



Supreme Court on MLAs' One-year Suspension

For Prelims: Article 14, Article 212, Article 194, Basic Structure of the Constitution, section 151 (A) of The Representation of the People Act, 1951, Provisions related to the Houses of Parliament.

For Mains: Representation of the People Act, 1951, Separation of Powers, SC Judgement.

Why in News

Recently, the [Supreme Court](#) has set aside the one-year suspension of 12 BJP MLAs from the Maharashtra Legislative Assembly. The Supreme Court held that suspension for a year was 'unconstitutional, substantively illegal and irrational'.

Key Points

▪ About the Suspension of MLAs:

- The MLAs were suspended for **misbehaviour in the Assembly** pertaining to **disclosure of data regarding OBCs**.
- The challenge to suspension relies mainly on grounds of denial of the **principles of natural justice**, and of **violation of laid-down procedure**.
 - The 12 MLAs have said they were not given an opportunity to present their case, and that the suspension violated their fundamental right to equality before the law under [Article 14 of the Constitution](#).
- **Rule 53 of Maharashtra Assembly:** It states that the **“Speaker may direct any member who refuses to obey his decision, or whose conduct is, in his opinion, grossly disorderly, to withdraw immediately from the Assembly”**.
 - The member must **“absent himself during the remainder of the day’s meeting”**.
 - Should any member be ordered to withdraw for a second time in the same session, the Speaker may direct the member to absent himself “for any period not longer than the remainder of the Session”.

▪ Arguments by Maharashtra Assembly:

- **Article 212:** The House had acted within its **legislative competence**, under Article 212, and courts do not have jurisdiction to inquire into the proceedings of the legislature.
 - Article 212 (1) states that “The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure”.
- **Vacancy of Seats:** The state had also said that a seat does not automatically become vacant if the member does not attend the House for 60 days but it becomes vacant only if declared so by the House.
 - It was submitted that the House is not obligated to declare such a seat vacant.
- **Article 194:** The state has also referred to [Article 194 on the powers and privileges of the House](#), and argued that any member who transgresses these privileges can be suspended through the inherent powers of the House.
 - It has denied that the power to suspend a member can be exercised only through

Rule 53 of the Assembly.

▪ **Arguments by the Supreme Court:**

- **Irrational Suspension:** Suspension of a member must be preferred as a short term or a temporary, disciplinary measure for restoring order in the Assembly.
 - Anything in excess of that would be irrational suspension.
- **Manipulating Opposition:** It said that a thin majority coalition government could use such suspensions to manipulate the number of Opposition party members.
 - Such Opposition will not be able to effectively participate in discussions/debates in the House fearing suspension of its members for a longer period.
- **Violation of Basic Structure of the Constitution:** The [basic structure of the Constitution](#) would be hit if the constituencies of the suspended MLAs remained unrepresented in the Assembly for a full year.
- **Constitutional Requirement:** The bench referred to **Article 190 (4)** of the Constitution, which says, "If for a period of sixty days a member of a House of the Legislature of a State is without permission of the House absent from all meetings thereof, the House may declare his seat vacant."
- **Statutory Requirement:** Under **Section 151 (A) of The Representation of the People Act, 1951**, "a bye-election for filling any vacancy shall be held within a period of six months from the date of the occurrence of the vacancy".
 - This means that barring exceptions specified under this section, no constituency can remain without a representative for more than six months.
- **Punishing Whole Constituency:** The Supreme Court said that the **one-year suspension was prima facie unconstitutional as it went beyond the six-month limit**, and amounted to "not punishing the member but **punishing the constituency as a whole**".
- **Question of Supreme Court Intervention:** The Supreme Court is expected to rule on the question of whether the judiciary can intervene in the proceedings of the House.
 - Constitutional experts, however, say that the court has clarified in previous rulings that the judiciary can intervene in case of an **unconstitutional act done by the House**.

Provisions for Suspension of a Member of Parliament

- Rules 373, 374, and 374A of the **Rules of Procedure and Conduct of Business in Lok Sabha** provide for the withdrawal of a member whose conduct is "**grossly disorderly**", and suspension of one who abuses the rules of the House or willfully obstructs its business.
- The maximum suspension as per these Rules is "**for five consecutive sittings or the remainder of the session, whichever is less**".
- The maximum suspension for **Rajya Sabha under Rules 255 and 256** also does not exceed the remainder of the session.
- Similar Rules also are in place for **state legislative assemblies** and councils which prescribe a maximum suspension not exceeding the remainder of the session.

[Source: IE](#)