

**HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD**

FRIDAY, THE ELEVENTH DAY OF MARCH  
TWO THOUSAND AND TWENTY TWO

**:PRESENT:**

**THE HON'BLE DR. JUSTICE SHAMEEM AKTHER**

**IA No. 2 OF 2022**

**IN**

**WP NO: 12352 OF 2022**

**Between:**

1. M. Raghunandan Rao,
2. E. Rajender,
3. T. Raja Singh,

...Petitioners

(Petitioners in WP.No.12352 OF 2022  
on the file of High Court)

**AND**

1. The Telangana Legislative Assembly, Rep. by the Secretary to Legislature, Telangana State Legislature Complex, Public Gardens, Lakdikapul, Hyderabad
2. The State of Telangana, Rep. by the Secretary to the Government, Legal Affairs, Legislative Affairs and Justice Department, Secretariat, BRKR Bhavan, Hyderabad
3. The Telangana Legislature Secretariat, Rep. by the Secretary, Legislature, Telangana State Legislature Complex, Public Gardens, Lakdikapul, Hyderabad

...Respondents

(Respondents in-do-)

**Counsel for the Petitioner :SRI.D.PRAKASH REDDY, learned Senior Counsel for Sri.SRIRAM POLALI**

**Counsel for the Respondent No.2 :ADVOCATE GENERAL (TG)**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to stay the operation of the action of the Respondent No. 1 in suspending the Petitioners from its service and, consequently, direct the Respondent No. 1 to allow the Petitioners to continue participating in the present ongoing session of the Respondent No.1, pending disposal of WP No. 12352 of 2022, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court order dated 9.3.2022 made herein and upon hearing the arguments of SRI.D.PRAKASH REDDY, learned Senior Counsle for SRI.SRIRAM POLALI Advocate for the Petitioner and Advocate General for Respondent No.2,the Court made the following.

**ORDER**

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER**

**I.A.No.2 of 2022**

**in**

**WRIT PETITION No.12352 of 2022**

**ORDER:-**

This application, under Section 151 of C.P.C., is filed by the petitioners, seeking to stay the operation of the action of the respondent No.1/Telangana Legislative Assembly, in suspending the petitioners from its service for the rest of the ongoing sessions and, consequently, direct the respondent No.1 to allow the petitioners to continue participating in the present ongoing session of the respondent No.1 and pass such other order or orders as this Court deems fit in the facts and circumstances of the case.

**2.** Heard the submissions of Sri D.Prakash Reddy, learned senior counsel, appearing for Sri Sriram Polali, learned counsel for the petitioners, the learned Advocate General for the State of Telangana for respondent No.2 and perused the record.

**3.** On 09.03.2022, this Court was pleased to order notice to respondent Nos.1 and 3 through Court (by special messenger) and also permitted the petitioners to serve notice personally on them. The report submitted by the Registrar (Judicial-I) is placed before this Court, in which it is stated that though an Assistant Registrar

of this Court personally went to serve notices on respondent Nos.1 and 3, he was not allowed to reach the office of respondent No.1 on the ground that the House was in Session. The instructing counsel for the petitioners also filed a Memo *vide* USR No.21303 of 2022 with similar submissions.

**4.** Learned Advocate General took notice on behalf of respondent No.2-State and sought permission of this Court to assist the Court in arriving at a conclusion. On granting such permission, learned Advocate General made his submissions to assist the Court.

