Parliamentary privilege & Privilege Committees

Mains: *GS-II – Polity & Governance | Parliament - structure, functioning, conduct of business, powers & privileges and issues arising out of these.*

Why in News?

Nearly two years after the constitution of the 18th Lok Sabha, Speaker Om Birla nominated 15 members to the Committee of Privileges, will be chaired by BJP leader Ravi Shankar Prasad.

What is Parliamentary Privilege?

- **Parliamentary privilege** – It refers to *rights and immunities* enjoyed by Parliament as an institution and MPs in their individual capacity, without which they cannot discharge their functions as entrusted upon them by the Constitution.
- **Definition** – *According to the Constitution*, the powers, privileges and immunities of Parliament and MP's are to be *defined by Parliament*.
- **Codification** – No specific law has yet been enacted by Parliament to codify these privileges.
- **Reliance on Conventions** – In the absence of any such law, it continues to be governed by British Parliamentary conventions.

What are the Constitutional provisions related to Privileges?

- **Provisions** – According to the Constitution of India,
  - Articles 105 and 122 outline the privileges of Parliament, while
  - Articles 194 and 212 pertain to the privileges of state governments.
- **Article 105 –** There shall be freedom of speech in Parliament. No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof.
- **Article 122** – The validity of any proceedings in Parliament shall not be called in question in court on the ground of any alleged irregularity of procedure.
- **Article 194 & Article 212** – These are corresponding articles for state legislature.

What are the collective and individual Privileges?

Collective Privileges

- **Definition** – Rights or immunities enjoyed by a group/institution as a whole, not reducible to the sum of individual rights.
- **Purpose –** To safeguards the autonomy, identity, and effective functioning of a

collective body (e.g., Parliament, community, or association).

- **Right to Publish Reports & Proceedings** – The House can publish debates, reports, and proceedings, and prevent others from doing so.
- **Freedom of the Press** (with Limits) – The press may publish truthful reports of Parliamentary proceedings without prior authorization, but this does not apply to secret sessions.
- **Right to Hold Secret Sessions** – The House can exclude strangers and conduct confidential meetings on vital issues.
- **Power to Frame Rules of Procedure** – It can make rules to regulate its own business and adjudicate matters related to its functioning.
- **Right to Notification of Arrest/Detention** – The House must be informed immediately of a member's arrest, custody, conviction, imprisonment, or release.
- **Power to Initiate Inquiries & Summon** – The House can conduct inquiries and summon individuals to appear before it.
- **Judicial Immunity of Proceedings** – The Courts are barred from investigating or questioning the proceedings of the House or its committees.
- **Immunity from arrest & legal process within House** – No member or outsider can be arrested & no civil/criminal process can be served within the House boundaries without the Presiding Officer's consent.

Individual Privileges

- **Definition –** The rights or immunities granted to a person in their individual capacity.
- **Purpose –** It ensures individuals can perform their roles or live freely without undue restriction or interference.
- **Freedom from Arrest in Civil Cases** – During the session of legislature, from 40 days before the beginning to 40 days after its conclusion, members cannot be arrested.
- This privilege applies *only in civil matters*; does not apply to criminal cases or preventive detention.
- **Freedom of Speech in Parliament** – Members have the right to free expression in Parliament and its committees; they are not accountable in any court for anything said or voted there.
- This freedom is limited by constitutional provisions, rules, and standing orders.
- **Immunity from Court Proceedings** – No member can be prosecuted or questioned in a court for speeches, debates, or votes in Parliament.
- **Right to Decline Testimony in Court** – Members may refuse to give evidence or testify in court while the House is in session.

What is Breach of Privilege?

- **Breach of privilege** – It is a violation of any of the privileges of MPs/Parliament.
- Among other things, any action 'casting reflections' on MPs, parliament or its committees; could be considered breach of privilege.
- This may include publishing of news items, editorials or statements made in newspaper/magazine/TV interviews or in public speeches.

What is a Privileges Committee?

- **Privileges Committee** – It is a Parliamentary Committee present in both the Houses of the Parliament, is one of the Standing Committees to Inquire.
- **Functions** – The functions of the Committee of Privileges are *semi-judicial* in nature.
- It examines all questions involving breach of privileges of the House & its members and immunities enjoyed by MPs, recommends appropriate action.
- **Composition** – The Lok Sabha committee has *15 members*, while the Rajya Sabha committee has *10 members*.
- **Head** – It is headed by a member nominated by the Speaker of the LS.
- In case of RS, it is the Deputy Chairperson heads the committee.
- **Raise the question** – A member of the House may, with the consent of the Presiding officer of the respective house, raise a question involving a breach of privilege either of a member or of the Council or of a Committee thereof.
- **Conditions of admissibility** – The right to raise a question of privilege shall be governed by the following conditions -
    - The question shall be restricted to a specific matter of recent occurrence
    - The matter requires the intervention of the Council.

What are the actions the privileges committee can take?

- **Mandate of the Committee** – To examine cases of alleged breach of privilege and makes recommendations as it may deem fit.
- **Powers of Examination** – It can call the relevant people as part of its examination and look at related documents.
- **Reporting –** It examines cases where breaches of privilege are alleged:
    - If *referred by the House*, report presented to the House by the Chairman or another member.
    - If *referred by the Speaker* under Rule 227, report presented to the Speaker, who may pass final orders or direct it to be laid before the House.
- **Reporting Procedure** – The Committee must prepare a report, if no time is fixed by the House, the report must be presented within one month of the reference.
- **Consideration of the Report** – A motion is moved in the House to consider the report and amendments can be suggested.
- The House may agree, disagree, or agree with modifications to the Committee's recommendations.
- **Nature of Action Taken** – Most notices of breach of privilege are rejected, & penal action is recommended only in rare and serious cases.

What is the punishment in case of breach of privilege or contempt of the House?

- **Attendance of the Offender** – The House can ensure the attendance of the offending person.
- **Range of Punishments** – The person can be given a *warning* and let go or be *sent to prison* as the case may be.
- **Example** – In the case of throwing leaflets and chappal, the offending individuals were sentenced to simple imprisonment.
- **Case Examples**

- **Indira Gandhi Case, 1978** – She was expelled from the LS after a resolution of breach of privilege was moved by Home Minister Charan Singh, based on Justice Shah Commission's findings on Emergency excesses.
- **Ambassador Ronen Sen, in 2007** – The allegation for the use of the phrase "headless chicken" against MPs.
- The committee found the phrase was not directed at MPs or politicians. No action was taken against him.
- **Urdu Weekly Editor, in 2008** – The allegation referred the Deputy Chairman of Rajya Sabha a "coward" and attributed motives to his decision.
- The Committee held the editor guilty, no punishment recommended; instead, the Committee stated the House should maintain its dignity by ignoring such articles meant for cheap publicity.

References

1. Indian Express | Ravi Shankar Prasad to head Lok Sabha's Privileges Committee
2. The Hindu | Ravi Shankar Prasad to head Lok Sabha's Privileges Committee
3. PRS | Parliamentary privileges

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