

2. Suspension of 12 Maharashtra MLAs

Prelims Syllabus: State Legislature

Mains Syllabus: GS-II Parliament and State Legislatures - structure, functioning, conduct of Business, Powers & Privileges and Issues Arising out of these.

Why in News?

- 12 Maharashtra BJP MLAs have gone to the Supreme Court against their year-long suspension from the Assembly.

About the Issue:

- During the recent hearing, the Supreme Court observed that the suspension of MLAs for a full year is prima facie unconstitutional, and “worse than expulsion”.
- The MLAs were suspended for misbehaviour in the Assembly pertaining to disclosure of data Regarding OBCs.

What have the Suspended MLAs argued?

- In July 2021, Maharashtra Parliamentary Affairs Minister Anil Parab moved a resolution to suspend 12 BJP MLAs. The suspended MLAs argue that the suspension can only be made by the presiding officer under the rules of the house.
- The petition has Submitted that their suspension is “grossly arbitrary and Disproportionate”.
- The challenge relies mainly on grounds of denial of the principles of natural justice, and of violation of laid-down procedure.
- The 12 MLAs have said they were not given an opportunity to present their case, and that the suspension violated their fundamental right to equality before law under Article 14 of the Constitution.

Procedure to be Followed for suspension of MLAs:

- Under Rule 53 of the Maharashtra Legislative Assembly Rules, the power to suspend can only be exercised by the Speaker, and it cannot be put to vote in a resolution.
- Rule 53 states that the “Speaker may direct any member who refuses to obey his decision, or whose conduct is, in his opinion, grossly disorderly, to withdraw immediately from the Assembly”.
- The member must “absent himself during the remainder of the day’s meeting”.

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- Should any member be ordered to withdraw for a second time in the same session, the Speaker may direct the member to absent himself “for any period not longer than the remainder of the Session”.

How does the State Government Defend its move?

- Under Article 212, courts do not have jurisdiction to inquire into the proceedings of the legislature.
- Article 212 (1) states that “The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure”.
- Under Article 194, any member who transgresses the privileges can be suspended through the inherent powers of the House.
- Thus, the state government has denied that the power to suspend a member can be exercised only through Rule 53 of the Assembly.

Concern Expressed by the Supreme Court over the Length of the Suspension:

- The basic structure of the Constitution would be hit if the constituencies of the suspended MLAs remained unrepresented in the Assembly for a full year.
- Article 190 (4) of the Constitution says, “If for a period of sixty days a member of a House of the Legislature of a State is without permission of the House absent from all meetings thereof, the House may declare his seat vacant.”
- Under Section 151 (A) of The Representation of the People Act, 1951, “a bye-election for filling any vacancy shall be held within a period of six months from the date of the occurrence of the vacancy”. This means that barring exceptions specified under this section, no constituency can remain without a representative for more than six months.
- Therefore, the one-year suspension was prima facie unconstitutional as it went beyond the six-month limit, and amounted to “not punishing the member but punishing the constituency as a whole”.

What are the Rules on the Length of Suspension of a Member of Parliament?

- Rules of Procedure and Conduct of Business in Lok Sabha provide for the withdrawal of a member whose conduct is “grossly disorderly”, and suspension of one who abuses the rules of the House or wilfully obstructs its business.
- The maximum suspension as per these Rules is “for five consecutive sittings or the remainder of the session, whichever is less”.

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- The maximum suspension for Rajya Sabha under Rules 255 and 256 also does not exceed the remainder of the session. Several recent suspensions of members have not continued beyond the session.
 - Similar Rules also are in place for state legislative assemblies and councils which prescribe a maximum suspension not exceeding the remainder of the session.