**5.** The case of the petitioners and the contentions raised by the learned senior counsel on their behalf are as follows:

The petitioners are the members of the respondent No.1/Telangana Legislative Assembly. They are members of a political party called 'Bharatiya Janata Party' (for short, 'BJP'), which is one of the opposition parties in the respondent No.1. The ruling party is 'Telangana Rashtra Samithi' (for short, 'TRS'), which has an overwhelming majority in the respondent No.1. The Budget Session of the respondent No.1 for the year 2022 was scheduled to be held in March 2022. In terms of Article 176 of the Constitution of India, it was mandatory for Her Excellency the

Governor of Telangana to address both the Houses of the Legislature at the commencement of the said Session. The respondent No.3, who is in charge of the affairs of the respondent No.1, including the conduct of its meetings, issued a notice bearing D.O.Letter No.14/Legn./2022, dated 28.02.2022, informing all the members of respondent No.1 that the Second Meeting of the Eighth Session of the Second Telangana Legislative Assembly will commence at 11:30 AM on 07.03.2022. In the said letter, there was no reference to any address by Her Excellency the Governor of Telangana, to both the Houses of the Legislature. The petitioners decided to register their protest against the blatant violation of the constitutional mandate of having the Governor's address. On 07.03.2022, they entered the Assembly Hall wearing black coloured shawls, as a sign of protest. The Session of the respondent No.1 commenced as per schedule. After the National Anthem was played, the petitioners stood at their allotted places in the Assembly Hall, with their black shawls on, and started asking the Speaker of the respondent No.1 to give them an audience before beginning any business. They wanted to raise the issue of the absence of the Governor's address, which was a Constitutional mandate and should necessarily be discussed before the commencement of the Budget Speech by the Finance Minister.

The fervent request made by them on the Floor of the House was well within their right as members of the respondent No.1 and, in fact, it is a right guaranteed under Article 194(1) of the Constitution of India. Further, since this was an issue pertaining to the Articles of the Constitution of India, it also fell within the meaning of "Point of Order" under Rule 342 of the Rules of Procedure and Conduct of Business in the Telangana Legislative Assembly (for short, 'the Rules'). The Speaker did not heed to their request and asked the Finance Minister Sri T.Harish Rao to present the Budget for the financial year 2022-23. The Finance Minister commenced his Budget speech. The petitioners stood at their places and continued imploring the Speaker to give them an audience. After about 14 minutes from the commencement of the Budget speech, the petitioner No.3 started slowly walking towards the Speaker's direction in order to catch his attention and kept imploring the Speaker to give him an opportunity to speak. The petitioners Nos.1 and 2 continued at their respective places and kept on requesting the Speaker. This has happened on innumerable occasions in the past. In fact, members of another political party (Congress Party) were also requesting the Speaker to hear them on the same issue. In a sudden turn of events, after about 15 minutes of the commencement of the Budget Speech,

the Finance Minister abruptly stopped the speech. Simultaneously, the Minister for Animal Husbandry, Fisheries, Dairy Development and Cinematography, Mr. Talasani Srinivas Yadav (hereinafter referred as 'Animal Husbandry Minister'), stood up and addressed the Speaker. Reading out from an already prepared sheet of paper, he stated that he proposed to move a motion under Rule 340(2) of the Rules to suspend the petitioners from the service of the House, till the end of the ongoing session. The Speaker immediately read out from a prepared sheet of paper stating that the aforesaid motion has been moved and then he put it up for voting by voice. Because of the overwhelming majority of the ruling dispensation in the respondent No.1, the said motion was allowed instantly. Thereafter, the Speaker asked the petitioners to leave the House precincts immediately. Since the aforesaid manner of suspending the petitioners from the service of the House was grossly illegal and unconstitutional, the petitioners protested the same. However, they were sent out of the House, duly escorted by the Marshalls. Thereafter, the petitioners approached the office of respondent No.3 and asked in writing to provide a copy of the resolution passed by the respondent No.1 in suspending them. The respondent No.3 refused to furnish them a copy of the said resolution and even refused to put a seal of

