



Sealed Cover Jurisprudence

Prelims: Sealed Cover Jurisprudence, Supreme Court, Indian Evidence Act of 1872, Short Selling

Mains: Sealed Cover Jurisprudence, Related Issues and Way Forward

Why in News?

Recently, the [Supreme Court \(SC\)](#) has rejected a “Sealed Cover” suggestion from the Government pertaining to the **Adani-Hindenburg issue**.

- The Centre Government had earlier proposed the names of members of the committee to **assess the market regulatory framework and recommend measures** related to the **Adani-Hindenburg issue**.
- But the SC refused to accept any suggestions on names in Sealed Cover in order to maintain transparency.

Note

- Hindenburg Research has alleged that the **Adani Group was “engaged in a stock manipulation and accounting fraud”**.
- Hindenburg is a **US-based investment research firm** that specializes in activist [Short-Selling](#).

What is Sealed Cover Jurisprudence?

- **About:**
 - Sealed Cover Jurisprudence (SCJ) is a **legal concept that refers to the practice of presenting sensitive or confidential information** to a court or tribunal in a sealed envelope or cover, to be opened and reviewed **only by the judge or judges in charge of the case**.
 - Even though there is **no specific law** to define the idea of sealed cover, the **SC** derives its power to use it from **Rule 7 of order XIII of the Supreme Court Rules 2013** and **Section 123 of the Indian Evidence Act of 1872**.
 - The Court can ask for information in a sealed **cover in broadly two circumstances:**
 - When information is connected to an **ongoing investigation**,
 - When it involves personal or confidential information whose disclosure may result in **violation of an individual’s privacy or breach of trust**.
- **Rule 7 of order XIII of the Supreme Court Rules:**
 - If the Chief Justice or the Court directs certain information to be kept under sealed cover or considers it of confidential nature, **no party would be allowed access to the contents of such information**, except if the Chief Justice himself orders that the opposite party be allowed to access it.

- The information can be kept **confidential if its publication is not considered to be in the interest of the public.**
- **Section 123 of the Indian Evidence Act of 1872:**
 - Official unpublished documents relating to state affairs are **protected and a public officer cannot be compelled** to disclose such documents.
 - Other instances where information may be sought in secrecy or **confidence are when its publication impedes an ongoing investigation**, such as details which are part of a police case diary.

What are the Issues Related to Sealed Cover Jurisprudence?

- **Lack of Transparency:**
 - Sealed cover jurisprudence **can limit transparency and accountability** in the legal process, as the evidence or arguments presented in the sealed cover are not available to the public or other parties.
 - It stands against the idea of an open court, where decisions can be subjected to public scrutiny.
- **Disparate Access:**
 - The use of sealed cover jurisprudence **can create an unequal playing field**, as the parties who have access to the information in the sealed cover may have an advantage over those who do not.
- **Limited Opportunity to Respond:**
 - The parties who are not privy to the information in the sealed cover may not have the **opportunity to respond to or challenge the evidence or arguments** presented in it, which can undermine their ability to present their case effectively.
- **Risk of Abuse:**
 - Sealed cover jurisprudence can be abused by parties who seek to conceal information that is not legitimately confidential, or who use it to gain an unfair advantage in the legal process.
- **Interference with Fair Trial:**
 - The use of sealed cover jurisprudence can interfere with the right to a fair trial, as the parties may not have access to all the relevant evidence or arguments that are considered in the decision-making process.
- **Arbitrary Nature:**
 - Sealed covers are dependent on individual judges looking to substantiate a point in a particular case rather than common practice. This makes the **practice ad-hoc and arbitrary.**

What are SC's Observations over Sealed Cover Jurisprudence?

- ***P. Gopalakrishnan vs The State of Kerala case (2019):***
 - The SC held that disclosure of documents to the accused is constitutionally mandated, even if the investigation is ongoing and documents may lead to a breakthrough in the investigation.
- ***INX Media case (2019):***
 - The Supreme Court had criticised the Delhi High Court for basing its decision to deny bail to a former Union Minister on documents submitted by the [Enforcement Directorate \(ED\)](#) in a **sealed cover.**
 - **It held the action as against the concept of fair trial.**
- ***Cdr Amit Kumar Sharma v Union of India case (2022):***
 - The SC said, "the non-disclosure of relevant material to the affected party and its disclosure in a sealed cover to the adjudicating authority...**sets a dangerous precedent.** The disclosure of relevant material to the adjudicating authority in a sealed cover **makes the process of adjudication vague and opaque**".

Way Forward

- The use of Sealed Cover Jurisprudence must be carefully balanced with the principles of **due**

process, fair trial, and open justice, and be justified and proportionate to the specific circumstances of the case.

- Courts and tribunals should also ensure that the parties who are not privy to the information in the sealed cover are **given a fair opportunity to present their case and challenge** the evidence or arguments presented in it.

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