Chapter - II

President's Right to get Information

There are some grey areas in the Constitution of India, of which one is Article 78. It relates to the duties of the Prime Minister with regard to the furnishing of information to the President. In 1987, this Article became a matter of controversy and drew the attention of all the sections of the nation but still no unanimous decision on this is available. This chapter makes an attempt to examine this Article and the controversy of 1987 in detail, keeping in view the intention of the Constitution makers, the convention, judicial interpretations and opinions of other important segments of society regarding Article 78.

I. The Controversy between the Head of the State and the Head of the Government in 1987:

The President has been given the right to get information on all important matters of state administration under Article 78 of the Constitution of India. But the fact is that the Prime Ministers of India have often ignored the Presidents by not giving them the information about the affairs of the administration.

The relationships between the head of the State and the head of the Government became very strained in 1987. The Prime Minister, Shri Rajiv Gandhi, tried to ignore the President, Shri Zail Singh, by not giving him the information about the policies and decisions of the Government which the latter resented.
In fact on March 2, 1987, Shri Amal Datta, CPI (M) member, while speaking on the motion of thanks on the President's address in the Lok Sabha, raised the issue of the convention of the Prime Minister calling on the President and discussing matters of State with him. But the Speaker of the Lok Sabha immediately drew the attention of the members of Parliament to Rule 352(vi) of the Rules of Procedure of the Lok Sabha and objected to the President's name being used to influence the debate. Shri Amal Datta also alleged that Article 74 of the Constitution had been brought to a nullity. The Prime Minister then made an intervention and denied the allegation. He told the Lok Sabha:


3. 'Privilege Issues', f.n. 1.

"... There is no time when issues of national interest are kept away from the President. But we do not like to politicize the post of President like some members do. We like to keep the President above our politics and we will not involve the President in our daily politics and I would request the members to honour the institutions of the country and not drag them down into politics".5

Again on March 9, 1987, Shri Madhu Dandavate of Janata Party sought to raise the question of President-Prime Minister relationship on the basis of the proceedings of the House on 2 March, but the Speaker did not give him permission to raise the issue on the floor of the House and ruled:

"Use of the President's name for the purpose of influencing the debate in anyway whatsoever is not allowed... Even in the first place it was wrong, it should not have been done ... I am not going to allow any wrong to be repeated ... I say that I do not approve of the mention of the President's name by anybody in this House...."6

Though the Speaker of the Lok Sabha did not allow any discussion on the President-Prime Minister relationship in the Parliament, the matter did not end there. In response to the Prime Minister's statement in the Lok Sabha on March 2, 1987, the President sent a letter to Shri Rajiv Gandhi listing his woes and lack of propriety on the part of the

5. Lok Sabha Debates (New Delhi: Lok Sabha Secretariat), 24(6), March 2, 1987, c. 395.
6. Cited in Madhu Limaye, President vs. Prime Minister (Bombay: Janata Party Regional Committee, 1987), p. 34.
Prime Minister. The letter leaked out from the Rashtrapati Bhawan and got published in a newspaper on March 13, 1987. The publication of Shri Zail Singh's letter exploded like a bomb on the political scene because it created a nationwide controversy over the relations between the President and the Prime Minister. The President, in his letter, questioned the Prime Minister's assurances to the Parliament that he and his Ministers had kept the President informed on all issues of national interest. He specifically stated that the factual position was somewhat at variance with what had been stated by Mr. Gandhi in Parliament. To illustrate his point of view, President mentioned in his letter that the Prime Minister did not inform him about his visits to USA and Russia, the background of Punjab and Assam.

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7. The following are excerpts from the text of the President's letter to Shri Rajiv Gandhi: "...The President-Prime Minister relations in our country are governed by certain well established practices and conventions besides express provisions of the Indian Constitution. I am constrained to say that certain well established conventions have not been followed. Before your visit abroad and after your return I have not been briefed ... As you have already conveyed your view to Parliament, I felt I should convey to you the factual position on the subject" 'Zail challenges Prime Minister's statement', Indian Express (New Delhi), 13 March 1987. For details, see Appendix No. II.

8. 'Confrontation at the top', Asia Week (Hongkong), 13(13), March 29, 1987, p. 12.
Accords etc. He also said that after his visit to Jammu and Kashmir, he wanted to meet the Prime Minister and share his views regarding the situation there but the latter did not respond to his request. He also pointed out that the reports of some of the enquiry commissions had not been sent to him despite his requests for those.

In his letter, the President also clarified that it was not the Opposition which had tried to drag the President's name on the floor of the House but it was a member of the ruling party (viz. K.K. Tiwary) who had started politicising the office of the President. As he wrote:

"In fact the politicisation (of the office of the President) was started by an Hon'ble Member of the ruling party in April, 1985- I had brought it to your attention that there was an emergent trend to drag in the President's office into political controversy. The member concerned was subsequently elevated to the Council of Ministers ...."

Thus, the President in his letter refuted the statement of Shri Rajiv Gandhi point by point and clarified that what the Prime Minister had asserted on the floor of the House was totally untrue; the fact was that the Constitutional provision relating to the furnishing of information to the

9. Indian Express, f.n. 7.
10. Ibid.
11. For details of K.K. Tiwary's statement, see Appendix No. III.
12. Indian Express, f.n. 7.
President had not been properly followed by the Prime Minister.

When the first letter of the President leaked out and got publicity in the Press, Article 78 of the Constitution of India became a matter of public debate. The questions that had arisen out with the publication of President's letter were: what were the views of the Constitution makers regarding the President's right to get information? What were the causes of rift between the President Shri Zail Singh and the Prime Minister Shri Rajiv Gandhi that made the President write a letter to the Prime Minister? Did the President have a right to ask that information from the Prime Minister which he regarded as important? Was the Prime Minister constitutionally bound to furnish every type of information to the President? These questions are of great importance and are the subject matter of discussion in this study.