acknowledgment of receipt of the written request made by the petitioners. The Business Advisory Committee of the respondent No.1 decided to complete the present ongoing Session by 15.03.2022. The above sequence of events occurred on 07.03.2022 leads to an unmistakable inference that it was pre-planned and orchestrated with the sole objective of getting the petitioners suspended from the service of the House for the rest of the ongoing session. The manner in which the Finance Minister abruptly stopped his speech, the manner in which the Animal Husbandry Minister simultaneously stood up and read out his motion for suspension from an already prepared sheet of paper, the manner in which it was taken up by the Speaker by reading out from another prepared sheet, the manner in which it was passed instantly and, most pertinently, all of this happening within a period of one or two minutes, leaves an undeniable impression that it was planned well in advance. The action of respondent No.1 can be tested on the anvil of Articles 14 and 21 of the Constitution of India. The fundamental rights of the petitioners stand violated. The procedure laid down in the Rules is treated as the procedure established by law for the purpose of Article 21 of the Constitution of India and as such, suspension of a member in violation of the Rules directly infringes the member's fundamental

rights under Article 21 of the Constitution. Further, there was breach of Rule 340(1) and 340(2) of the Rules. The purpose of Rule 340 is to deal with members who disregard the authority of the Speaker or persistently and wilfully obstruct the business of the House. These actions are a direct affront or an impediment to the Speaker to perform his duty. Hence, it is the Speaker alone who is entitled to identify such a member, so that the action of suspension can be taken, to remedy the wrong so caused. No other member of the House is empowered to name a member. That is the reason why Rule 340(1) speaks exclusively about the Speaker naming a member. Rule 340(2) further buttresses the Speaker's prerogative by starting with the words "*If a member is so named by the Speaker*". In the instant case, since the Speaker did not name any member, the statutory prerequisite for initiating a motion of suspension was absent. Hence, the Animal Husbandry Minister had no power under the Rules to name a member for the purpose of suspension. Thus, naming of the petitioners by a member for suspension from the House is not a mere procedural irregularity, but a substantial illegality and a jurisdictional error. The function of the Speaker under Rule 340 of the Rules cannot be mortgaged to any other member. In any event, no other member of the House can exercise this function. Thus, the failure of the



Speaker to name the petitioners amounts to a fundamental jurisdictional error that goes to the root of the matter. Hence, the suspension of the petitioners is illegal for want of jurisdiction and contrary to the procedure established under law. Further, it is contended by the learned senior counsel appearing for the petitioners that the actions of the petitioners to register their protest regarding failure to have Governor's address, do not, by any stretch of imagination, amount to disregarding the authority of the Chair or obstructing the business of the House. The rationality of the order of suspension ought to be adjudged against the objective for which such power to suspend is endowed. In the instant case, at no point of time the petitioners seriously obstructed the business of the House. Thus, the suspension of the petitioners is patently illegal. Power of suspension has to be used in a graded manner and is limited only to the extent necessary to restore order in the House. If the suspension is not affected in a graded manner or is inflicted for a period more than necessary, it amounts to gross irrationality and manifest arbitrariness. Thus, the suspension is a clear case of manifest arbitrariness and as such violates Article 14 of the Constitution. The manner in which the pre-planned scheme was orchestrated by the members of the ruling dispensation in cahoots with the Speaker gives rise to an

undeniable inference that the whole exercise was motivated by extraneous reasons, which is nothing but colourable exercise of power and legal malice. The suspension of the petitioners for the entire session of the House essentially deprives the citizens of the constituencies they represent, from being represented in the House and the issues relating to them being brought for debate and discussion and ultimately sought a direction to the respondent No.1 to allow the petitioners to participate in the ongoing sessions. In support of his contentions, the learned senior counsel had relied on the following decisions.

**1. Ashish Shelar and others Vs. Maharashtra Legislative Assembly and another <sup>1</sup>**

**2. Raja Rampal Vs. Hon'ble Speaker, Lok Sabha<sup>2</sup>**

6. Further, in support of their contentions, the petitioners have placed before this Court, some newspaper clippings and also video clippings said to be of the entire session recorded by a Telugu news channel by name 'NTV' available on the website 'www.youtube.com' through the link <https://www.youtube.com/watch?v=tAA6bn88Sv8> .

