

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD**

* * * *

W.A.No.160 of 2022

Between:

M. Raghunandan Rao & Two others

Appellants

VERSUS

The Telangana Legislative Assembly
Rep. by the Secretary to Legislature,
Telangana State Legislature Complex,
Public Gardens, Lakdikapul, Hyderabad
And two others.

Respondents

JUDGMENT PRONOUNCED ON: 14.03.2022

HON'BLE SRI JUSTICE UJJAL BHUYAN
AND
HON'BLE SRI JUSTICE A.VENKATESHWARA REDDY

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? : Yes
2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? : Yes
3. Whether His Lordship wishes to
see the fair copy of the Judgment? : **Yes**

UJJAL BHUYAN, J

*** HON'BLE SRI JUSTICE UJJAL BHUYAN**
AND
HON'BLE SRI JUSTICE A.VENKATESHWARA REDDY
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Respondents

! Counsel for Appellants : Mr. D. Prakash Reddy,
learned Senior Counsel.

^ Counsel for the respondents : Mr. B.S.Prasad, learned
Advocate General.

<GIST:

> HEAD NOTE:

? Cases referred

¹ 2017 (3) SCC 184

² 2022 SCC OnLine SC 105

HON'BLE SRI JUSTICE UJJAL BHUYAN

AND

HON'BLE SRI JUSTICE A. VENKATESHWARA REDDY

W.A.No. 160 of 2022

Judgment: *(Per Hon'ble Sri Justice Ujjal Bhuyan)*

Heard Mr. D.Prakash Reddy, learned Senior Counsel for the appellants; and Mr. B.S.Prasad, learned Advocate General for respondent No.2.

2. In so far respondents No.1 and 3 are concerned, when the matter was taken up in the morning session, we had issued notice to them to be served by the Registrar (Judicial-II) and to inform them that the appeal would be taken up at 4:00 p.m. today.

3. Registrar (Judicial-II) has submitted a report wherefrom we find that respondents No.1 and 3 have been served. However, when we commenced the proceedings at 4:00 p.m., there is no representation on behalf of respondents No.1 and 3.

4. This appeal is directed against the order dated 11.03.2022, passed by the learned Single Judge, in I.A.No.2 of 2022 in W.P.No.12352 of 2022 declining to grant interim relief to the writ petitioners (appellants herein).

5. Appellants before us are Members of Telangana Legislative Assembly belonging to the political party called Bharatiya Janata Party. They have filed the related writ petition alleging that they were suspended for the remaining period of the ongoing Assembly Session of the Telangana State Legislative Assembly. Prayer was made for a direction to respondent No.1 to allow the appellants to participate in the remainder of the ongoing Assembly Session of the Telangana State Legislative Assembly. An interlocutory application being I.A.No.1 of 2022 was also filed before the learned Single Judge to stay the operation of the action of respondent No.1 in suspending the appellants from attending the Telangana State Legislative Assembly for the remainder of the ongoing Session and to allow them to continue to participate in the said Session.

6. By the impugned order dated 11-03-2022, the said interim prayer has been turned down by the learned Single Judge. Challenging the same, the present writ appeal has been preferred by the writ petitioners/appellants.

7. From a perusal of the order dated 11.03.2022, we find that the present session of the Telangana State Legislative

Assembly commenced its business from 11.30 a.m. on 07.03.2022. However, appellants were informed by notice dated 28.02.2022 issued by respondent No.3 that there would be no address to the Legislature by the Governor of the State of Telangana. According to the appellants, this was a gross violation of the constitutional scheme and to protest the above, appellants had entered the Assembly hall on 07.03.2022 wearing black coloured shawls as a sign of protest. After the National Anthem was played, appellants stood up at their allotted places and requested the Speaker to give them an audience before commencement of business, more particularly, on the issue relating to absence of address of the Governor. However, the request of the appellants was not heeded to and in the meanwhile, the Finance Minister of the State of Telangana was asked to present the budget for the financial year 2022-2023 whereafter, the Finance Minister commenced his budget speech. This led the appellants to continue requesting the Speaker to give them an audience. As that was not happening, appellant No.3 slowly proceeded towards the Speaker's podium obviously to catch his attention, while

appellants No.1 and 2 continued to remain at their respective places.

