



Public Interest Immunity Claims Proceeding

For Prelims: Sealed Cover Proceedings, Public Interest Immunity Claims Proceedings.

For Mains: SC's Observations over Sealed Cover Proceedings

Why in News?

Recently, the [Supreme Court of India](#) ruled on the use of [sealed cover proceedings](#) in courts and the telecast ban of a Malayalam channel.

- The Court criticised the **government for silencing voices in the media and reducing constitutional rights** and procedural guarantees of a fair hearing.
- The Court also devised an **alternative procedure for Public Interest Immunity claims proceedings** to replace the use of sealed covers.

What are Sealed Cover Proceedings?

- The **sealed cover proceedings** are often used in cases **involving sensitive or confidential information**, such as national security matters, or cases where the disclosure of the evidence may compromise the **privacy of individuals involved**.
- In such cases, the documents or evidence are submitted to the court in a sealed cover, and only the **judge and a designated court officer are allowed to examine the contents of the sealed envelope**.
 - The **parties to the case may not have access to the contents** of the sealed cover, and the **court may only rely on the information contained in the sealed cover to make its decision**.
- Sealed cover proceedings are a **means of balancing the need for transparency in the judicial process** with the need to **protect sensitive information or individuals' privacy**.
 - However, the use of **sealed covers has reduced constitutional rights** and procedural guarantees of a fair hearing under the law.

What is Public Interest Immunity Claims Proceeding?

- **About:**
 - The **Supreme Court** evolved the **"less restrictive" Public Interest Immunity (PII) claims proceedings** as an **"alternative" to the sealed cover proceedings** while dealing with state requests for confidentiality.
 - The **PII proceedings would be a "closed sitting,"** but a **reasoned order allowing or dismissing the PII claim** of the state should be **pronounced in open court**.
- **Procedure - Role of Amicus Curiae:**
 - The court will appoint an **amicus curiae**, which means **"friend of the court"**, to act as a

bridge between the parties involved in public interest immunity claims.

- The **court-appointed amicus will be given access to the materials sought to be withheld by the state and allowed to interact with the applicant** and their lawyer before the proceedings to ascertain their case.
- The amicus curiae **will not interact with the applicant or their counsel after the public interest immunity proceeding has begun** and the counsel has viewed the document sought to be withheld.
- The **amicus “shall to the best of their ability represent the interests of the applicant”** and would be **bound by oath to not disclose or discuss the material with any other person.**
- **Drawback:**
 - Since, **Article 145 of the Constitution** specifically mandates that all judgments of the Supreme Court be delivered in open court, **closed sitting proceedings as per PII might fall against this constitutional mandate.**
 - **SC’s Response:** While the **court recognised that public interest immunity proceedings will take place in a closed setting**, it stated clearly that the **court is required to pass a reasoned order for allowing or dismissing the claim in open court.**
 - Additionally, while PII claims also impact the principles of natural justice, sealed cover proceedings go a step ahead and infringe on the principles of natural justice as well as the principles of open justice.

What are SC’s Previous Observations over Sealed Cover Proceedings?

- **P. Gopalakrishnan vs The State of Kerala case (2019):**
 - The **SC held that disclosure of documents to the accused is constitutionally mandated**, even if the investigation is ongoing and documents may lead to a breakthrough in the investigation.
- **INX Media case (2019):**
 - The Supreme Court had criticised the Delhi High Court for basing its decision to deny bail to a former Union Minister **on documents submitted by the Enforcement Directorate (ED) in a sealed cover.**
 - It held the **action as against the concept of fair trial.**
- **Cdr Amit Kumar Sharma v Union of India case (2022):**
 - The SC said, “the **non-disclosure of relevant material to the affected party and its disclosure in a sealed cover to the adjudicating authority...sets a dangerous precedent.**”

[Source: TH](#)

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