

MCQ Question · mcqquestion.com

Article 105: Parliamentary Privileges and the Sita Soren Case

Free · Share

Article 105: Parliamentary Privileges and the Sita Soren Case

An MP speaks in Parliament and a person is hurt by the words. Can that person sue the MP? **Article 105** gives the answer. A **2024** judgment then changed how far the answer reaches.

What does Article 105 protect?

The three clauses

Article 105 protects MPs in their work inside Parliament. Clause (1) says there shall be **freedom of speech** in Parliament. This is subject to the Constitution and the rules of procedure.

Clause (2) says no member is liable to any court proceedings for anything said or any vote given in Parliament or a committee.

The same clause protects publication of any report, paper, votes or proceedings by or under the authority of a House.

Sources: constitutionofindia.net

The four clauses at a glance

Clause	What it gives
Article 105(1)	Freedom of speech in Parliament
Article 105(2)	No court case for words or votes in the House

Clause	What it gives
Article 105(3)	Other privileges, as before section 15 of the 44th Amendment (20 June 1979), until a law is made
Article 105(4)	Same cover for others who may speak in the House

Sources: constitutionofindia.net

Quick check 1. Article 105(2) stops courts from hearing a case over a vote given in Parliament. *(True or False?)* See answer ↓

Who is covered

Clause (4) extends clauses (1) to (3) to other persons. These are people who have the Constitution's right to speak in a House or take part in its proceedings.

States have a matching rule. **Article 194** gives members of a State Legislature the same protection in the same words.

Sources: constitutionofindia.net

What clause (3) keeps alive

Clause (3) covers all other privileges of each House, its members and its committees. Parliament may define them by law.

Until it does, they stay as they were just before section 15 of the Forty-fourth Amendment Act, **1978** came into force on 20 June 1979.

Sources: constitutionofindia.net

Quick check 2. Article 105 gives members of a State Legislature their protection. *(True or False?)* See answer ↓

How did the Court first read parliamentary privileges?

The Searchlight case (1958)

The Court first tested the limits in **M.S.M. Sharma v. Sri Krishna Sinha**, decided on **12 December 1958**.

The Bihar Assembly's Speaker had ordered part of a speech expunged. The newspaper **Searchlight** still printed it. Its editor got a notice to show cause why no action should be taken for breach of privilege.

The editor said this broke his freedom of speech under Article 19(1)(a). The Court held that powers under **Article 194(3)** were not subject to Article 19.

Sources: lawinsider.in; globalfreedomofexpression.columbia.edu

The Keshav Singh reference (1964)

The next clash was between a Legislature and a High Court. The Uttar Pradesh Assembly sent **Keshav Singh**, who was not a member, to prison for contempt.

The High Court gave him interim bail. The Assembly then ordered its two judges and his advocate to be produced before it in custody.

The President asked the Supreme Court for its opinion under **Article 143(1)**. Three questions stood out:

- Is the House the sole judge of whether its contempt has occurred?
- Is it the sole judge of the punishment?
- Can a High Court hear a habeas corpus petition against a general warrant?

Sources: legalauthority.in

What the Court said

The Court held that the content of Article 194(3) is **ultimately decided by courts**, not by the Legislatures.

So a Legislature cannot settle for itself how far its privileges reach. That question can come before a court.

Sources: legalauthority.in; constitutionofindia.net

What did the 1998 ruling decide?

P.V. Narasimha Rao v. State

In **1998**, a five-judge Bench decided this case by **3:2**. It arose from the 1993 no-confidence motion against the Narasimha Rao government.

The Prime Minister was accused of bribing MPs to vote against the motion.

The majority held that **Article 105(2)** protected those members who had voted. It protected what was said or voted in the House.

Sources: scobserver.in; scconline.com

The Sita Soren case begins

The 2024 case began with a **2012** charge. **Sita Soren**, a Jharkhand MLA, was accused of taking a bribe to vote for an independent candidate in a Rajya Sabha election.

She voted for her own party's candidate instead.

The case then moved up the Benches:

- On **23 September 2014**, a two-judge Bench referred it to three judges.
- On **7 March 2019**, a three-judge Bench narrowed the conflict.

Sources: scobserver.in

> **Quick check 3.** The 1998 Narasimha Rao ruling held that bribery for a vote was not protected. *(True or False?)* See answer ↓

What did the 2024 Sita Soren ruling decide?

The seven-judge ruling

On **4 March 2024**, a seven-judge Bench led by Chief Justice D.Y. Chandrachud gave its judgment. It was unanimous.

It held that **bribery is not protected** by Article 105 or Article 194. It overruled **P.V. Narasimha Rao**.

The offence is complete on acceptance of the money or on agreeing to accept it. How the member then votes does not matter.

Sources: scconline.com; scobserver.in

The test the Court used

The Bench read “in respect of” to mean “arising out of”.

It set a **twofold test** for any privilege:

- It must be tied to the collective working of the House.
- It must bear a functional link to the essential duties of a legislator.

Bribery fails this test.

Sources: scconline.com

> **Quick check 4.** Under the 2024 ruling, the bribery offence is complete only after the member votes. *(True or False?)* See answer ↓

Can a House expel a member, and why is there no privilege law?

Raja Ram Pal v. Speaker (2007)

Yes, a House can expel a member. The Court decided this on **10 January 2007** in **Raja Ram Pal v. Hon’ble Speaker, Lok Sabha**.

A TV channel had shown 10 Lok Sabha MPs and one Rajya Sabha MP taking money for raising questions in the House. Inquiry committees followed, and the Houses expelled the members.