8. Suddenly, after about fifteen minutes, the Finance Minister stopped the speech. Then the Minister for Animal Husbandry, Dairy Development and Fisheries stood up and addressed the Speaker from an already prepared piece of paper proposing to move a motion under Rule 340(2) of the Rules of Procedure and Conduct of Business in the Telangana Legislative Assembly (briefly 'the Rules' hereinafter) to suspend the appellants from the House till the end of the ongoing Session. Immediately the Speaker read out from an already prepared piece of paper stating that the aforesaid motion was moved and immediately he put it for voting. Because of the overwhelming majority of the ruling party Telangana Rashtra Samithi, by a voice vote, the same was allowed whereafter, the Speaker asked the appellants to leave the house precincts forthwith. Thereafter, the appellants were escorted out of the House by the marshals. When the appellants asked respondent No.3 for a copy of the resolution suspending them from the remainder of the Assembly Session, they were not furnished with any such copy. It is in such circumstances, that the

related writ petition came to be filed along with I.A.No.1 of 2022. It was contended that the manner in which the Finance Minister abruptly stopped his speech, the manner in which the Animal Husbandry Minister simultaneously stood up and read out his motion for suspension of the appellants from an already prepared sheet of paper, the manner in which it was taken up by the Speaker by reading out from another prepared sheet, the manner in which it was passed instantly would lead to an unmistakable inference that it was a pre-planned and orchestrated exercise with the sole objective of getting the appellants suspended from the House for the rest of the ongoing Session.

9. Learned Single Judge took the view that the materials on record including newspaper clippings, video recordings and the pen drive placed before the Court were not adequate to arrive at as to what had unfolded in the Assembly; what resolution was passed and in what manner, and held that such materials would require a detailed examination to arrive at a conclusion as to whether the same is unconstitutional or not. Therefore, learned Single Judge held that there was no *prima facie* case in favour of

the appellants to hold that the resolution suffers from substantial illegality and jurisdictional error.

10. In this appeal, despite notice, respondents No.1 and 3 have chosen not to appear before the Court. As a result, the resolution suspending the appellants from the remainder of the ongoing Assembly Session could not be brought on record. If this be the position, we are unable to agree with the *prima facie* view taken by the learned Single Judge that the resolution does not suffer from substantial illegality and jurisdictional error. At this stage, it cannot be held as such because there is no resolution before us. We may observe that if a member is suspended from the House by adopting a resolution, then a copy of such resolution should be furnished to the suspended member. It can be nobody's case that principles of fair play and natural justice are not to be applied to proceedings inside the House.

11. Before we proceed further, we may advert to the order of the learned single Judge dated 11.03.2022. Learned single Judge held as follows:

16. Further, the newspaper clippings filed by the petitioner as material papers do not demonstrate the whole episode as to what actually transacted in the House on that particular day resulting in suspension of the petitioners for the remaining Session. Further, this Court was pleased to watch the video clipping filed before this Court in a pendrive. The video clipping is focussed on

the Finance Minister presenting the Budget. At that point of time, it did not reveal the other happenings in the House. Further, it did not disclose as to what was happening at the Speaker's podium, before the motion was moved by the Animal Husbandry Minister. The Video clipping only disclosed the Finance Minister reading out the Budget speech, Animal Husbandry Minister moving the motion under Rule 340(2) and the Speaker putting the said motion to vote by voice and the Speaker announcing that the motion was carried and that the petitioners were suspended from the House for the remainder of the Session. The video clippings are not clear as to what exactly happened in the House before the motion for suspension of the petitioners was moved by the Animal Husbandry Minister. Before moving the motion, the Finance Minister was reading out the Budget speech. Suddenly, he sat down. Further, the said video clipping was obtained from a news channel called 'NTV'. The veracity of such video clipping also needs a detailed examination. In view of these circumstances, it is difficult to express any opinion with regard to the alleged substantial illegality or jurisdictional error in passing the resolution, as contended. Further, it cannot be held that a pre-planned scheme was orchestrated by the members of the ruling dispensation in cahoots with the Speaker in suspending the petitioners from the service of the House for the remainder of the Session.

