the subject and forward a report to it. The error is regretted."

