

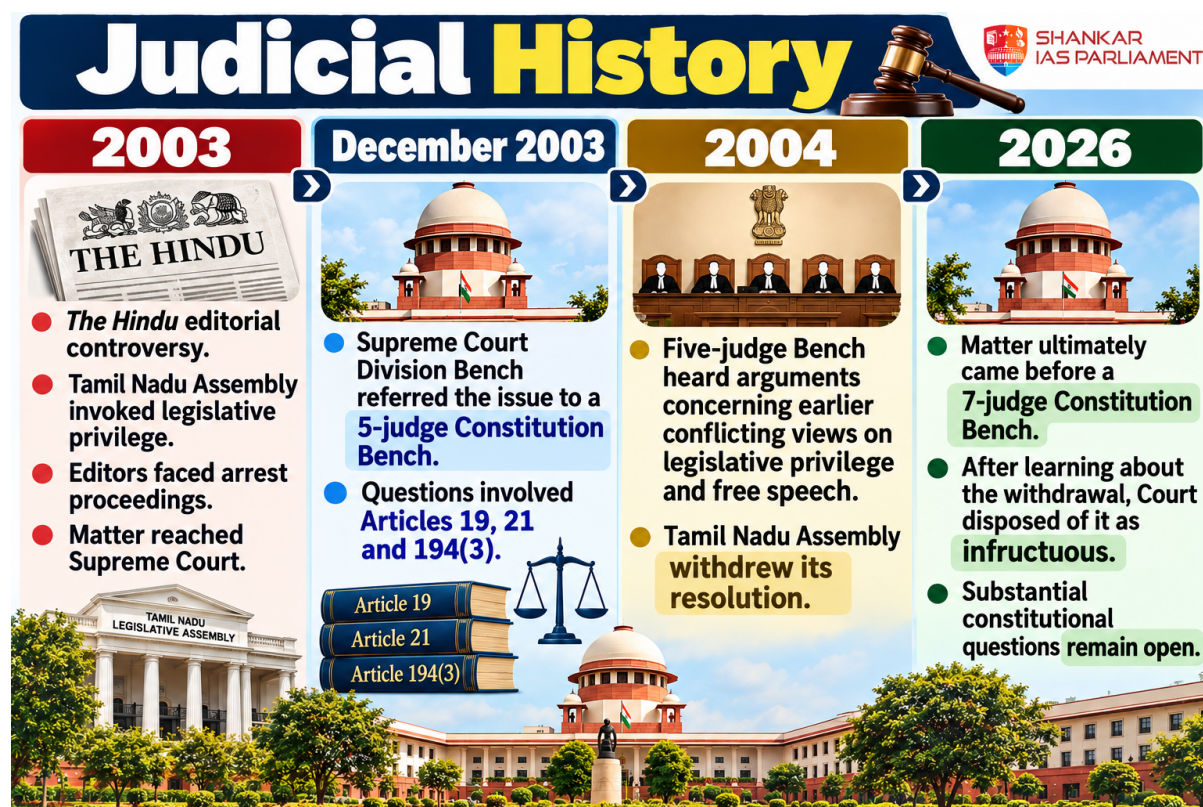
Legislative Privilege vs Freedom of Speech

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Why in News?

A 7-judge Constitution Bench headed by CJI Surya Kant disposed of the matter as infructuous after learning that the Tamil Nadu Assembly had withdrawn its 2003 resolution in 2004.

- The Court left the **larger constitutional questions open** for consideration in an appropriate future case.



Constitutional Provisions

- Article 19(1)(a)** - It grants citizens the **Fundamental Right to freedom of speech and expression**.
- Although **freedom of the press is not explicitly mentioned**, it is constitutionally protected as an aspect of the freedom of speech and expression.
- Article 194** - It addresses the powers, privileges, and immunities of State Legislatures and their members.

- **Article 194(1)** - Freedom of speech in the State Legislature, subject to the Constitution and rules.
- **Article 194(2)** - Protection from court proceedings for certain speeches/votes in the legislature.
- **Article 194(3)** - Other powers, privileges and immunities of the House and its members, as defined by the legislature or otherwise recognised.
- **Article 21** - It safeguards the right to **life and personal liberty**.
- The original reference also raised questions regarding the relationship among **Articles 19, 21, and 194**.

Key Issues Examined by the Supreme Court

- The Court also addressed the broader constitutional issue of the **relationship between legislative privilege and freedom of speech**.
 - Specifically, the Court considered the following questions:
 - Whether a critical publication regarding legislative proceedings constitutes a **breach of privilege**.
 - What are the limits of **legislative privilege**?
 - How should Article **194(3)** interact with Article **19(1)(a)**?
 - What is the relationship between legislative privileges and **Article 21**?

Important Previous Cases

- **Pandit M.S.M. Sharma v. Shri Krishna Sharma (1959)**
 - This case is also referred to as the **Searchlight case**.
 - This case addressed the relationship between **legislative privilege and the freedoms of speech and the press**.
- **Presidential Reference (1964)**
 - This case examined the scope of legislative privileges and their relationship with judicial authority and fundamental rights.
 - The 2004 proceedings observed that these earlier decisions raised questions regarding the appropriate relationship between legislative privilege and fundamental rights.

Reference

[The Hindu | Privilege Versus Free Speech](#)