

LIMITS OF POWER: THE HINDU EDITORIAL ON MAHARASHTRA MLAS SUSPENSION CASE

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

In ruling that the one-year suspension imposed last year by the Maharashtra Assembly on 12 BJP legislators was [illegal and irrational](#), the Supreme Court has set the limits of the legislature's power to deal with disorderly conduct in the House. It has laid down a significant principle that the effect of disciplinary action cannot traverse beyond the session in which the cause arose. Citing precedents from rulings of the Privy Council and the Supreme Court, the Court has sought to read the power of the House to suspend a member as essentially defensive or 'self-protective' so that disorderly conduct does not overwhelm its proceedings, but it should not assume a punitive character. Therefore, the suspension beyond the duration of the session was illegal. It was deemed irrational because the need to exercise the power was limited to restoring order in the House; logically, it was not needed beyond the day, or in case of repeated disorderly conduct, to the session so that scheduled business could be completed. It has termed the one-year suspension as a punitive action worse than expulsion. Its reasoning is that if a member is expelled by a resolution of the House, the Election Commission is bound to hold a by-election within six months and the member could seek re-election. On the contrary, the year-long suspension will mean that the constituency remains unrepresented, while there would be no vacancy to be filled through a by-election.

The State government argued vehemently that there was no limit to the action that the House could take for maintaining order and the Court could not examine the proportionality of the action. Rule 53 of the Assembly allowed the Speaker to adopt a graded approach to disorderly conduct; naming members after which they should withdraw from the House for the day, and, in the case of the conduct being repeated, for the rest of the session. However, the Government insisted that the suspension was imposed under the inherent power of the Assembly to ensure orderly functioning. Even then, the Court ruled, in the absence of a rule enabling such a power, the House had to adopt a graded approach and that the same-session limit could not be breached. Referring to the bar under Article 212 of the Constitution on the judiciary examining the regularity of the procedure adopted by the House, the three-judge Bench ruled that the present action was illegal and irrational, and not a mere irregularity of procedure. The ruling is yet another reminder to legislative bodies that their functioning is subject to constitutional parameters. In an era when the government side accuses the Opposition of being obstructionist, and the Opposition alleges that it is being silenced, it is gratifying that the higher judiciary grapples with questions related to the limits of the power exercised by the majority in the legislature.

[Our code of editorial values](#)

U.S. President Biden should not buckle to pressure from irate anti-vaccine campaigners

END

Downloaded from [crackIAS.com](#)

© **Zuccess App** by crackIAS.com