17. Further, a detailed examination of the material placed on record is necessary to arrive at a conclusion as to whether there is substantial illegality and jurisdictional error or unconstitutionality in suspending the petitioners from the service of the House. Further, as observed in the above paragraphs, even if some of the material on which the action is taken is found to be irrelevant, the Court would still not interfere, so long as there is some relevant material sustaining the action. Further, in view of the bar contained under Article 212 of the Constitution of India, this Court has limitations to inquire into the proceedings of the Legislature while exercising the power of judicial review under Article 226 of the Constitution of India. In view of these circumstances, there is no prima facie case in favour of the petitioners to hold that the resolution suffers from substantial illegality and jurisdictional error. Further, the alleged unconstitutionality of the resolution also needs a detailed examination.

18. For the foregoing reasons, this Court declines to grant the relief sought by the petitioners in this application.

12 Thus, from the above, what is discernible is that learned single Judge had gone through the newspaper clippings as well as the video filed before the Court in a pen drive. Thereafter he was of the view that the video clippings are not very clear as to what exactly transpired in the House

before the motion for suspension of the appellants was moved by the Animal Husbandry Minister. But the learned single Judge did notice that before the motion was moved, the Finance Minister was reading out the budget speech; but he suddenly sat down. Noting that the said video clipping was obtained from a news channel called 'NTV', learned single Judge was of the view that veracity of such video clipping needed detailed examination. Therefore, he came to the conclusion that it was difficult to express any opinion with regard to the alleged substantial illegality or jurisdictional error in passing the resolution; nor could it be held that passing of the resolution was done in a preplanned manner by members of the ruling party in connivance with the Speaker.

13. We are aware of the constitutional scheme and the limitation of judicial review as to the events taking place within the precincts of the Assembly/Parliament. We are also conscious of the doctrine of separation of powers and the spheres within which the three organs of the State i.e., the Legislature, the Executive and the Judiciary are expected to function. Nonetheless, as the law has evolved, there are grey areas where the functioning of one of the

three organs of the State i.e. the legislature can be questioned before the constitutional Courts, albeit to a limited extent.

14. In so far interference with decisions of the legislature is concerned, our attention has been drawn to the Constitution Bench decision of the Supreme Court in **Raja Rampal v. Hon'ble Speaker, Lok Sabha**¹ as well as to a recent decision of the Supreme Court in **Ashish Shelar v. Maharashtra Legislative Assembly**².

15. Before we advert to the aforesaid two decisions of the Supreme Court, we may refer to Article 212 of the Constitution of India. Heading of Article 212 is that Court should not enquire into the proceedings of the legislature. Clause (1) thereof says that validity of any proceeding in the legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure. As per Sub-Clause (2), no officer or member of the legislature of a State on whom powers are vested by or under the Constitution for regulating procedure or the conduct of business or for maintaining order in the legislature shall be subject to the

¹ 2017 (3) SCC 184

² 2022 SCC OnLine SC 105

jurisdiction of any Court in respect of the exercise by him of those powers. Thus, Article 212 says two things - Firstly, no proceedings in the legislature of a State can be challenged on the ground of procedural irregularity. Secondly, no officer or member of the legislature of a State shall be subject to the jurisdiction of any Court while exercising the powers vested by the Constitution for regulating the procedure or the conduct of business or for maintaining order in the legislature.

16. Having noticed the above, we may now deal with relevant provisions of the Rules which have been framed under Clause (1) of Article 208 of the Constitution. Withdrawal and suspension of members are provided for under Rules 339 and 340. These two Rules are extracted hereunder:

WITHDRAWAL AND SUSPENSION OF MEMBERS

339. The Speaker may direct any member whose conduct is, in his opinion, grossly disorderly to withdraw immediately from the House, and any member so ordered to withdraw shall do so forthwith and shall absent himself during the remainder of the day's sitting.

340. (1) The Speaker, if he deems it necessary name a member who disregards the authority of the Chair or abuses the rules of the House by persistently and willfully obstructing the business thereof.

(2) If a member is so named by the Speaker, the Speaker shall on a motion being made, forthwith put the question that the member (naming him) be suspended from the service of the House for a period not exceeding the remainder of the session:

Provided that the House may, at any time on a motion being made, resolve that such suspension be terminated.

(3) A member suspended under this Rule shall forthwith withdraw from the precincts of the House.”

