

Topic: The Governors Power Of Prorogation Under Article 174

Name of the case: State of Punjab v. Sat Pal Dang, AIR 1969 SC 903

Bench: Chief Justice M. Hidayatullah, Justice J.C. Shah, Justice V Ramasamy, Justice G.K. Mitter, Justice A.N. Grover

Fact of the Case: On the eve of the adoption of the State budget and passing of the Appropriation Bill, the Speaker adjourned the House for two months on the plea that there was disorder in the House. It was however suspected that the Speaker had done this to thwart a move to pass a vote of no confidence against him. The adjournment led to a crisis because in the absence of the appropriation being made by the legislature, the State Government could not withdraw any money from the Consolidated Fund of State, and there was thus a danger of the government machinery coming to a standstill. To set matter right, the Governor had to intervene. He prorogued the house and summon it to meet a week later.

The action of the Governor in proroguing and summoning the house was challenged in the Supreme Court.

Judgment: The Supreme Court pointed out that "Article 174(2) (a) which enables the governor to prorogue the Legislature does not indicate any restriction on this power". The power is "untrammelled" by the Constitution, and that the Governor had exercised his power to get rid of the speakers and adjournment order and to put back the constitutional machinery of the State into life. Governor's action was perfectly understandable as an emergency had arisen. There was no abuse of power by him and no mala fide (abuse of power) on his part.

Implicit, however, in this remark of the Court is the suggestion that the Governor does not enjoy an absolute discretion to prorogue the house and there may be circumstances when prorogation may be questioned on the ground that of want of good faith and abuse by him of his constitutional powers.
