

# Nature of features of Privileges

1. The constitutional mandate of Indian Polity provides that parliament by enacting a law can determine their undefined or uncodified privileges. Due to the absence of such legislation the members of Parliament in individual or collective manner enjoys the same sovereign privileges exercised by the members of British House of Commons. <sup>2.</sup> In the absence of any law the exercise of privilege depends on British system of precedence. \* are neither crystal nor clear subsequently in a written constitution framework like India, the exercise of privileges get regulated by conventions or traditions. (Although \* in Britain their tradition and precedence)
2. Supreme court has also not clarified the legal position of parliamentary privileges although in 1965 Keshav Singh case court propounded several guidelines which are required to be followed by parliament or state legislature ~~except~~ for the exercise of their privileges.

(2)

→ Court in this case held that the content of Contempt shall always be determined by legislature while its content could be ascertained by Judiciary if means the subject matter area of operation and breach of privilege remains the domain of Parliament and the Judiciary can intervene in the concerned matter when fundamental rights are encroached although judiciary can not go into the correctness faithfulness and propriety for the exercise of these privileges.

Supreme court also held that in estimating the scope of Article 105 and 194 it is required to read these article with some other set of articles like Article 32, 226, and 211.

Under Article 32 and Article 226 courts are entitled to issue a writ of habeas corpus against any authority. Under Article 211 no Authority is authorised enough to discuss and criticised the conduct of Judges and proceedings of Judiciary it should be noted that in the expression any Authority both houses of Parliament and state legislature are also included.

(3)

5) Supreme Court also determine the relationship between fundamental rights and exercise of parliamentary privileges. Court held that in the case of contradiction between Article 19 clause 1 subclause a and codified privileges always the privileges would prevail over fundamental rights. In the case of conflict between other privileges and other fundamental rights, the matter would be determined by court of law. However the exercise of privilege cannot encroach upon the freedom of citizen codified under Article 20 or 21.

In P.V Narayanan Case 1998 Supreme Court by interpreting the freedom of speech under Article 105 and 194 held that "anything said and any vote given is of its widest amplitude, which is equivalent to everything said and every vote given" court also held that if a vote is given even by taking a bribe then also no prosecution would be held against the concerned member it is because complete immunity is provided to vote as a privilege of parliament although the freedom of speech enjoyed by the members seems to be comparatively absolute since some restrictions like article 211, decorum and discipline of the house and proceeding

④ of house are applied over the privilege freedom of speech.

## # legislative Business

