



The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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RAJA RAM PAL V. HON'BLE SPEAKER, LOK SABHA: A COMMENTARY ON PARLIAMENTARY PRIVILEGES AND JUDICIAL REVIEW

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Case Citation: (2007) 3 SCC 184

Court: Supreme Court of India

Bench: Y.K. Sabharwal CJI, K.G. Balakrishnan J., C.K. Thakker J., R.V. Raveendran J. and D.K. Jain J.

Date of Judgment: 10/01/2007

Relevant Provision / Statutes: Articles 105(3), 122, 101-103 and 83, with Articles 14, 19(1)(g) and 21

1. INTRODUCTION

Raja Ram Pal v. Hon'ble Speaker, Lok Sabha is one of the important precedents of the Supreme Court on the question of the supremacy of parliamentary privilege vis-à-vis the courts' power of judicial review. The case was based on the 2005 'cash-for-query' sting operation and the subsequent expulsion of the members of parliament. The five-judge Bench decided on two issues; whether Parliament had the authority to expel members and whether the exercise of this authority could be judicially scrutinized.

The Supreme Court decided the former issue by a 4:1 majority, holding that Parliament had the right to expel a member as part of its privileges under Art 105(3) of the Constitution.²

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² *Raja Ram Pal v. Hon'ble Speaker, Lok Sabha*, (2007) 3 SCC 184.

On the latter issue, the Court kept the exercise of parliamentary powers on a tight leash and held the exercise of this power by Parliament was subject to judicial review but on limited grounds.

2. FACTS

On 12 December 2005 a private channel telecast footage showing ten Lok Sabha members and one Rajya Sabha member accepting money, directly or through middlemen, to raise questions in the House. A second telecast on 19 December 2005 alleged that another Rajya Sabha member demanded commission in relation to the MPLAD Scheme.

Each House inquired through a committee: a specially constituted committee in the Lok Sabha and the Ethics Committee in the Rajya Sabha. Both committees accepted the footage as genuine and recommended expulsion; one Lok Sabha committee member dissented, arguing that expulsion was possible only through the Privileges Committee procedure.³ On 23 December 2005 both Houses adopted the reports and expelled the members the same day, and the MPLAD member was expelled on 21 March 2006. The expelled members challenged their expulsions by writ petitions and transferred cases.

3. ISSUES

(i.) Whether the Supreme Court can examine the scope and content of parliamentary privileges under Article 105(3).

(ii.) Whether the power of expulsion of a Member of Parliament is included within the privileges of Parliament under Article 105(3).

(iii.) Whether the exercise of the power of expulsion is subject to judicial review and, if so, what are the permissible grounds of review.

4. THE MAJORITY DECISION

Jurisdiction: Counsel largely agreed that the Court could determine the scope of Article 105(3). The Court nonetheless declined to rest on that concession and examined its own jurisdiction fully, to be sure it was not entering forbidden territory. It held that there is no exclusive cognizance or absolute immunity for parliamentary proceedings under Article

³ *Raja Ram Pal v. Hon'ble Speaker, Lok Sabha*, (2007) 3 SCC 184.

105(3), and that Articles 122(1) and 212(1) displace the English doctrine of exclusive cognizance, making English case law on that point irrelevant.

Power of expulsion: The majority read Article 105(3), which preserves the powers of the House of Commons until Parliament legislates, as including expulsion. It rejected arguments that the power had become obsolete, that it offends democratic principles or the constituency's right to representation, and that it violates Articles 19(1)(g) and 21. Expulsion, the Court reasoned, protects the dignity of the House, is a collective decision of elected representatives, and does not bar re-election.

Parameters of review: The Court distilled principles that remain its working template. Parliament is a coordinate organ whose acts deserve deference, and exercise of privilege carries a rebuttable presumption of regularity. Yet constitutional government abhors absolutism, and judicially manageable standards exist. Courts will not test the truth or adequacy of the material or substitute their opinion, and Article 122 protects against challenge on mere irregularity of procedure. Parliamentary action is not immune from judicial review where it violates constitutional limitations, including applicable fundamental rights.

