



## Supreme Court on MLAs' One-year Suspension

**For Prelims:** Article 14, Article 212, Article 194, Basic Structure of the Constitution, section 151 (A) of The Representation of the People Act, 1951, Provisions related to the Houses of Parliament.

**For Mains:** Representation of the People Act, 1951, Separation of Powers, SC Judgement.

### Why in News

Recently, the [Supreme Court](#) has set aside the one-year suspension of 12 BJP MLAs from the Maharashtra Legislative Assembly. The Supreme Court held that suspension for a year was 'unconstitutional, substantively illegal and irrational'.

### Key Points

#### ▪ About the Suspension of MLAs:

- The MLAs were suspended for **misbehaviour in the Assembly** pertaining to **disclosure of data regarding OBCs**.
- The challenge to suspension 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 the law under [Article 14 of the Constitution](#).
- **Rule 53 of Maharashtra Assembly:** It 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”**.
  - 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”.

#### ▪ Arguments by Maharashtra Assembly:

- **Article 212:** The House had acted within its **legislative competence**, under Article 212, and 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”.
- **Vacancy of Seats:** The state had also said that a seat does not automatically become vacant if the member does not attend the House for 60 days but it becomes vacant only if declared so by the House.
  - It was submitted that the House is not obligated to declare such a seat vacant.
- **Article 194:** The state has also referred to [Article 194 on the powers and privileges of the House](#), and argued that any member who transgresses these privileges can be suspended through the inherent powers of the House.
  - It has denied that the power to suspend a member can be exercised only through

Rule 53 of the Assembly.

▪ **Arguments by the Supreme Court:**

- **Irrational Suspension:** Suspension of a member must be preferred as a short term or a temporary, disciplinary measure for restoring order in the Assembly.
  - Anything in excess of that would be irrational suspension.
- **Manipulating Opposition:** It said that a thin majority coalition government could use such suspensions to manipulate the number of Opposition party members.
  - Such Opposition will not be able to effectively participate in discussions/debates in the House fearing suspension of its members for a longer period.
- **Violation of Basic Structure of the Constitution:** 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.
- **Constitutional Requirement:** The bench referred to **Article 190 (4)** of the Constitution, which 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."
- **Statutory Requirement:** 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.
- **Punishing Whole Constituency:** The Supreme Court said that 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**".
- **Question of Supreme Court Intervention:** The Supreme Court is expected to rule on the question of whether the judiciary can intervene in the proceedings of the House.
  - Constitutional experts, however, say that the court has clarified in previous rulings that the judiciary can intervene in case of an **unconstitutional act done by the House**.

### Provisions for Suspension of a Member of Parliament

- Rules 373, 374, and 374A of the **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 willfully obstructs its business.
- The maximum suspension as per these Rules is "**for five consecutive sittings or the remainder of the session, whichever is less**".
- The maximum suspension for **Rajya Sabha under Rules 255 and 256** also does not exceed the remainder of 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.

[Source: IE](#)