17. From an analysis of the above, we find that under Rule 339 the Speaker may direct any member whose conduct in his opinion, is grossly disorderly to immediately withdraw from the House. On such withdrawal, the member shall absent himself during the remainder of the day's sitting. On the other hand, as per Sub-Rule (1) of Rule 340, the Speaker may name a member who disregards the authority of the Chair or abuses the Rules of the House by persistently or willfully obstructing the business thereof. Under Sub-Rule (2) if a member is so named by the Speaker, the Speaker shall, on a motion being made, put the question of suspending the member from the House for a period not exceeding the remainder of the session. However, as per the proviso, such suspension can be terminated at any time if a motion to that effect is made. Clause (3) says that a member so suspended shall forthwith withdraw from the precincts of the House. Thus, from the two provisions what we find is that authority is vested on the Speaker to maintain discipline and decorum within the House by suspending an errant member. But these two

provisions provide for a graded response from the Speaker – firstly, suspension for remainder of the day’s sitting and secondly, for a period not exceeding the remainder of the session; but such suspension can also be terminated.

18. In the case of **Raja Rampal** (1 supra) Constitution Bench of the Supreme Court summarized the principles dealing with scope of interference by the Court in respect of any resolution adopted by the legislative assembly. It was held as follows:

“Summary of the principles relating to parameters of judicial review in relation to exercise of parliamentary provisions

431. We may summarise the principles that can be culled out from the above discussion. They are:

- (a) Parliament is a coordinate organ and its views do deserve deference even while its acts are amenable to judicial scrutiny;
- (b) The constitutional system of government abhors absolutism and it being the cardinal principle of our Constitution that no one, howsoever lofty, can claim to be the sole judge of the power given under the Constitution, mere coordinate constitutional status, or even the status of an exalted constitutional functionaries, does not disentitle this Court from exercising its jurisdiction of judicial review of actions which partake the character of judicial or quasi-judicial decision;
- (c) The expediency and necessity of exercise of power or privilege by the legislature are for the determination of the legislative authority and not for determination by the courts;
- (d) The judicial review of the manner of exercise of power of contempt or privilege does not mean the said jurisdiction is being usurped by the judicature;
- (e) Having regard to the importance of the functions discharged by the legislature under the Constitution and

the majesty and grandeur of its task, there would always be an initial presumption that the powers, privileges, etc. have been regularly and reasonably exercised, not violating the law or the constitutional provisions, this presumption being a rebuttable one;

- (f) The fact that Parliament is an august body of coordinate constitutional position does not mean that there can be no judicially manageable standards to review exercise of its power;**
- (g) While the area of powers, privileges and immunities of the legislature being exceptional and extraordinary its acts, particularly relating to exercise thereof, ought not to be tested on the traditional parameters of judicial review in the same manner as an ordinary administrative action would be tested, and the Court would confine itself to the acknowledged parameters of judicial review and within the judicially discoverable and manageable standards, there is no foundation to the plea that a legislative body cannot be attributed jurisdictional error;**
- (h) The judicature is not prevented from scrutinising the validity of the action of the legislature trespassing on the fundamental rights conferred on the citizens;
- (i) The broad contention that the exercise of privileges by legislatures cannot be decided against the touchstone of fundamental rights or the constitutional provisions is not correct;
- (j) If a citizen, whether a non-Member or a Member of the legislature, complains that his fundamental rights under Article 20 or 21 had been contravened, it is the duty of this Court to examine the merits of the said contention, especially when the impugned action entails civil consequences;
- (k) There is no basis to the claim of bar of exclusive cognizance or absolute immunity to the parliamentary proceedings in Article 105(3) of the Constitution;
- (l) The manner of enforcement of privilege by the legislature can result in judicial scrutiny, though subject to the restrictions contained in the other constitutional provisions, for example Article 122 or 212;
- (m) Article 122(1) and Article 212(1) displace the broad doctrine of exclusive cognizance of the legislature in England of exclusive cognizance of internal proceedings of the House rendering irrelevant the case-law that emanated from courts in that jurisdiction; inasmuch as the same has no application to the system of governance provided by the Constitution of India;

