



Supreme Court to Revisit Legislative Immunity on Bribery

For Prelims: Article 105(2), Article 194(2), [Parliamentary Privileges](#)

For Mains: The Privileges of Members of Parliament.

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Why in News?

The [Supreme Court of India](#) has referred the **1998, 5-judge Constitution Bench judgement [P V Narasimha Rao](#) case to a 7-judge Bench for reconsideration.**

- The case deals with the **interpretation of [Articles 105\(2\)](#) and [194\(2\)](#) of the Constitution**, which extends [parliamentary privilege](#) and **immunity to members of Parliament and State Legislatures** against **criminal prosecution on bribery charges for any speech or vote in the House.**
- The decision was taken in another case related to bribery charges against an MLA, who had relied on [Article 194\(2\)](#) for **quashing the charge sheet and criminal proceedings.**

What is the Case of PV Narasimha Rao v/s State, 1998?

- **Case:**
 - The P V Narasimha Rao case refers to the **1993 Jharkhand Mukti Morcha(JMM) bribery case.** In this case, Shibu Soren and some of his party MPs were accused of taking bribes to vote against a [no-confidence motion](#) **against the then P V Narasimha Rao government.**
 - No-confidence motions are significant political events that usually occur when there is a perception of the government losing majority support.
 - The Supreme Court had quashed the case against the JMM MPs, **citing immunity under [Article 105\(2\)](#) of the [Constitution.](#)**
- **Articles 105(2) and 194(2) of the Constitution:**
 - **Article 105(2):**
 - No member of Parliament **shall be liable to any proceedings in any court** in respect of **anything said or any vote given by him in Parliament** or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.
 - The purpose of Article 105(2) is to ensure that **members of Parliament can perform their duties without fear of consequences.**
 - **Article 194(2):**
 - No member of the **Legislature of a State shall be liable to any proceedings in any court** in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report,

paper, votes or proceedings

Why did the Supreme Court Refer the Matter to a 7-Judge Bench?

- The Supreme Court referred the matter to a 7-judge Bench because it recognized the need to reexamine the correctness of its previous 1998 constitution bench ruling in the PV Narasimha Rao case.
 - The purpose of Articles 105(2) and 194(2) is to ensure that members of Parliament and the State Legislatures **can discharge their duties freely, without fear of consequences for their speech or vote.**
 - The objective is **not to give legislators higher privileges in terms of immunity from the general criminal law of the land.**

What are the Parliamentary Privileges?

▪ About:

- Parliamentary privileges are special rights, immunities and exemptions enjoyed by the two Houses of Parliament, their committees and their members.
 - These privileges are defined in [Article 105 of the Indian Constitution](#).
- Under these privileges, the members of Parliament are exempted from any civil **liability (but not criminal liability)** for any statement made or act done in the course of their duties.
 - The privileges are claimed only when the person is a member of the house.
 - As soon as s/he ends up being a member, the privileges are said to be called off.

▪ Privileges:

- **Freedom of Speech in Parliament:**
 - The **freedom of speech and expression guaranteed to a citizen under Article 19(2)** is different from the freedom of speech and expression provided to a member of the parliament.
 - It has been guaranteed under **Article 105(1) of the Indian constitution. However, freedom is subject to rules and orders that regulate the proceedings of the parliament.**
 - **Limitations:**
 - Freedom of speech should be in **accordance with the constitutional provisions** and subject to rules and procedures of the parliament, as stated under Article 118 of the Constitution.
 - **Article 121 of the Indian Constitution** states that members of parliament **cannot discuss the conduct of Supreme Court or High Court judges while they are performing their duties.**
 - The only exception is if there is a motion to present an address to the President requesting the judge's removal.
- **Freedom from Arrest:**
 - Members enjoy immunity from arrest in any civil case **40 days before and after** the adjournment of the house or during a session.
 - Arrest within the Parliament's limits requires the **house's permission.**
 - If the detention of any members of the parliament is made, **the chairman or the speaker should be informed by the concerned authority, of the reason for the arrest.**
 - But a member can be arrested outside the limits of the house on criminal charges against him under the [Preventive Detention act](#), [the Essential Services Maintenance Act \(ESMA\)](#), [the National Security Act \(NSA\)](#), or **any such act.**
- **Right to Prohibit the Publication of Proceedings:**
 - Article 105(2) of the Constitution, no person shall be held liable for publishing any reports, discussions etc. of the house under the authority of the member of the house.
 - For paramount and national importance, it is essential that the proceedings should be communicated to the public to aware them of what is going on in the parliament.

◦ **Right to Exclude Strangers:**

- The members of the house have the power and right to exclude strangers who are not members of the house from the proceedings. This right is very essential for securing free and fair discussion in the house.

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