The petitioners alleged pre-determination, citing the Speaker's remark that nobody would be spared. The Court read the remark in context and found no mala fides. It saw nothing unlawful in using a special committee rather than the Privileges Committee, held that Article 103 and the Tenth Schedule serve different purposes, and treated natural justice as flexible. The petitioners had been offered a chance to view the footage and point out discrepancies, and declined. Proportionality of punishment was held outside review, and since relevant material supported the action, the petitions were dismissed.

5. CONCURRENCE (THAKKER J)

Thakker J agreed with the order but wrote separately on the central issue because of its public importance. He expressly limited his opinion to whether Parliament can expel a member under Article 105(3), and declined to give a final view on several other questions argued.

6. THE DISSENT (RAVEENDRAN J)

Raveendran J respectfully disagreed. His reasoning is textual. The Constitution specifies in detail how a person becomes a member, how long membership lasts and how it ends. Articles 101 and 102 together exhaust the circumstances in which a seat falls vacant, so cessation by

"expulsion" cannot be added through the incidental powers in Article 105(3). That clause opens with the words "in other respects" and covers incidental powers, not matters of election, tenure or disqualification. The Constitution also makes express provision for removal of the President, judges and other functionaries, so silence on expulsion of legislators is telling.

His answer to corruption was prosecution, fast-tracked, with temporary suspension in the meantime. Conviction would attract disqualification under Article 102(1)(e), and acquittal would restore the member. He noted that immunity under Article 105(2), as understood in *P.V. Narasimha Rao*⁴, protects a bribe-taker only in respect of a vote. Expulsion, in his view, would need a constitutional amendment or a law under Article 102(1)(e), and he would have held the expulsions invalid.

7. CRITICAL ANALYSIS

The majority's strength is its balance: By enforcing review on the assumption of regularity, it avoids the extremes of English exclusive cognizance and uncontrolled judicial regulation of Parliament. This is in line with the post-Keshav Singh trend, where privilege gives way to fundamental rights and constitutional restrictions.⁵

The weakness lies in the text: Articles 101 to 103 and the Tenth Schedule provide detailed, court-supervised routes to losing a seat. The majority treats these as unconnected with expulsion, but this leaves a parallel route, exercised by simple resolution of the House, that ends a member's tenure. Raveendran J's objection that expulsion is hardly "incidental" has real force, since it removes a person the electorate chose.

The review standard is also thin in practice: Treating natural justice as flexible, refusing proportionality review and requiring only some relevant material leaves little to challenge, even where the petitioners raised concerns regarding the material relied upon by Parliament. A House acting through near-unanimous resolutions will rarely be found mala fide on a heavy onus. The Court's assurance that expelled members can stand for re-election is realistic, but it doesn't address the constitutional issue.

⁴ *P.V. Narasimha Rao v. State (CBI/SPE)*, (1998) 4 SCC 626.

⁵ *Special Reference No. 1 of 1964*, AIR 1965 SC 745 (*Keshav Singh*).

This case also remains influential for the way in which it was decided: the Court examined its own jurisdiction and whether the privilege existed before considering the merits, and the principle it established remains relevant for review of legislation.

8. CONCLUSION

Overall, *Raja Ram Pal* maintains a middle ground between parliamentary privilege and the power of judicial review. While the majority agreed that Parliament has the right to expel a member under Article 105(3), they also recognised that there cannot be a completely unfettered power of this kind. However, the dissenting judge doubted whether any such power could be implied from the Constitution. Consequently, the judgment reflects the larger constitutional debate over the extent to which Parliament should be able to administer its own house without overstepping the bounds set by the Constitution.

LIST OF REFERENCES

1. Raja Ram Pal vs The Honble Speaker, Lok Sabha & Ors on 10 January, 2007
(<https://indiankanoon.org/doc/61480953/>)
2. Keshav Singh vs Speaker, Legislative Assembly And Ors. on 10 March, 1965
(<https://indiankanoon.org/doc/638013/>)
3. Raja Ram Pal vs The Honble Speaker, Lok Sabha & Ors on 10 January, 2007
<https://www.legalauthority.in/judgement/raja-ram-pal-vs-the-hon-ble-speaker-lok-sabha-16456>