(a) Causes of Rift between the President Shri Zail Singh and the Prime Minister Shri Rajiv Gandhi

What the President had said in his letter was not contrary to facts but it was based on what he had felt during the two and half years of his dealings with Shri Rajiv Gandhi. In fact there were many causes of rift between the President and the Prime Minister that made Shri Zail Singh write a letter to Shri Rajiv Gandhi.
One of the important causes of rift was that while the President wanted to know the outcome of Prime Minister's meetings with the Heads of the States of USA, Russia, France etc., the Prime Minister did not have the courtesy to call on the President either before or after his visits to those countries. Shri Rajiv Gandhi literally tried to cut off the President from all matters of state and reduce him to a sulking dummy by keeping him totally in the dark about his foreign visits. Moreover, the Cabinet Ministers also started ignoring the official summons from the Rashtrapati Bhawan. As one writer said:

"The Prime Minister avoided making the customary calls on the President to brief him on his various foreign trips ... Taking the cue from Rajiv, even Ministers started ignoring the official summons from the Rashtrapati Bhawan. When the Giani protested to the Prime Minister, the Government issued a circular asking the Ministers to attend the President's functions and keep him informed ... The whole thing looked bizarre and childish".13

It was also common knowledge that the Prime Minister Shri Rajiv Gandhi had ignored President Shri Zail Singh even with respect to domestic issues. The President had expressed his disappointment for non-availability of information on some important events relating to Punjab like the Blue Star Operation, the Accord between Shri Harchand Singh Longowal and Shri Rajiv Gandhi and other matters including the post-

Accord developments in the state of Punjab for which he had asked for specifically. In this context, one writer commented:

"At the root of the problem was Rajiv's unwillingness to share with Giani Zail Singh any information about the Government's policy on Punjab for fear that the Giani would pose hurdles for whatever course the government might want to follow". 

The Prime Minister also failed to provide the various enquiry commission reports to the President. Of these reports, the important one was that of Thakkar Commission which had looked into the assassination of the late Prime Minister Mrs. Indira Gandhi. It was reported in the press that the Commission had recommended in its report that "an investigation be launched into President Shri Zail Singh's links after he demits his office". The President was very keen to see the report and asked for it from Shri Rajiv Gandhi but the latter refused to oblige.

Even the Misra Commission report on the riots in Delhi in the wake of Mrs. Indira Gandhi's assassination in 1984 was not shown to the President. Shri Buta Singh, the then Home Minister, told the President many times that the report would be forwarded to him, but Shri Zail Singh could see it

only after it was placed on the table of the Parliament.\textsuperscript{17}

The relationship between the President and the Prime Minister also became strained when the former found his foreign trips getting blocked at Shri Rajiv's instance.\textsuperscript{18} As one writer said, "at one stage over forty foreign invitations were awaiting clearance from the government. The Prime Minister's vindictiveness became apparent when he started deputing Mr. R. Venkataraman, who was then Vice-President, instead of Gianiji for ceremonial trips abroad".\textsuperscript{19}

Moreover, the Congress (I) state Governments, while keeping in view the hostile attitude of the Prime Minister towards the President, also started discouraging Gianji's visits to their states.

Thus, it is indisputable that the President had felt humiliated on many counts because the Prime Minister never bothered not only to develop warmth in his relationship with the President, but even to show the minimum respect due to the Head of the State. It was a most intolerable situation for any Head of the State where his own government refused to confide in him.

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18. Mr. Rajiv Gandhi had deliberately stalled the Gianiji's foreign visits on several occasions, for example, the President's official visit to Zimbabwe was cancelled 24 hours before his scheduled departure, \textit{Ibid}.
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(b) **Publication of President's letter and Reaction**

When the first letter of Shri Zail Singh leaked out and was published in a newspaper, the members of the Opposition started demanding a discussion on it in both the Houses of Parliament so as to know the whole truth of the matter. On March 13, 1987, Prof. Madhu Dandavate, Shri S. Dinesh Goswami and others attempted in the Lok Sabha to raise the issue of Prime Minister's statements as being contrary to the observations made by the President in his aforementioned letter of March 9. But the Speaker disallowed the privilege move and said that 'he could not allow any discussion in any manner whatsoever under the Rules of Procedure of the Lok Sabha'.

On the same day, Shri Jaswant Singh, Shri Gopalaswamy and others also attempted in the Rajya Sabha to speak on the letters exchanged between the President and the Prime Minister. The Chairman of the Rajya Sabha was, to begin with, a little accommodating in the matter because he allowed Shri Jaswant Singh to read in the House a communication addressed by him to the Chairman which sought clarification on certain issues like (a) the veracity of the purported letter; (b) the manner in which the newspaper gained access to such correspondence.

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between the high officers of state; (c) vital questions relating to the security of information and confidentiality of governance; and (d) the question arising from the Prime Minister having made a statement in the Parliament, which the text of the purported letter appeared to refute. But eventually, he too disallowed all discussion in the House.

On March 14, 1987, the Janata Party President, Shri Chandra Shekhar appealed to all Opposition parties to ascertain all facts regarding the allegations made by President Shri Zail Singh in his letter to the Prime Minister. He also stressed that since Shri Zail Singh had, in his letter not only exposed the Prime Minister but also brought to the surface his real character, the Parliament should debate the issue and keep the nation informed about that matter of national importance.

Shri Chandra Shekhar commended the courage of the newspaper which published the letter of the President and condemned repression let loose against it by the Government. In fact, the very day the letter was published, the Central Bureau of Investigation had raided the residence of Shri Ram

Nath Goenka, the owner of that newspaper (Indian Express) and the office and home of his legal adviser, S. Gurumurthy in Madras. Though the official reason given for the raids was that the newspaper had breached the Official Secrets Act by publishing extracts from government files in an investigative article on Reliance Industries Ltd., India's largest textile mill, but due to the timings of the raids many people saw in them an act of retaliation for publishing Shri Zail Singh's letter.  

The Telugu Desam party and the Bharatiya Janata party also criticised the Prime Minister for not keeping the President informed on matters of national importance. Mr. P. Upendra, leader of the Telugu Desam party, wanted the Prime Minister to make amends for misleading the House. The Bhartiya Janata Party in a statement demanded that the Prime Minister should either acknowledge his error or honourably resign and seek a fresh mandate from the people. The Party also said:

"Indeed the President's letter to the Prime Minister is a damning indictment of the government. The letter has not only corroborated the charge made by the Opposition members that

23. 'Confrontation at the top', Asia Week, f.n. 8, p. 13.
25. Ibid.
the Prime Minister had thrown overboard well established conventions in so far as the Prime Minister's relations with the President are concerned, the President has cited incontrovertible facts to show how the Prime Minister had been violating express provisions of the Constitution".26

It further maintained:

"If a President violates the Constitution there is a sanction in it to arraign him - he can be impeached. But if a Prime Minister is guilty of disregarding the Constitution, the only sanction available to Members of Parliament is to invoke the intervention of the President".27

