

JUDICIAL INTERPRETATION ON THE INDIAN PARLIAMENT PRIVILEGE VIZ –A- VIZ FUNDAMENTAL RIGHTS

Mr.Prakashkumar R Thakor¹, Dr.Bharat Rojasar²

¹Research Scholar, ²Ph.D. Supervisor
Faculty of Law, C.U.Shah University

Abstract: If there is mutual trust and respect between the parliament and the court, there is little need to legislate the law on privilege issues. There is a written law, and more benefits will flow to those who destroy the parliament, and more and more members, committees and courts will be intervened. The government is untimely to influence the privilege of parliamentarians without worrying or favoring there is no doubt that parliaments and state legislatures need certain powers, privileges and immunities, otherwise they will not be able to operate independently or maintain their dignity and prestige.

Keywords: Parliament privilege, fundamental rights, judiciary on parliament privilege

Introduction: -

The fact is that even though we celebrate the glory of independence for nearly half a century, the Indian parliament is still suffering from colonial diseases and has unabashedly copied the parliamentary law of the British Empire. Many of its exotic and uncoordinated elements breed confusing Bhabo, grotesque antics and stubborn illiteracy. As realists, we must be based on the footsteps. The representatives of the Indian people demand privilege, and the origin, extent and exclusive rights of privilege are shrouded in obscurity, confusion and exoticism, sometimes subverting the freedom of the people. If the Indians are to be ruled from the Indian tombs on the privilege of parliament, it is a historical questioning of the Indian elite.³

These rights are considered fundamental rights because they are the most important for individuals to achieve their full intellectual, moral and spiritual laws. These (according to the conditions laid down in the Constitution itself) are inviolable in the sense that no law, decree, custom, usage or administrative order can be deprived or deprived of "fundamental rights". "Therefore, the basic rights statement limits the scope of the country's activities for the free interests of citizens in the appropriate direction."

The legal changes brought about by the judgment are of vital importance to the accountability of our parliamentarians, who have not been willing to become parliamentarians until now.

Important judgments: -

- At G.K. Reddy v. Nafisul Hassan,
- M.S.M. Sharma v. S.K. Sinha,
- Re Presidential Reference,
- Raja Ram Pal case law Researcher would also like to point out that there are some gaps in the reasoning of the Supreme Court in the Raja Ram Pal case.

However, given the parliament's determination to reduce privileges, I believe that the Supreme Court's ruling is well founded, despite partial violations of the principle of separation of powers in the Indian Constitution.

GK Reddy case

The editor of G.K. Blitz magazine, Reddy, was despised by the Uttar Pradesh legislature. In the Supreme Court, the Attorney General admitted that Reddy did not show it to the magistrate within 24 hours. The Supreme Court ruled that his basic rights under article 22, paragraph 2, 18 were violated and ordered to be released. However, the court did not address the bigger question of whether privilege would be subject to the jurisdiction and subordination of fundamental rights.

MSM Sharma (I)

Five years later, the GK Reddy case was rejected by the Pentient M.S.M. Supreme Court. Sharma v. S.K. Sinha. In 1954, the editor of a newspaper searchlight was attached to the Bihar State Council because of the newspaper's report on the proceedings of the Bihar Parliament Speaker. The editor filed an application with the Supreme Court to stop the court procedure to defend the publication of the report by the freedom of expression and freedom of speech guaranteed by article 19 (1) (a). This argument is to promote the court's ruling. The general claim is that citizens' basic rights guarantees will apply to privileges and that privileges will obey and obey them.

¹Research Scholar Faculty of Law C U Shah University Surendranagar Wadhwan

²Research Guide Faculty of Law C U Shah University Surendranagar Wadhwan

³V. R. Krishna Iyer and Dr. Vinod Sethi, "Parliamentary Privileges: Odyssey of India" (Capital Foundation Association, 1995) 82

Therefore, it must be questioned: What should the court do if it finds that the rules enacted by the legislature do not constitute a procedure established by the law? If MSM Sharma was presented before the Committee, it would indeed violate the rights guaranteed by Article 21. In this case, has the court made its conduct a logical conclusion? Does it apply article 21 to privilege to prevent the exercise of privileges, thereby summoning Sharma and possibly imprisoning it?

