



Breach of Privilege Notice

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Why in News?

The main opposition party submitted a [breach of privilege](#) notice against the [Prime Minister](#) for making “**derogatory**” remarks against the **former vice president and Chairman** of the [Rajya Sabha](#).

What is the Breach of Privilege?

- **About:**
 - When any **individual or authority** undermines any of the privileges, rights, and immunities, either of the Members **individually** or of the **House in its collective capacity**, the offence is called a breach of privilege and is **punishable by the House**.
 - Additionally, any actions that **disrespect the House's authority or dignity**, like ignoring its orders or insulting its members, committees, or officers, are considered breaches of privilege.
- **Contempt of House vs Points Of Propriety:**
 - **Contempt of House:** It is defined generally as any **act** which **obstructs** either member or house of parliament in the performance of its duty and functions.
 - **Points Of Propriety:** Parliament and its members must follow specific practices and conventions, and **violating these is considered 'impropriety'**.
- **Power of Parliament To Punish:**
 - Each House of Parliament is the guardian of its own privileges.
 - Courts of law in India have recognised that a **House of Parliament (or a State Legislature) is the sole authority to judge** as to whether or not there has been a breach of privilege of the House in a particular case.
 - The **House may punish a person found guilty of breach of privileges or contempt of the House** either by **reprimand or admonition or by imprisonment for a specified period**.
 - In addition, the house can punish its members in two other ways namely **suspension from its service and expulsion**.
 - However, **in case of unconditional apology** by the member, house normally in interest of its dignity **avoids pursuing the matter further**.
- **Procedure: The procedure for dealing with questions of privilege is laid down in Rules 187 to 203 of the [Rules of Procedure and Conduct of Business in the Council of States \(Rajya Sabha\)](#).**
 - A question of privilege may be raised in the House only after obtaining the consent of the Chairman.
 - The question whether a matter is **actually a breach of privilege or contempt of the House** is entirely **for the House to decide**.
- **Breach of Privilege by Member of Another House:**
 - According to the 1954 Joint Report of the Committees of Privileges, when a breach of privilege involving House personnel is raised in either the [Lok Sabha](#) or Rajya Sabha, the [Presiding Officer](#)

refers the case to the other House's Presiding Officer.

- The latter handles it in the same manner as breach of their own House's privilege and reports back on the enquiry and actions taken.

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PARLIAMENTARY PRIVILEGES

Parliamentary privileges are special rights, immunities, and exemptions enjoyed by MPs, MLAs and their committees.

Constitutional Provision

- Article 105: For MP's
- Article 194: For MP's

Grants only civil immunity for statements or acts performed in course of duty.

Sources of Power

- Constitutional provisions
- Various laws made by Parliament
- Rules of both Houses
- Parliamentary conventions
- Judicial interpretations

Privileges of Individual Members

- Freedom of Speech** in Parliament
- MP/Committee **immune from legal proceedings** regarding statements or voting
- Immune from court proceedings** regarding publication of reports, papers, votes, or proceedings by either House of Parliament
- Courts prohibited from questioning Parliamentary proceedings validity due to **alleged procedural irregularities**
- Members **immune from arrest in civil cases** during a House or Committee meeting and 40 days before or after its session

Collective Privilege of House

- House has **right to be promptly informed about a Member's arrest**, detention, conviction, imprisonment, and release
- Immunity from arrest and service of legal process** within precincts of House without obtaining permission of Chairman/ Speaker
- Protection of publication of proceedings of secret sitting of House
- Evidence** presented to Parliamentary Committee, along with report and proceedings, **must remain confidential** until officially laid on House's Table
- Members/officers of the **House require House's permission to present documents or testify in court** regarding House proceedings

Important Judgements

- State of Kerala vs. K. Ajith Case (2021)** - SC emphasised that privileges and immunities should not be used to exempt individuals from the general criminal law applicable to all citizens
- In 2024, the 7-judge Constitution Bench overturned the 5-judge Bench decision in **P.V. Narasimha Rao v. State Case (1998)**, clarifying that the protection provided by Articles 105 and 194 of the Constitution do not extend to bribery cases


Drishti IAS

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims:

Q. With reference to the Parliament of India, which of the following Parliamentary Committees scrutinizes and reports to the House whether the powers to make regulations, rules, sub-rules, by-laws, etc., conferred by the Constitution or delegated by the Parliament are being properly exercised by the Executive within the scope of such delegation? (2018)

- (a) Committee on Government Assurances
- (b) Committee on Subordinate Legislation
- (c) Rules Committee

(d) Business Advisory Committee.

Ans: (b)

Mains:

Q. The 'Powers, Privileges and Immunities of Parliament and its members' as envisaged in Article 105 of the Constitution leave room for a large number of un-codified and un-enumerated privileges to continue. Assess the reason for the absence of legal codification of the 'parliamentary privileges'. How can this problem be addressed? **(2014)**

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