On the other hand, political sources in the ruling party kept repeating that a constant exchange of information was always there between the President and the Prime Minister through other channels like members of the Council of Ministers meeting and briefing the President.28

Shri Mohit Sen in his article entitled, 'The Presidential strike' criticised the controversy between the President and the Prime Minister and said that though the President had been given rights under the Constitution, but at the same time the Constitution had given pre-eminent position to Parliament

26. Ibid.
27. Ibid.
and through it to the Prime Minister. Therefore no action of President should tarnish or damage the value of freedom and our aspirations.29

In the meantime, it was reported that the Prime Minister had written back to the President in a bid to remove certain misunderstandings. Shri Gandhi was understood to have maintained that the Government had consulted Shri Zail Singh on all important issues, though under the Constitution it was not necessary to get his approval to all government decisions. He also maintained that it was his desire that the office of the President should not be brought under controversy nor should relations between the President and the Prime Minister become a matter for public debate.30

Again on March 18, Sarvashri Saifuddin Chowdhary, Shri Dinesh Goswami and C. Madhav Reddy gave notice to the Speaker of the Lok Sabha and sought his permission to raise that matter in the House. The Speaker, after examining the matter in all its aspects, disallowed the requests for any discussion in any manner on the subject.31 On March 19, 1987, the Speaker observed that his ruling was strictly in accordance


30. 'Prime Minister sends reply to President', Hindustan Times (New Delhi), 18 March 1987.

with Rule 352(vi) which prohibited the use of the President's name on the floor of the House for the purpose of influencing the debate. He further observed that since the whole matter centred round a letter alleged to have been written by the President, any discussion on the matter either by way of a privilege issue or otherwise was bound to bring in the name of the President and as such that could not be allowed.  

The Speaker also noted that though under Article 53 the executive power was vested in the President, but this power had to be exercised in accordance with the advice of the Council of Ministers under Article 74 of the Constitution of India.  

Regarding the question whether any advice tendered by the Ministers to the President could be inquired into, Dr. Balram Jakhar observed that the relationship between the President and his Council of Ministers was a matter entirely between them and could not under any circumstances be a fit subject for discussion on the floor of the House. He also added that the letter written by Shri Zail Singh to Mr. Rajiv Gandhi constituted correspondence between the Head of the

33. Ibid, c. 250.  
Republic and the Head of the Government of the Union of India and as such was related to their constitutional relationship. This relationship was a matter entirely between them and thus that correspondence between them was not the concern of the House.\(^{35}\)

On March 20, the Chairman of the Rajya Sabha also disallowed the demand of the entire Opposition for discussion on the President's alleged letter. He quoted in detail the discussions in the Constituent Assembly on the subject of relationship between President and the Prime Minister, the conventions in Britain and scope of Article 74 and Article 78 and, thereafter, observed that there was no case for any breach of privilege against the Prime Minister. He concluded his ruling by saying:

"...I am conscious of the fact that our decisions today will shape the future of constitutional governments in India. This chair will only be fulfilling its sacred trust if, in disregarding the heat of the passing moment, it adheres to the path charted for it by the framers of our Constitution. I, therefore, disallow the requests for any discussion in any manner on the subject".\(^{36}\)

Now the question arises - were the rulings of the Presiding Officers of Parliament in order? Do the presiding officers have a right to curb all type of discussion on a

\(^{35}\) Ibid, c. 251.

\(^{36}\) Parliamentary Debates, Rajya Sabha, Official Reports (New Delhi : Rajya Sabha Secretariat), 141(19), March 20, 1987, c. 266.
subject of national importance? Was that letter of Shri Zail Singh a matter entirely between the Head of the State and the Head of the Government? What is the remedy if the President writes that his right to get information is being infringed upon? Is President only a ceremonial head or dynamic factor in the governance of the Country? Since these questions are very complicated, it becomes necessary to understand Article 78 in detail, the Constituent Assembly Debates the convention and the past practice in India regarding President's right to get information and the flaws in the rulings of the presiding Officers of Parliament.

II. Article 78

Like the British King, the Indian President has been given the right, as mentioned earlier, of receiving and calling for information from the Head of the Government under Article 78 of the Constitution of India. This Article imposes certain constitutional obligations on the Prime Minister in his relations with the President. It defines the duties of the Prime Minister as under:

(a) to communicate to the President all the decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and
(c) if the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a minister but which has not been considered by the Council.  

While clause (a) of this Article declares it a duty of the Prime Minister to communicate to the President all the decisions of the Cabinet, clause (b) says that the Prime Minister will have to furnish such information relating to the administration of the affairs of the Union and proposals for legislation, to the President as the latter 'may call for'. In fact clause (b) of this Article is very wide in its terms and it makes the President's voice decisive because it clearly says that the President has the right to call for additional information from the Head of the Government. As Shri V.R. Krishna Iyer, former judge of Supreme Court, said:

"Article 78(b) activises the Rashtrapati, vitalises his real presence as constitutional sentinel and invests his office with a Westminster relevance".  

Moreover, clause (c) of this Article empowers the President to refer any question to the consideration of the Cabinet if he finds that an important decision has been taken by an


individual Minister regarding his own department without prior consultation with the Cabinet. This practice existed even before the commencement of the Constitution. As Dr. Ambedkar explained in the Constituent Assembly:

"Weekly summaries prepared by each Ministry containing the decisions taken by it used to be sent to the Cabinet as well as to the Governor-General. If, the Governor-General, on seeing the weekly summaries, found that the Ministry had taken a decision on a particular subject which he thought was not good, he might place that matter for a reconsideration by the Cabinet".39

(a) Constituent Assembly Debates

The right of the Head of the State to be acquainted with the affairs of the administration is an important one. That is why our Constitution makers made a provision in this regard. It was on 5 December 1947 that the Drafting Committee decided to insert an article in the Constitution defining the relation between the President and the Ministers especially regarding the regular supply of information relating to the administration of the affairs of the Government to the President of India. The proposed article provided:

"(1) The President shall have the power to call for any information relating to the conduct of the business of the Government of India;

(2) It shall be the duty of the Prime Minister to supply the President all the decisions of the

Council of Ministers relating to the administration of the affairs of India and proposals for legislation as and when they are made;

(3) The President shall also have the power to require the decision of the Council of Ministers with regard to any particular matter to be submitted to the Council for reconsideration.40

Later on, the language of this provision was modified. The Prime Minister was made duty bound to supply the information to the President. The modified article provided:

"It shall be the duty of the Prime Minister:

(a) to communicate to the President all decisions of the administration of the affairs of the Union and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and

(c) if the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a minister but which has not been considered by the Council".41


41. February 21, 1948. See Constituent Assembly of India: Draft Constitution of India (prepared by the Drafting Committee), (New Delhi: Government of India Press, 1948), p.27; Later this issue (supply of information by the Prime Minister to the President) was reopened on 7.1.1949 when Shri H.V. Kamath moved an amendment proposing that "in clause (a) of Article 65, after the word 'President' a comma and the words 'as soon as they are made' be inserted". The amendment, however, was negatived. Constituent Assembly Debates (New Delhi: Lok Sabha Secretariat), 7(35), January 7, 1949, pp.1353-54.
Thus, it is evident from the above stated debate that though the initiative, in the draft article, for calling for information was left with the President, in the amended version of that article, the Prime Minister was made duty bound to supply the information relating to the affairs of the administration to the President. This modification of the original proposal was accepted by the Constituent Assembly and was embodied in the Constitution of India.\(^{42}\)

(b) **Convention regarding the Right to Information**

In England also, the Crown is entitled to read the Cabinet papers, foreign office despatches, telegrams and other state papers. When on one occasion (in 1912) the Prime Minister of England forgot to send some important papers to the King, he received the following rebuke from the King:

"I quite appreciate all your difficulties and sympathise with you accordingly, but I do look to my Prime Minister for that confidence which will ensure his keeping me fully informed on all matters, especially those which affect questions of such grave importance to the State, and indeed to the Constitution".\(^ {43}\)

Sir Arthur Berriedale Keith, a great authority on Constitutional law, wrote:

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"The one clear rule is that the sovereign is entitled to the fullest information in any sphere in which he has indicated his desire to be kept informed and must be given on any issue which comes before him. The rule does not help effectively so as to prevent disputes arising as to failure to inform, but it precludes refusal to supply when asked for".44

(c) Past Practice in India regarding Right to get Information

Differences of opinion, attitude and temperament between the Head of the State and the Head of the Government are not without precedent in our country but the situation became worse during the time of Shri Rajiv Gandhi.

The first President, Dr. Rajendra Prasad found no harm in being assertive, particularly where the Constitution empowered him to do so. For instance, when he felt that he was being ignored in the matter of appointments of Governors and ambassadors etc., he made a protest against that practice.45 Without mincing words he wrote to Pt. Nehru:

You are laying down bad precedents. A President who did not like you could have given you a lot of trouble.46

The protest made by Dr. Prasad was discussed in the Cabinet and it was then decided that the files relating to


high appointments were to be submitted to the President before the issue of final orders. But in spite of this development, the President was not kept informed about some of the important issues. For example when General K.K. Thimmayya resigned because of his differences with Shri Krishnan Menon, the President was not informed. Dr. Prasad expressed dissatisfaction on his being kept in the dark about Thimmayya’s resignation. He felt that it was a violation of his jurisdiction since he was the Supreme Commander of the defence forces of the country. Shri Krishnan Menon was held responsible for that error and he had to apologize. The Prime Minister than told the Defence Minister that the convention regarding the relations of the President with the Prime Minister and the Council of Ministers should be healthy and not create any wrong traditions.

It is also important to note that in spite of differences with Dr. Prasad, the Prime Minister, Pt. Nehru, used to meet him every week and discuss with him even the nature and composition of the Cabinet. The President and the Prime Minister

47. Ibid.
49. Ibid.
even discussed about the nomination of the members of the Rajya Sabha.

Though on his part, Dr. Prasad maintained aloofness from party politics, yet he saw to it that his office was not reduced to the status of a rubber stamp. He often asked his secretariat to draw his attention to any important decision taken by a Ministry by itself, so that he could ask that the subject be reconsidered by the Cabinet as a whole. He also wanted to be kept informed about the progress of a Bill in Parliament so that he was in a position to make positive suggestions, if necessary.  

It is also important to mention that President Shri Sanjiva Reddy also insisted on his right to get information. When Shri Reddy asked for information about the activities of Mr. Kanti Desai, the then Prime Minister Shri Morarji Desai supplied the necessary information to him about the activities of his son.  

Shri Sanjiva Reddy also tried to be assertive during the Prime Ministership of Mrs. Indira Gandhi. He frequently criticised the government about the deteriorating law and order situation, unemployment, inflation, the practice of nominating the Chief Ministers etc. But it is a fact that


inspite of some differences with the President, the Prime Minister Mrs. Indira Gandhi fulfilled her obligations under Article 78 by meeting the President normally after her visits abroad as per the constitutional requirements.\textsuperscript{52} As one writer said:

"Shri Sanjiva Reddy who was even disliked by Mrs. Gandhi, was never denied any information he sought. And he (President) had said publicly that the President had the right to be informed".\textsuperscript{53}

(d) \textbf{Arbitrary Rulings of the Presiding Officers of Parliament}

The rulings of the presiding officers of Parliament were not in order and thus produced cynical reaction among all sections of the people. The impression left by their rulings was that the Presiding Officers of Parliament had chosen to ignore public sentiment in their zeal to protect the Prime Minister, Shri R. Venkataraman, the then Chairman of the Rajya Sabha, said in his ruling that the first and essential question that arose for consideration was that whether any matter communicated by the Head of the State to the Head of the Government could be raised on the floor of the House. That observation was wrong because if the matter communicated by the Head of the Tamil Nadu State in May 1986 to the Head of the Government of that State could be raised in the State's

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\item \textsuperscript{52} R.N. Pal and Sudesh Rani, \textit{Information Prime Minister's Obligation} (New Delhi: Ghanshyam, 1989), p. 149.
\item \textsuperscript{53} Kuldip Nayar, 'Not a mere figure head', \textit{Radiance Views Weekly} (Delhi), 33(1), 28 June-4 July 1987, p. 7.
\end{itemize}
Legislature as well as in the Parliament, the President's letter which had revealed that the Prime Minister had violated the Constitution by not fulfilling his duties under Article 78, could also be discussed in both the Houses of Parliament. Infact if the Prime Minister Shri Rajiv Gandhi could assert on the floor of the House that he had furnished all information to the President, the Opposition parties should have also been given the opportunity to discuss the published letter of the President in the Parliament in which Shri Zail Singh had categorically stated that the Prime Minister's statements of March 2 and 4 were at variance with the facts.