Presidential Reference Book 1964⁴

In 1964, one of the first public impasse between the court and the legislature surfaced. The legislature found a private citizen, Keshav Singh, guilty of defying the legislature. Keshav Singh violated the privileges of MLA NN Pandey by printing and distributing some frivolous pamphlets. He was summoned to the legislature. Since then, he has written a rude letter to the speaker and has acted unruly when the legislature was condemned. The Speaker issued an arrest warrant and detained Keshav Singh for seven days. However, the warrant does not contain the facts that constitute so-called contempt. Keshav Singh moved to the High Court of Uttar Pradesh and asked for a habeas corpus order. A judge of the Chamber ordered him to be temporarily released on bail pending a decision on the application for habeas corpus. The Uttar Pradesh legislature has not only issued a notice to the defendant's lawyers, but also issued a notice to the High Court judge who accepted the petition. The legislature passed a resolution that resulted in everyone, including the High Court judges, presenting them before they were detained. This marks the beginning of a first-class constitutional crisis. The next day, the judge and defense lawyer filed a Manda Mousse petition.

Raja Ram Pal Case: Re-reviewing Reference

It has been clarified that 11 members of the House of Representatives who led to the Raja Ram Pal case were arrested by the news channel as bribes. The repeated play of the video caused an uproar. The parliament responded quickly and controlled the loss. Immediately ordered an investigation and sought a speedy judgment. The privilege committee that heard the matter found all members of Congress guilty and recommended that they be immediately disqualified. The proposal has been accepted and all 11 members have been disqualified. Members of Congress filed a petition in the Supreme Court asking for restitution. C.K. Thakker, Raveendran⁵, JJ heard about it. For the first time since 1964, the Supreme Court has the opportunity to resolve the law on parliamentary privileges once and for all. The court, with a 4:142 vote, formally confirmed the changes that the president's introducer tried to make and ensured the power to review the parliament's privilege.

Shubhankar Dam believes that the ruling is part of a broader political reform that the Supreme Court has suspended in the past five years and the previous period. However, while considering the merits of article 21, the court continues to attribute the enjoyment of privileges to the actions of the MSM Sharma court:

"According to the laws enacted in the two cases of Pandit Sharma and UP UP, we believe that the broad claim on behalf of the Indian Union is that the privilege of parliament cannot be decided on the basis of the touchstone of fundamental rights. For Pandit Sharma, the Bihar Legislative Council's request for privilege is tested against "legal procedures" and is therefore the touchstone for Article 21. At the time In terms of its restrictive meaning, people are satisfied. It is important to point out that Article 21 is applicable and the legislature's procedures have been tested on its anvil. UP Assembly follows this view and it adds Execution of 20 articles." The conduct of the MSM Sharma court is much more important than the actual text of its judgment. Although this is a continuation of the President's reference, the Raja Ram Pal Court does not have the above limitations or challenges faced by the President's Reference Benchmark.

Conclusion

The Supreme Court's decision in the **Raja Ram Pal case** was the first binding change in the privilege law. Whether the court was in a position to pursue political reforms and ultimately decided to re-examine the power to exercise privilege. The review depends on a test of legitimacy and constitutionality. Legitimacy refers to acts without goodwill, while constitutionality includes tests for basic rights. As a result, in any case, privilege will interfere with or repeal any fundamental rights, and the exercise of privileges is likely to be cancelled.

It is widely believed and occasionally confirmed that, in making the ruling, the judge considered the wide-ranging effects that the ruling might end up producing.

The Supreme Court has given constitutional interpretations more than once, and these interpretations have either been promoted as innovative and avant-garde, or accused of being fragile and untenable. Whether it is premeditated or possible for the applicability of the newly discovered fundamental rights, this landmark interpretation of the Indian privilege law will be judged on the basis of its influence and effectiveness on the constituents who constitute the MP.

References

- [1] Hidaytullah, "Parliamentary Privileges: The Press and the Judiciary", Constitutional and Parliamentary Research Journal, vol. II, No. 2, April to June 1968, 43
- [2] Dr.K. Madhusudhana Rao, "Industrial Privileges of the Indian Parliament – Some Recommendations", (2001) 7 SCC (Jour) 21
- [3] Ram Pal v. Hon'ble Speaker, Lok Sabha et al. (2007) 3 SCC 184

⁴(1965) 1 S.C.R. 413.

⁵Constitutional Court of the Supreme Court, by: C. Sabharwal, CJI, K.G. Balakramin (D.K.) in Natal