- (n) Article 122(1) and Article 212(1) prohibit the validity of any proceedings in legislature from being called in question in a court merely on the ground of irregularity of procedure;
- (o) The truth or correctness of the material will not be questioned by the court nor will it go into the adequacy of the material or substitute its opinion for that of the legislature;
- (p) Ordinarily, the legislature, as a body, cannot be accused of having acted for an extraneous purpose or being actuated by caprice or mala fide intention, and the court will not lightly presume abuse or misuse, giving allowance for the fact that the legislature is the best judge of such matters, but if in a given case, the allegations to such effect are made, the court may examine the validity of the said contention, the onus on the person alleging being extremely heavy;
- (q) The rules which the legislature has to make for regulating its procedure and the conduct of its business have to be subject to the provisions of the Constitution;
- (r) Mere availability of the Rules of Procedure and Conduct of Business, as made by the legislature in exercise of enabling powers under the Constitution, is never a guarantee that they have been duly followed;
- (s) The proceedings which may be tainted on account of substantive or gross illegality or unconstitutionality are not protected from judicial scrutiny;**
- (t) Even if some of the material on which the action is taken is found to be irrelevant, the court would still not interfere so long as there is some relevant material sustaining the action;
- (u) An ouster clause attaching finality to a determination does ordinarily oust the power of the court to review the decision but not on grounds of lack of jurisdiction or it being a nullity for some reason such as gross illegality, irrationality, violation of constitutional mandate, mala fides, non-compliance with rules of natural justice and perversity."**

19. From the above, it can be deduced that Parliament or the Legislature is not absolutely immune from judicial review. The proceedings which may be tainted on account

of substantive or gross illegality or unconstitutionality are not protected from judicial scrutiny.

20. Following the above decision, in the recent decision in **Ashish Shelar** (2 supra), where 12 opposition members of Maharashtra Legislative Assembly were suspended for a period of one year, Supreme Court held that in regard to the substantive disciplinary or rationality of the self security measure inflicted upon the erring member is open to judicial review on the touch stone of being unconstitutional, grossly illegal, irrational or arbitrary. Supreme Court highlighted what it termed as the graded approach to be observed by the Speaker while adopting discipline methods against an erring member like suspension. It has been held that inflicting suspension for a period 'beyond the period necessary' then to ensure smooth working / functioning of the House would suffer from the vice of being grossly irrational and also substantively illegal and unconstitutional. Supreme Court highlighted that only a graded approach is the essence of a rational and logical approach. Only such an action of the legislature which is necessary for orderly conduct of its schedule business of the ongoing sessions can be regarded as a rational approach.

21. Thus, on a thorough consideration of all the related constitutional provisions as well as Rules 339 and 340 of the Rules together with the judgments of the Supreme Court in **Raja Rampal** (1 supra) and **Ashish Shelar** (2 supra), we are of the view that present is a case where a limited interference is called for inasmuch as a graded approach has not been followed. Thus, suspension of the appellants beyond the duration of the day and in the manner carried out may reflect substantive illegality, besides such action will deprive the citizens of the constituencies represented by the three appellants from participating in the proceedings of the House.

22. Speaker of the House holds a high constitutional office. He is the guardian of the House. The Speaker acts in an impartial, fair and judicious manner and is above partisan politics. In the circumstances, we are of the view that the present is a fit case where the Speaker being the guardian of the House may step-in to ensure resolution of the conflict in an amicable manner. We say so because ours is a parliamentary democracy and parliamentary democracy is a basic feature of our Constitution. Participation of elected members within the House would

only go to strengthen parliamentary democracy and being the guardian of the House, it is the duty of the Speaker to ensure that the cause of parliamentary democracy and its many noble conventions are best served and secured.

23. In the result, we direct that the three appellants before us shall appear before respondent No.1 along with a copy of this order whereafter, they shall be provided audience by the Hon'ble Speaker, Telangana State Legislative Assembly, before commencement of Assembly Proceedings tomorrow *i.e.*, on 15.03.2022 as we have been informed at the bar that tomorrow would be the last day of the ongoing Assembly Session.

24. The three appellants shall be given an opportunity to present their views before the Hon'ble Speaker, who shall thereafter, take an appropriate decision regarding revocation of suspension of the appellants and allowing them to participate in the remainder of the ongoing Assembly Session.

25. We hope and trust that the Hon'ble Speaker will rise to the occasion as is expected of him being a high constitutional functionary and guardian of the House, above

partisan politics and do all that is necessary to uphold the cause of justice and parliamentary democracy.

26. Writ Appeal is, accordingly, disposed of. No costs. Related interlocutory applications, pending if any, stand disposed of.

UJJAL BHUYAN, J

A. VENKATESHWARA REDDY, J

Date: 14.03.2022
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