The Speaker of the Lok Sabha also maintained that according to Article 74, the advice given by the Prime Minister to the President was of a confidential nature and so was the correspondence between the President and the Prime Minister and it could not be discussed in the Parliament. But the fact was that the correspondence between Shri Zail Singh and Shri Rajiv Gandhi had not remained very confidential and secret because that letter had already been published in the newspapers. So, when the correspondence between the Head of the State and the Head of the Government becomes public and if a

54. The Chief Minister of Tamil Nadu, Shri M.G. Ramachandran got a letter from the State Governor, Shri S.L. Khurana in May 1986. It was a distasteful letter and a reply to that in similar tone was sent by the Chief Minister ten days later. The letters raised a controversy. Though the letters were personal still they were discussed not only in the State Legislature but also in the Parliament. Cited in R.N. Pal and Sudesh Rani, f.n. 52, p. 150.
privilege issue is raised in Parliament in this context, the
presiding officers of Parliament can certainly give their
permission for a discussion on it. Criticising the rulings
of the Presiding Officers of Parliament, Mr. Arun Shourie in
his article said:

"The rulings of the Speaker of the Lok Sabha and
of the Chairman of the Rajya Sabha to block all
debate on the President's letter to the Prime
Minister are indefensible. They preclude a remedy
for grave violations of the Constitution. They
rob Parliament of the rights that even an ordinary
citizen has ... They say the President's letter can-
not be discussed as it is confidential, whereas in
fact it has been published in the newspapers and
is public knowledge...."55

It was also said by the Presiding Officers of
Parliament that though the executive power was vested in the
President, still this power had to be exercised in accordance
with the advice of the Council of Ministers under Article 74
of the Constitution of India. But this ruling was also not
in order because it added a new clause to Article 78 where
none existed in the text itself. In fact it would be absurd
to say that the Prime Minister would advise the President
under Article 74 as to what information the President might
call for from the Prime Minister under Article 78. Shri
V.R. Krishna Iyer, former judge of Supreme Court, said in
this context:

55. Arun Shourie, 'Can the President send a message : Yet
another way', Indian Express (New Delhi), 31 March 1987.
"Constitutional pettifoggery in blind bhakti has gone to the absurd extent of arguing that Article 78 is handcuffed by Article 74. The argument is that the President may call for such information from the Prime Minister as he is advised by the Prime Minister to ask the Prime Minister ... How is he (President) to warn, counsel and urge reconsideration of ministerial action if has no means of being briefed; should the President ask such questions from the Prime Minister as the Prime Minister asks him to ask? ..."56

In fact the supply of information under Article 78 by the Prime Minister to the President cannot be confused with the advice of the government as provided in Article 74 of the Constitution because advice and information are quite distinct. Moreover, if the scope for seeking information by the President had to be governed by the discretion of the government, a separate Article 78 would not have been incorporated in the Constitution. Seeking information on any matter of national importance does not restrict the advice and consent of the Government as mentioned in Article 74 of the Constitution of India.

The Presiding Officers of the Lok Sabha, we submit, also wrongly interpreted the Rules of Procedures of the Parliament so as to prevent discussion on breach of privilege against the Prime Minister. The Lok Sabha Rule 352(vi)57 prohibit the use of President's name in Parliament but it

57. Rules of Procedure and Conduct of Business in Lok Sabha, f.n. 2.
does not mean that this rule can be used to prevent any reference to the name of the President. In fact when the constitutional issues are involved, the name of the Head of the State cannot be kept out from the discussion in Parliament. Moreover, the Rules of Procedure have been framed to facilitate debate and not to prevent discussion on the violation of the constitutional practice. Since the President's leaked letter of March 9 was in true sense an indicator of violation of constitutional practice by the Prime Minister, the members of the Opposition should have been given the opportunity to discuss that letter of the Head of the State on the floor of the Parliament. The Prime Minister should have also been given the opportunity to clear himself of the charge of misleading the House. As Shri S.L. Shakdhar, ex-Secretary-general of the Lok Sabha, said:

"It is a great pity that Parliament has not been allowed to discuss something which is being debated by the whole country. The Prime Minister has been accused of misleading the House. He should not have been denied the opportunity to clear himself. Quite frankly, the Speaker's ruling has come to me as a surprise. I am unable to see how any rule comes in the way of the House debating the issue. At any rate, we also have a rule which empowers the House to suspend any rule. The important thing was for the House to come to grips with the unprecedented crisis...." 58

It is also very clear that because the Prime Minister and his cabinet Ministers are collectively responsible to

the Parliament, it becomes the duty of the Presiding Officers to know whether the Prime Minister and his cabinet colleagues have discharged their duties laid on them by the Constitution i.e., whether the Prime Minister has furnished information to the President or not.

In fact, the management of parliamentary affairs by the Presiding Officers was not very skilful in the year 1987, while in the past the Presiding Officers had played an important role in maintaining the dignity of Parliament. For instance, when Shri G.V. Mavlankar was the Speaker of the Lok Sabha, an occasion arose when he gave evidence of his sense of duty and independence. Shri N.C. Chatterjee, a member of the Lok Sabha, once commented that the special Marriage Bill passed by the Rajya Sabha was a bill passed by urchins. Obviously, the members of the Rajya Sabha did not like that comment and moved a motion against him. Shri N.C. Chatterjee also moved a counter privilege motion against the Secretary of the Lok Sabha on the ground that since he was a member of the Lok Sabha, he could not be subjected to the jurisdiction of the Rajya Sabha. When the Speaker informed the House about the motion of Shri N.C. Chatterjee,

59. Cited in Madhu Dandavate, 'President, Prime Minister and Parliament', Janata (Bombay), 42(6), May Day 1987, p. 5.
60. Ibid.
the Prime Minister Shri Nehru rose and justified the privilege motion against Mr. Chatterjee in the Rajya Sabha. But the Speaker Shri Mavalankar restrained the Prime Minister and told him in clear terms that he would never allow a member of the Lok Sabha to be subjected to the jurisdiction of the other House. 61

(e) President's Right to get Information with special reference to Accusations of corruption against Shri Rajiv Gandhi Administration

The President's right to get information again surfaced when accusations of corruption against the Prime Minister were made both inside and outside the Parliament during 1986-87. It all started when in October 1986, Shri V.P. Singh, the then Finance Minister, hired a private U.S. management consultant firm specializing in detective work (Fairfax Group Ltd.) for the purpose of investigating the foreign exchange practices of some well known Indian businessmen 62 and the illegal holdings of Indians in foreign countries.