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<sup>1</sup> 2022 SCC Online SC 105

<sup>2</sup> (2007) 3 Supreme Court Cases 184

7. The learned Advocate General, while assisting the Court, had drawn the attention of this Court to several paragraphs in **Ashish Shelar's** case (1 supra).

8. In view of the above submissions, the point that arises for determination in this application is as follows:

**"Whether there is a *prima facie* case in favour of the petitioners to grant the relief as sought for?"**

**POINT:-**

9. The scope of interference by the Court in legislative proceedings has been well-delineated in successive decisions of the Constitution Bench of the Hon'ble Supreme Court of India, which has consistently held that the judicial scrutiny regarding exercise of legislative privileges (including power to punish for contempt of the House) is constricted and cannot be *stricto sensu* on the touchstone of judicial review as generally understood in other situations. The constitutional system of government abhors absolutism and it being the cardinal principle of our Constitution that no one, howsoever lofty, can claim to be the sole Judge of the power given under the Constitution, mere coordinate constitutional status, or even the status of an exalted constitutional functionaries, does not disentitle the constitutional Court from

exercising its jurisdiction of judicial review of actions, which partake the character of judicial or quasi- judicial decision. The judicial review or the manner of exercise of power of contempt or privilege does not mean that the said jurisdiction is being usurped by the judicature. While the area of powers, privileges and immunities of the legislature being exceptional and extraordinary, its acts, particularly relating to exercise thereof, ought not to be tested on the traditional parameters of judicial review, in the same manner as an ordinary administrative action would be tested, and the Courts would confine itself to the acknowledged parameters of judicial review and within the judicially discoverable and manageable standards and there is no foundation to the plea that a legislative body cannot be attributed jurisdictional error. The judicature is not prevented from scrutinising the validity of the action of the legislature, trespassing on the fundamental rights conferred on the citizens. The broad contention that the exercise of privileges by legislatures cannot be decided against the touchstone of fundamental rights or the constitutional provisions is not correct. If a citizen, whether a member or a non-member of the legislature, complains that his fundamental rights under Article 20 or 21 had been contravened, it is the duty of the Constitutional Court to examine the merits of the said contention. The manner of

enforcement of privileges by the legislature can result in judicial scrutiny, subject to the restrictions contained in the other constitutional provisions like Article 212, which prohibits the validity of any proceedings in legislature from being called in question in a Court on the ground of irregularity of procedure. The proceedings, which may be tainted on account of substantive or gross illegality or unconstitutionality, are not protected from judicial scrutiny. Even if some of the material on which the action is taken is found to be irrelevant, the Court would still not interfere so long as there is some relevant material sustaining the action. Further, an ouster clause attaching finality to a determination does ordinarily oust the power of the Court to review the decision, but not on grounds of lack of jurisdiction or it being a nullity for some reason such as gross illegality, irrationality, violation of constitutional mandate, *mala fides*, non-compliance with rules of natural justice and perversity.

**10.** The learned senior counsel appearing for the petitioners, placing strong reliance on Rule 340 of the Rules, vehemently contended that naming of the petitioners by a member for suspension from the House is not a mere procedural irregularity, but a substantial illegality and a jurisdictional error.

11. Here, it is apt to extract Rules 339 and 340 of the Rules, which reads as follows:

**339-Withdrawal of Member:** *The Speaker may direct any member whose conduct is, in his opinion, grossly disorderly to withdraw immediately from the House, and any member so ordered to withdraw shall do so forthwith and shall absent himself during the remainder of the day's sitting.*

**340-Suspension of Member: (1)** *The Speaker, if he deems it necessary name a member who disregards the authority of the Chair or abuses the rules of the House by persistently and wilfully obstructing the business thereof.*

**(2)** *If a member is so named by the Speaker, the Speaker shall on a motion being made, forthwith put the question that the member (naming him) be suspended from the service of the House for a period not exceeding the remainder of the session:*

*Provided that the House may, at any time on a motion being made, resolve that such suspension be terminated.*