The Court asked three things:

- Can a House expel its members under Article 105?
- Is that power open to judicial review?
- If so, how far does the review go?

The Court held that the power of expulsion is **not inconsistent** with the other provisions of the Constitution. It can be read within Article 105(3).

Sources: legalauthority.in; scconline.com

Why privileges are still undefined

Clause (3) lets Parliament define privileges by law. It has not done so.

The Court noted in Raja Ram Pal that **India does not have a law that codifies** the privileges of Parliament.

So the position just before 20 June 1979 still governs. The privileges remain those the Indian House had then. Before that, they were those of the House of Commons as on 26 January 1950.

Sources: legalauthority.in; constitutionofindia.net

> **Quick check 5.** In 2007 the Supreme Court held that Parliament has no power to expel an MP. *(True or False?)* See answer ↓

Exam Edge

Previous Year Questions

Real questions on this topic.

Asked before

PYQ 1 · UPSC CDS (II) 2020, Q74

Which of the following statements with regard to the privileges of the Members of the Parliament are correct? 1. Privileges would not be fettered by the Article 19(1)(a) of the Constitution of India. 2. Privileges must be read subject to the Articles 20-22 and Article 32 of the Constitution of India. 3. Immunity is available in relation to both civil and criminal prosecution. 4. Immunity is available in relation to freedom of speech even in his/her private or personal capacity. Select the correct answer using the code given below.

(a) 1, 2 and 4
(b) 1 and 2 only
(c) 2 and 3
(d) 1 and 4 only

mcqquestion.com/articles/cds-ii-2020-general-knowledge-full-question-paper/#q74

Practice these questions with instant scoring on mcqquestion.com →

What should you remember for exams?

Quick recap

- Article 105(1): freedom of speech in Parliament. 105(2): no court case for words or votes.
- Article 105(3): other privileges as before section 15 of the 44th Amendment came into force (20 June 1979).
- Article 194: the same rules for State Legislatures.
- 1998: P.V. Narasimha Rao, 3:2, protected the voting MPs.
- 4 March 2024: Sita Soren, seven judges, overruled it. Bribery is not protected.

- 1958 Searchlight: Article 194(3) powers not subject to Article 19.
- 1964 Keshav Singh reference: courts decide the content of Article 194(3).
- 2007 Raja Ram Pal: a House may expel a member.

Sources: constitutionofindia.net; scconline.com

Practice MCQs

1. Under Article 105(2), what is a Member of Parliament protected from?

A. Court proceedings for anything said or any vote given in Parliament or a committee

B. Any action by the Speaker

C. Any criminal charge, anywhere

D. Any tax on their salary

See answer ↓

2. Until Parliament defines privileges by law, which privileges apply under Article 105(3)?

A. None

B. Those of the House immediately before section 15 of the 44th Amendment (1978)

C. Those of the British House of Lords

D. Those set by the Speaker each year

See answer ↓

3. How many judges decided Sita Soren v. Union of India on 4 March 2024?

A. Three

B. Five

C. Seven

D. Nine

See answer ↓

4. Which 1998 ruling did the seven-judge Bench overrule in 2024?

A. Kihoto Hollohan v. Zachillhu

B. P.V. Narasimha Rao v. State

C. Kalpana Mehta v. Union of India

D. Raja Ram Pal v. Lok Sabha

See answer ↓

5. When is the offence of bribery complete, according to the 2024 ruling?

A. Only after the vote is cast

B. On acceptance of the money or agreement to accept it

C. Only after the House passes the motion

D. Only after a court convicts

See answer ↓

6. Which Article gives State Legislature members the same protection as Article 105 gives MPs?

A. Article 168

B. Article 212

C. Article 194

D. Article 226

See answer ↓

Answer Key

1. **A.**
   Article 105(2) says no member is liable to any court proceedings for anything said or any vote given in Parliament or a committee.
   ↑ Q1
2. **B.**
   Article 105(3) keeps the privileges the House had immediately before section 15 of the Forty-fourth Amendment Act, 1978, until Parliament defines them by law.
   ↑ Q2
3. **C.**
   A seven-judge Bench led by Chief Justice D.Y. Chandrachud decided the case. It held unanimously that bribery is not protected.
   ↑ Q3
4. **B.**
   The 2024 Bench overruled the 3:2 decision in P.V. Narasimha Rao v. State (1998).
   ↑ Q4
5. **B.**
   The Bench held that the offence is complete on acceptance of the money or the agreement to accept it. The result of the vote does not matter.
   ↑ Q5
6. **C.**
   Article 194(2) protects members of a State Legislature in the same way as Article 105(2) protects MPs.
   ↑ Q6

Quick-check answers

1. **True.** No member is liable to court proceedings for any vote given in Parliament or a committee. ↑ 1
2. **False.** State Legislature members are protected by Article 194, not Article 105. ↑ 2
3. **False.** The majority held that members who voted were protected under Article 105(2). ↑ 3

4. **False.** It is complete on acceptance of the money or on agreement to accept it. ↑ 4
5. **False.** The Court held that the power of expulsion is not inconsistent with other provisions of the Constitution. ↑ 5

Previous year answers

1. **(b) 1 and 2 only** Parliamentary speech privilege is not limited by ordinary free-speech restrictions, but does not shield MPs from criminal prosecution or conduct outside official duties.

Practice these questions with instant scoring on mcqquestion.com →

Curated by Arsalan Zuberi · mcqquestion.com

Scan to read online

https://mcqquestion.com/articles/polity0227-article-105-parliamentary-privileges-and-the-sita-soren-case/