But the Congress Party did not appreciate that decision of the Finance Minister and made a protest against the hiring of Fairfax group. That is why on March 31 a special discussion on the Fairfax Group's engagement was held in the Lok Sabha at which Shri V.P. Singh was reportedly criticised by some

61. Ibid
party colleagues who accused him of endangering national security by hiring foreign detectives. Subsequently, the government announced the setting up of a two-man Commission to enquire into the events and circumstances leading to the engagement of the Fairfax group. Criticising this action of the government, one writer commented:

"It appointed a Commission not to punish the guilty but to charge those who had hired Fairfax, of jeopardizing national security by engaging the agency ...."  

When the President Shri Zail Singh came to know about the Fairfax affair, he also sought details about the same from the government and thereby added a new dimension to the episode that had already shaken the ruling party at the Centre. The President's Secretary, S. Vardan was reported to have sent a letter to Cabinet Secretary Shri B.G. Deshmukh intimating the President's desire to be briefed about the need for the appointment of Fairfax group and the developments related to the probe on foreign funds issue.

Meanwhile, the information about HDW scandal also leaked out. In February 1987, Shri J.C. Ajmani, the Indian Ambassador in Bonn had sent the information to New Delhi that 'Dr. Otto

63. Ibid.
65. 'Zail seeks Details', Hindustan Times (New Delhi), 8 April, 1987.
66. Ibid.
Molitor, an official in West German Defence Ministry, had said that the price for the two extra submarines could not be reduced as India had been demanding because the seven percent commission payable to the Indian agents of HDW under the terms of an open-ended agreement posed a great financial liability. The commission worked out to Rs. 30 crores'. On receiving that information from the Indian ambassador, Mr. V.P. Singh immediately ordered an inquiry to be carried out in the matter. But the inquiry was seen as an attack on the integrity of Mr. Rajiv Gandhi, who had been incharge of the Defence portfolio from September 1985 to January 1987 and therefore Mr. V.P. Singh had to resign from his post.

Moreover, on April 16, 1987, the Swedish Radio reported that AB Bofors of Sweden had secured the contract of supplying India four hundred 155 mm Howitzer guns, by paying millions of dollars as bribes to Indian officials and Congress party members.

The charges of the Swedish radio were denied by both the Indian and the Swedish governments. But few believed the denials of these governments which were later challenged by the investigative news reports of these two countries.

In late April President Shri Zail Singh again wrote to the Prime Minister demanding details of the Bofors gun deal

68. Cited in Inder Malhotra, f.n. 15, p. 56.
69. Ibid. p. 57.
such as the nature of telegrams exchanged between the Indian embassy in Stockholm and the External Affairs Ministry, the report of the evaluation Committee, the delivery schedule of the guns and the test trial report. He also sought detailed information on the West German submarine purchases. But Shri Gandhi with the support of his Cabinet colleagues refused to give the President the technical and the classified information he had demanded in respect of the Bofors field gun acquisition. He, in fact, was of the view that the Council of Ministers was supreme in regard to taking decisions on giving information to the President.

The Opposition Leaders were reported not only to be unhappy but angry with the government for its refusal to furnish detailed information to the President on the Swedish gun deal. On 7 May, 1987, they declared in a statement:

70. Cited in Hari Jai Singh, f.n. 13, p. 76.

71. A special meeting of the Union Cabinet decided against providing to the President the technical and classified information he had demanded in respect of the Bofors field gun acquisition. The Cabinet meeting was convened specially to discuss the President's letter of April 21 asking for the entire information regarding the Bofors deal, including technical details. The Cabinet discussed the interpretations by the Prime Minister and the President of Articles 74, 78 and 86 of the Constitution. It endorsed the Prime Minister's view that the Council of Ministers was supreme in regard to taking decisions on giving information to the President...," See J.R. Siwach, f.n. 51, p. 34.
"Naturally in such circumstances, the President as the Head of the State, would like to be informed about the details of the Bofors deal. The Government's refusal to supply the information asked for by the President only deepens the suspicions of the people in this respect. There cannot obviously be any secrecy to be kept from the Head of the State...."72

On the same day, Prof. Madhu Dandevate demanded in the Lok Sabha that the rules for the implementation of Articles of the Constitution relating to the duties of the Prime Minister about furnishing of information to the President should be framed.73

It was in these circumstances that a body of BJP legislators submitted a memorandum to the President stressing that the Prime Minister had lost the mandate of the people and urged him (President) to ask the Prime Minister either to leave office or seek a fresh mandate.74

The delegation of Supreme Court Advocates also submitted a memorandum to the President and said:

"... That the President has unfettered right to have all information under Article 78 and similarly he has full right to pass the information to Parliament, through a message or by addressing it ...."75

The controversy between the Head of the State and the Head of the Government became more sharp when the President

72. 'President can seek information' Statesman (Delhi), 8 May, 1987.
73. Tribune (Chandigarh), 7 May, 1987.
74. Times of India (New Delhi), 10 May, 1987.
75. Ibid., 14 May 1987.
insisted in calling for additional information on the Bofors deal and the government refused to comply with it. Though there was speculation in the Indian Press concerning the possible dismissal of Shri Gandhi's government by the President in this context, Shri Zail Singh did not take any action i.e., he neither dismissed the government nor did he allow the prosecution of the Head of the Government on corruption charges.

However, the main issue still remained unresolved and that is - what for the Indian Presidency is? Is it to serve the ambitions of party in power at the Centre? What are the views of academicians, journalists, jurists, political leaders regarding the President's right to get information?