**(3)** *A member suspended under this rule shall forthwith withdraw from the precincts of the House.*

12. Concededly, there is nothing in the constitutional scheme or the rules framed under Article 208 to prevent a member of the House to move a motion for directing withdrawal of a member on the ground of his grossly disorderly conduct. Further, if the Speaker can *suo motu* direct the member to withdraw from the Assembly on the same day instantly to secure smooth functioning of the proceedings, for the same logic, even the House could pass a resolution itself on a motion being moved by a member of the House instantly with the concurrence of the Speaker on such a

motion. In the instant case, the Speaker said to have entertained the subject motion moved by the Animal Husbandry Minister and called upon the House to vote thereon, which had the effect of giving tacit consent if not explicit concurrence to the same. In that sense, it is not a case of resolution passed by the House (to suspend its members) as being without jurisdiction. It is a different matter that if the Speaker was to do so, it could be only under Rule 340 of the Rules in a graded manner for the remainder of the day and for repeat misconduct in the same Session, for the remainder of the Session. In fact, that would be a logical and rational approach consistent with the constitutional tenets.

**13.** The learned senior counsel appearing for the petitioners also contended that if the suspension is not affected in a graded manner or is inflicted for a period more than necessary, it amounts to gross irrationality and manifest arbitrariness. Here, it is apt to state that if the House takes upon itself to discipline its members, it is expected to adopt the same graded (rational and objective standard) approach on the lines predicated in Rule 340 of the Rules. That would be a case of rational action taken by the House, as per the procedure established by law. The word 'rational' literally means '*based on logic rather than emotion*', '*attained through clear thinking*', '*not absurd, preposterous, foolish, or*

*fanciful*, *'able to think clearly and sensibly'*, *'clear-headed and right-minded'*. *A priori*, if the resolution passed by the House was to provide for suspension beyond the period prescribed under the stated Rule, it would be substantively illegal, irrational and unconstitutional. In that, the graded (rational and objective standard) approach predicated in Rule 340 is the benchmark to be observed by the Speaker to enable him to ensure smooth working of the House, without any obstruction or impediment and for keeping the recalcitrant member away from the House. As per Rule 340(2) of the Rules, a member can be suspended from the service of the House for a period not exceeding the remainder of the Session. In the instant case, it is stated that the petitioners were suspended from the service of the House for the remainder of the Session. Further, as per the proviso to Rule 340(2) the House may, at any point of time, on a motion being made, resolve that such suspension be terminated. So, an internal mechanism is available for termination of suspension of a member.

**14.** The facts of the case in **Ashish Shelar's** case (1 supra) are that 12 members of Maharashtra Legislative Assembly were proceeded against for having committed contempt of the House. A motion was moved by the Minister of Legislative Affairs for initiation of action against the said 12 MLAs. That motion was



tabled in the House and the Chairman was called upon to do the needful. The Chairman then called upon the House to pass the said resolution. The House in turn passed that resolution by majority votes on 05.07.2021, suspending the said MLAs for a period of one year. The matter ultimately reached the Hon'ble Apex Court and the Hon'ble Apex Court, placing reliance on Rule 53 of the Maharashtra Legislative Assembly Rules, which is in *pari materia* with Rule 340 of the Telangana Legislative Assembly Rules, concluded as follows:

Conclusion:-

*In conclusion, we have no hesitation in allowing these writ petitions and to declare that the impugned resolution directing suspension of the petitioners beyond the period of the remainder of the concerned Monsoon Session held in July 2021 is non est in the eyes of law, nullity, unconstitutional, substantively illegal and irrational. The impugned resolution is, thus, declared to be ineffective in law, insofar as the period beyond the remainder of the stated Session in which the resolution came to be passed.*

Result:-

*As a result of the stated declaration, the petitioners are entitled for all consequential benefits of being members of the Legislative Assembly, on and after the expiry of the period of the remainder of the concerned Session in July 2021. The writ petitions are allowed in the above terms. No order as to costs.*

- 15.** In the aforementioned decision, the suspension of the members was set aside on the ground that the said suspension was beyond the period of remainder of the concerned Session, i.e.,

for one year. But in the instant case, the suspension of the petitioners was stated to be for the remainder of the Session, which is in consonance with Rule 340 of the Rules.

