

Dr. Satish Chandra

v.

Speaker, Lok Sabha & Others

(Supreme Court Of India)

HON'BLE CHIEF JUSTICE MR. P. SATHASIVAM HON'BLE MR. JUSTICE RANJANA PRAKASH DESAI

Writ Petition (Civil) No. 936 Of 2013 | 02-12-2013

The petitioner in-person has approached this Court under Article 32 of the Constitution of India with the following prayers:

a. issue a writ of Mandamus or any other writ/order/directions as deemed fit to direct Speaker of the Lok Sabha and Chairman of the Rajya Sabha or any other appropriate authority;

to withheld payment of salary wages and all perks/privileges of the Members of Parliament disrupting the House and to try them under prevention of corruption Act if they continue to avail perks and privileges.

b. to disqualify regular offenders from the House membership.

c. to debar regular offenders from contesting future election by making Rules.

d. to direct Election Commission to make it mandatory for each Member intending to re-contest election to give details on affidavit about number of times he/she has disrupted the house in violation of the Rule 349 of the Procedure and Conduct of Business in Lok Sabha or respective State Assembly.

e. to pass such other or further orders as this Hon'ble Court may deem fit and proper in facts and circumstances of the case."

The issue in question has been settled by two Constitution Bench decisions of this Court in Ramdas Athawale(5) v. Union of India and Others, (2010) 4 SCC 1 and Amarinder Singh v. Special Committee, Punjab Vidhan Sabha and Others (2010) 6 SCC 113, the relevant paragraphs of the same are extracted below:

(2010) 4 SCC 1

"31. The Speaker is the guardian of the privileges of the House and its spokesman and representative upon all occasions. He is the interpreter of its rules and procedure, and is invested with the power to control and regulate the course of debate and to maintain order. The powers to regulate the Procedure and Conduct of Business of the House of the People vests in the Speaker of the House. By virtue of the powers vested in him, the Speaker, in purported exercise of his power under Rule 15 of the Rules of Procedure and Conduct of Business in Lok Sabha got issued notice dated 20-1-2004 through the Secretary General of the Lok Sabha directing resumption of sittings of the Lok Sabha which was adjourned sine die on 23-12-2003. Whether the resumed sitting on 29-1-2004 was to be treated as the second part of the 14th session as directed by the Speaker is essentially a matter relating purely to the procedure of Parliament. The validity of the proceedings and business transacted in the House after resumption of its sittings cannot be tested and gone into by this Court in a proceeding under Article 32 of the Constitution of India.

38. Under Article 122 (2), the decision of the Speaker in whom powers are vested to regulate the procedure and the Conduct of Business is final and binding on every Member of the House. The validity of the Speaker's decision adjourning the House sine die on 23-12-2003 and latter direction to resume its sittings cannot be inquired into on the ground of any irregularity of procedure. The business transacted and the validity of proceedings after the resumption of sittings of the House pursuant to the directions of the Speaker cannot be inquired into by the Courts.

40. It is a right of each House of Parliament to be the sole judge of the lawfulness of its own proceedings. The Courts cannot go into the lawfulness of the proceedings of the Houses of Parliament. The Constitution aims at maintaining a fine balance between the Legislature, Executive and Judiciary. The object of the constitutional scheme is to ensure that each of the constitutional organs function within their respective assigned sphere.

Precisely, that is the constitutional philosophy inbuilt into Article 122 of the Constitution of India.

(2010) 6 SCC 113

54. Hence, we are empowered to scrutinize the exercise of legislative privileges which admittedly include the power of a legislative chamber to punish for contempt of itself. Articles 122(1) and 212(1) make it amply clear that Courts cannot inquire into matters related to irregularities in observance of procedures before the legislature. However, we can examine whether proceedings conducted under Article 105(3) or 194(3) are `tainted on account of

substantive or gross illegality or unconstitutionality'. The facts before us do not merely touch on a procedural irregularity.

The appellant has contended that the Punjab Vidhan Sabha has committed a substantive jurisdictional error by exercising powers under Article 194(3) to inquire into the appellant's actions which were taken in his executive capacity. As explained earlier, the relevant fact here is not only that the allegations of wrongdoing pertain to an executive act, but the fact that there is no conceivable obstruction caused to the conduct of routine legislative business."

In view of the authoritative pronouncement of this Court, as well as the language used in Article 122 of the Constitution of India, we are of the view that the present petition is misconceived and the same is dismissed accordingly.