(f) **Right to Information : Views of the People**

There is a sharp division in the thinking about the real meaning of Article 78 of our Constitution. One school of thought believes that the President's right to call for information is not unlimited and unrestrained. As the Congress Working Committee, while criticising the President, said:

"A vicious campaign of falsehood, insinuation and innuendo backed by baseless and malicious charges has been mounted to tarnish the image of the Party and its leadership ...."76

Shri P. Chidambaram, the Minister of State in the Ministry of Home Affairs, while presenting the ruling party's

76. Quoted in 'Is the President planning some action', *Democratic World* (New Delhi), 16(17), April 26,1987,p.7.
viewpoint, said in the Lok Sabha:

"Articles 74 and 78 of the Constitution have not been violated. The President is bound by the advice of the Prime Minister which cannot be called into question in any way...."77

Shri Nalini Kant Jha in his article entitled, 'Indian President : Head of State or figurehead' criticised Shri Zail Singh and said:

"... It is open to the Council of Ministers to advise the President in the matter of calling information or to frame rules under Article 77 in order to strike a balance and prevent Rashtrapati Bhavan from becoming a permanent Commission or Court of enquiry providing for the trial of the Government of the day by a process of discovery, inspection and cross examination. Thus Article 78 must be read with Article 74(1) and not independent of it".78

He also maintained:

"... If anyone is to define what constitutes full information, it is the Prime Minister and not the President. If anyone is to decide the method by which he is to be kept informed it is once again the Prime Minister. And if in exceptional circumstances, the Prime Minister chooses not to inform the President in advance he is not really violating the Constitution...."79

Mr. Giri Lal Jain in his article entitled 'Dangerous plea to President', also said:


78. Nalini Kant Jha, 'Indian President:Head of State or figurehead', Mainstream (New Delhi), 25(44), July 18, 1987, p. 30.

... There cannot be slightest doubt that the entire scheme of the Constitution is weighted in favour of the Prime Minister vis-a-vis the President ... Article 78 has to be read in the context of Article 74 which makes it obligatory for the President to be guided by the advice of the Council of Ministers headed by the Prime Minister and indeed, of the entire scheme of the Constitution".80

The Times of India, the national daily, in its editorial said:

"Giani Zail Singh's decision to write another letter to the Prime Minister seeking details of the Bofors gun deal cannot leave the slightest room for doubt that he sees himself more as a Viceroy under the Raj than as a head of state in a parliamentary system of government where the executive authority must vest in the Prime Minister and his Council of ministers and not in the President. In this specific case at least he cannot claim that he had been ignored."81

It further maintained:

"As the controversy over allegations of payoffs in the deal arose, the defence Minister, Mr.K.C. Pant, called on him and briefed him. So the subsequent demand for details and that too in a written communication to the Prime Minister suggests either that even earlier the Giani's concept of President's right to be kept informed on important developments and decisions was very different from that of most of us, or that he has felt encouraged by recent controversies to press the attack on Mr. Rajiv Gandhi...."82

80. Giri Lal Jain, 'Dangerous plea to President; Subverting Indian Democracy', Times of India (New Delhi) 15 April, 1987.
82. Ibid.
Shri Soli J. Sorabjee, an eminent jurist, also criticised the President and said that even in England the convention of keeping the Sovereign informed had been rather flexible in practice and not frequently observed. He also said:

"Makintosh in his classic, the British Cabinet, tells us about constant complaints of Queen Victoria as also of George V about disregard of this convention on the part of their Prime Ministers. Gladstone also took the view that in the matter of appointments to posts, it is by courtesy only that these appointments are made known to her Majesty. Balfour was more explicit and was of the view that the King could not see the confidential papers as of right...."

He further maintained:

"The purpose of pointing this out is not to detract from the value of this provision or minimise the need for compliance but to emphasise that in England this rule has not become deeply embedded in British parliamentary practice. Its non-compliance is not regarded by statesmen and constitutional experts in Britain as a breach of some constitutional requirement".

Justice D.A. Desai, the Chairman of the Law Commission, said that the Council of Ministers could deny certain type of information to the President on the ground of secrecy. He also said:

"The President is not administered the oath of secrecy while the Ministers are. The President is pledged to uphold, preserve and protect the

84. Ibid.
85. Ibid
86. Cited in N.S. Gahlot, Trends in Indian Politics (New Delhi: Raw and www Publications 1988) p. 32A.
Constitution. The Constitution confers on the President no absolute powers, and he has to function with the aid and advice of the Council of Ministers ... As the President has no ears and no tongue of his own, he enjoys no discretionary powers".87

Dr. L.M. Singhvi, a former member of Parliament and an eminent jurist said that the repository of actual powers in the Indian system was the cabinet, headed by the Prime Minister and accountable only to Parliament.88 According to him, as per Article 74 of the Constitution, it was constitutionally open to the Council of Ministers to advise the President not to call for a particular piece of kind of information under Article 78(b). In his view, the President's right to call for information is not unlimited and is necessarily subject to the exigencies of his functions in the discharge of which he is not wholly his own master.89

The other school of thinking about Article 78 believed that the President had been given the right to get information and seek for broad clarifications from the Government on any matter. As Prof. Somnath Chatterjee of the Communist Party (Marxist) said:

"Article 78(b) of the Constitution places upon the Prime Minister the responsibility to furnish the President the information as may be called

87. Ibid.
for by him. The Constitution makers have contemplated the present situation and that is why they stated the Prime Minister's obligations in such clear terms.90

Mr. Satya Prakash Malaviya, general secretary of the Ajit Singh group of the Lok Dal, criticised the Prime Minister and demanded that a Committee of members from both Houses of Parliament be appointed to enquire into the assertion of the Prime Minister that he had kept the President informed on all important national issues.91

Prof. Balraj Madhok, Jan Sangh leader, said that while the President's office was a national office, the Prime Minister's office was a party office and a party leader could not be trusted in many matters.92

Mr. F.M. Khan, member of Parliament, said:

"The President is duty bound through his oath of office to insist on his right to full information on all matters pertaining to the well-being of the nation, including the Bofors arm deal. Any attempt to short-circuit this will not be tolerated by the people who have fought against authoritarianism".93

Participating in a seminar on 'The role of the President in a Parliamentary Democracy governed by written Constitution',

92. Hindustan Times, f.n. 90.
Mr. B. Satyanarayan Reddi of Telugu Desam party, said:

"The Indian President could not be treated as a rubber stamp. For, bound as he was by the oath of office, to defend the Constitution, he could not be expected to perform his duties without adequate information on major issues".94

Prof. C. Lakshman of Telugu Desam, also criticised the controversy between the President and the Prime Minister and said:

"While differences of opinion between the President and the Prime Minister have surfaced in the past as well, the controversy over the powers of the two offices has assumed more serious proportions recently as Mr. Rajiv Gandhi has not cared to call on the President to brief him on major issues frequently enough".95

He further maintained:

"Shri Jawahar Lal Nehru used to call on Dr. Rajendra Prasad every week notwithstanding their differences on some issues and subsequent Prime Ministers too kept up the tradition. But Mr. Rajiv Gandhi has called on Mr. Zail Singh only twice during his tenure as the Prime Minister thus far. How such treatment to the President can strengthen democratic institutions".96

