Legislators Immunity from Bribery Charges

Why in news?

Recently, Supreme Court referred to a 7 judge bench to question whether the legal immunity of legislators under Articles 105(2) and 194(2) protects them from bribery chargers.

Parliamentary Privileges
• **Special rights-** It provide immunities and exemptions enjoyed by the two houses of the Parliament, their committees and their members. • **Need-** To secure the independence and effectiveness of their actions. • Without these privileges the Houses can neither maintain their authority, dignity and honour nor can protect their members from any obstruction in the discharge of their parliamentary responsibilities. • **Extension-** It is extended to those persons who are entitled to speak and take part in the proceedings of a House of Parliament or any of its committees. • These *include Attorney General of India and Union Ministers*. • **Exception-** The parliamentary privileges *do not extend to the President* who is an integral part of the Parliament. • **Article 121-** It restricts members from discussing the conduct of the judges of the Supreme Court and the High Court. • Freedom of speech in Parliament is subject to the provisions of the Constitution and the rules regulating the procedure of the Houses. • **Rajya Sabha Rulebook-** It is an essential pre-requisite for the efficient discharge of their Parliamentary duties, in the absence of which, they may not be able to speak out their mind and express their views in the House without any fear. • **Classification-** - **Collective privileges-** Those privileges that are enjoyed by each house of Parliament collectively. - **Individual privileges-** Those privileges that are enjoyed by the members individually.

What are the provisions that grant legislators immunity from prosecution?

- **Article 105** –It deals with the *powers, privileges*, etc. of the Houses of Parliament and of the members and committees thereof.
- **Article 105(2)-** No MP shall be liable to any proceedings in any court in respect of *anything said or vote* given by him in Parliament and no person shall be liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.
- This provision exempts MPs from any legal action for any statement made or act done in the course of their duties.
- **Article 194(2)** extends this immunity to *MLAs.*
- **Defamation** – The defamation suit cannot be filed for a statement made in the House
- **Immunity to non-members-** *Attorney General of India or a Minister* who may not be

a member but speaks in the House.

- **Role of Speaker**- In cases where a member oversteps or exceeds the contours of admissible free speech, the Speaker of the House will deal with it, as opposed to the court.

What is the Supreme Court ruling regarding immunity?

- **1988 ruling-** In ***PV Narasimha Rao vs. State (1988),*** the court held that *legislators have immunity* against criminal prosecution on bribery charges for any speech or vote in Parliament.
- **Current ruling** - Observing the need to examine the "correctness" of its 1998 constitution bench, the SC referred the verdict to a larger bench for fresh consideration.
- The court added that the purpose of Articles 105(2) and 194(2) is to ensure that MPs and MLAs can discharge their duties *without fearing the consequences* and not to set apart them as persons who wield higher privileges in terms of immunity.

Reference

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