**16.** Further, the newspaper clippings filed by the petitioner as material papers do not demonstrate the whole episode as to what actually transacted in the House on that particular day resulting in suspension of the petitioners for the remaining Session. Further, this Court was pleased to watch the video clipping filed before this Court in a pendrive. The video clipping is focussed on the Finance Minister presenting the Budget. At that point of time, it did not reveal the other happenings in the House. Further, it did not disclose as to what was happening at the Speaker's podium, before the motion was moved by the Animal Husbandry Minister. The Video clipping only disclosed the Finance Minister reading out the Budget speech, Animal Husbandry Minister moving the motion under Rule 340(2) and the Speaker putting the said motion to vote by voice and the Speaker announcing that the motion was carried and that the petitioners were suspended from the House for the remainder of the Session. The video clippings are not clear as to what exactly happened in the House before the motion for suspension of the petitioners was moved by the Animal Husbandry Minister. Before moving the motion, the Finance Minister was

reading out the Budget speech. Suddenly, he sat down. Further, the said video clipping was obtained from a news channel called 'NTV'. The veracity of such video clipping also needs a detailed examination. In view of these circumstances, it is difficult to express any opinion with regard to the alleged substantial illegality or jurisdictional error in passing the resolution, as contended. Further, it cannot be held that a pre-planned scheme was orchestrated by the members of the ruling dispensation in cahoots with the Speaker in suspending the petitioners from the service of the House for the remainder of the Session.

**17.** Further, a detailed examination of the material placed on record is necessary to arrive at a conclusion as to whether there is substantial illegality and jurisdictional error or unconstitutionality in suspending the petitioners from the service of the House. Further, as observed in the above paragraphs, even if some of the material on which the action is taken is found to be irrelevant, the Court would still not interfere, so long as there is some relevant material sustaining the action. Further, in view of the bar contained under Article 212 of the Constitution of India, this Court has limitations to inquire into the proceedings of the Legislature while exercising the power of judicial review under Article 226 of the Constitution of India. In view of these circumstances, there is

no *prima facie* case in favour of the petitioners to hold that the resolution suffers from substantial illegality and jurisdictional error. Further, the alleged unconstitutionality of the resolution also needs a detailed examination.

**18.** For the foregoing reasons, this Court declines to grant the relief sought by the petitioners in this application.

**19.** Accordingly, this application is dismissed.

**SD/- B. SATYAVATHI  
ASSISTANT REGISTRAR**

**//TRUE COPY//**

**SECTION OFFICER**

**To**

1. The Secretary to Legislature, Telangana Legislative Assembly, Telangana State Legislature Complex, Public Gardens, Lakdikapul, Hyderabad( By RPAD)
2. The Secretary to the Government, Legal Affairs, Legislative Affairs and Justice Department, State of Telangana, Secretariat, BRKR Bhavan, Hyderabad( By RPAD)
3. The Secretary, The Telangana Legislature Secretariat, Telangana State Legislature Complex, Public Gardens, Lakdikapul, Hyderabad( By RPAD)
4. The Registrar (Judicial-I) High Court for the State of Telangana at Hyderabad.
5. One CC to SRI. SRIRAM POLALI Advocate [OPUC]
6. Two CCs to the Advocate General, High Court at Hyderabad (OUT)
7. Two CCs to GP FOR LAW LEGISLATIVE AFFAIRS (TG), High Court Of Judicature at Hyderabad. [OUT]
8. One spare copy

**HIGH COURT**

**DR.SA.J**

**DATED: 11.03.2022**

**I.A.NO.2 OF 2022  
IN  
WP.NO.12352 OF 2022**

**DISMISSED**