Mr. O.P. Saxena, President of Delhi Desam, felt that if the position of the President was merely that of a


95. Ibid.

96. Ibid.
'rubber stamp' the office should be abolished as it would save the exchequer about Rs. one crore per month. 97

Shri Kuldip Nayar in his article entitled 'Another bid by Zail Singh', said:

"Article 78 enjoins upon the Prime Minister to communicate all decisions to the President. The latter can call upon the Prime Minister to furnish him any information he wants ... One is unable to appreciate Prime Minister's reasons for feeling that all information need not be shared. If the President cannot be relied upon, he does not deserve to be there... The Prime Minister for some reason does not like Mr. Zail Singh and hence ignores him... and (thus) brings down the prestige of the President's office". 98

He also said:

"... Even if Mr. Rajiv Gandhi succeeds in humiliating Giani Zail Singh, it is not the latter but the nation that will suffer more. Devaluation of the President's office makes the Prime Minister still more powerful and removes the few checks that the Constitution framers had laid down ...." 99

He, in another of his articles entitled "Not a mere figure-head", again criticised the President and said:

"According to the Constituent Assembly the President is not just a figure head the position Shri Rajiv Gandhi has tried to reduce it to. The provisions for a widely based electoral college to elect the President and that for his impeachment carried the office

97. Ibid.

98. Kuldip Nayar, Tribune, f.n. 17 (Emphasis added)

99. Ibid.
of the Indian President nearer to the office of the American President than to that of the British Monarch. Shri Rajiv Gandhi has made a mockery of the Constitution because of his personal prejudice".100

Criticising the statement of Mr. P. Chidambaram, the Minister of State in the Ministry of Home Affairs, Shri A.G. Noorani in his article said:

"... Mr. P. Chidambaram's statement in the Lok Sabha on April 15 is the most definitive and negative pronouncement on the President's right to know of the affairs of the Union ... Since the Constitution came into force, never has any spokesman of the Government of India asserted, as Mr. Chidambaram has done that the Prime Minister is entitled to decide what information or documents he should provide to the President".101

He further maintained:

"Dr. Ambedkar pointed out that nonetheless the President enjoys some 'prerogatives', of his own as distinct from his 'functions', as do all heads of state in a parliamentary system. Mr. Chidambaram ignored Dr. Ambedkar's exposition of Article 74 completely and asserted that if the Prime Minister advises the President that this is the information that is sufficient ... the President is bound by that advice".102

The Indian Express, the national daily, in its editorial said:

100. Kuldip Nayar, Radiance Views Weekly, f.n. 53.
102. Ibid.
"A government can always hold back information even from Parliament and the Courts by claiming executive privilege, the Official Secrets Act and the like. The Constitution therefore provides that there will be one functionary - the President of the Republic who shall have the power to call for information and ensure that the Government is not using the cloak of official secrets to cover up malfeasance. The Government is demolishing this safeguard ...."103

Shri D.N. Pal, a lawyer, also maintained:

"The Prime Minister is duty-bound to respect the Constitution; as such he should not give a wrong interpretation of Article 78. If a person of his status would do so it would encourage indiscipline in the country and disobedience to the Constitution everywhere. Moreover, there should be some automatic punishment to be awarded to him, in case he violates the constitutional provisions".104

Justice H.R. Khanna was of the view:

"The Prime Minister cannot conceal any information from the President especially when it is asked for. The article is very clear, unambiguous since it is mandatory in nature".105

The above discussion leads us to the conclusion that the President of India has a right to be informed of public affairs for exercising his influence as the impartial Head of the State upon the Council of Ministers. The President must be given due respect because he is the highest functionary

104. Quoted in R.N. Pal and Sudesh Rani, f.n. 52, p. 142.
105. Ibid. (Emphasis added).
of the State and the symbol of national unity. There should not be any secrecy between the President and the Government because he is not only a part of the Government but also of Parliament.

In exercising his right under Article 78, the President is not expected to act on the advice of the Council of Ministers. Articles 74 and 78 of the Constitution are quite independent and do not condition each other. As Shri M.S. Gurupadaswamy, the Janata Party leader, had maintained:

"The President has power to call for information from the Prime Minister and the Ministers on any matter under Article 78 and the government cannot take shelter under Article 74 and deny him any information which is sought by the President. Articles 74 and 78 do not condition each other because both are quite independent. Under the garb of keeping a secret, the head of the State cannot be refused information from the government. Both the Prime Minister and the President have equal right to information".106

In case the Union Government refuses to furnish any information sought by the President, this would be a breach of constitutional provisions. As Shri Asoke Sen, the former Law Minister, had commented:

"The Prime Minister is bound to furnish any information that the President may demand and saying 'no' would be a violation of the Constitution".107

What the Prime Minister initially sends to the President is naturally for him to decide but once the President asks for specific information under Article 78, the Government cannot seek protection of 'The Official Secrets Act' and refuse to supply the information asked for. In fact there cannot be any secrecy to be kept from the Head of the State. As Shri V.R. Krishna Iyer, former judge of Supreme Court, had maintained:

"Confidentiality as against the Presidency is constitutional felony. The reservoir of information with the Union is no monopoly of a minister or military-general, court or commission. It is the Republic's pool open to the President, the conduit being the Prime Minister. No known doctrine or executive privilege supports the contrary proposition. The ordinary citizen has restrictions based on the reasonable needs of security of State and other constitutionally sanctioned criteria inapplicable to the President any more than to the Prime Minister .... "108

It is wrong to interpret the exercise of President's right to call for information as a controversy between the Head of the State and the Head of the Executive. In view of the speculative and contradictory reports floating around the Bofors deal and the German submarine deal, the President was within his right to demand full information from the Government. In fact, the President is entitled to such information in his capacity as the supreme commander of the armed forces

also. Moreover, he owes it to his office to exercise vigilance even against the Government because he is the guardian of the Constitution.

The problem we are faced with is - when the Prime Minister refuses to comply as per constitutional provisions, what alternative courses of action are open to the President, under the Constitution? As per our understanding of the Indian Constitution, he can utilize his powers -

(1) to send messages to the Parliament;
(2) to dismiss the Prime Minister;
(3) to dissolve the House - thus referring the whole matter to the electorate for a decision.

Hence, we will take the first alternative open to the President (i.e. President's power to send messages to Parliament to inform the nation about his predicament) in the following chapter and explore the Constituent Assembly Debates, judicial pronouncements and the views of the other learned segments of society to arrive at some definite conclusions.