

MP panel reports are public papers: SC

A five-judge Constitution Bench led by Chief Justice of India Dipak Misra on Wednesday unanimously held that admission of published parliamentary standing committee reports as evidence in court did not amount to breach of parliamentary privilege.

Chief Justice Misra, in an opinion for himself and Justice A.M. Khanwilkar, said, "Parliamentary committee systems have emerged as a creative way of parliaments to perform their basic functions. They serve as the focal point for legislation and oversight."

In his lead opinion, he observed that a parliamentary standing committee report being in the public domain was a public document.

"It [parliamentary committee report] can be taken aid of to understand and appreciate a statutory provision if it is unclear, ambiguous or incongruous. It can also be taken aid of to appreciate what mischief the legislative enactment intended to avoid. Additionally, it can be stated with certitude that there can be a fair comment on the report ... Needless to emphasise that the right to fair comment is guaranteed to the citizens," Chief Justice Misra wrote in his opinion, which was seconded by Justice Ashok Bhushan in his separate opinion.

They held the "delicate balance", prescribed under the Doctrine of Separation of Powers, between the legislature and the judiciary would not be upset if the court took on record a published parliamentary report and examined its contents to better understand and resolve a social evil.

The Attorney-General had objected to the judicial review of parliamentary committee reports.

"History and contemporary events across the world are a reminder that black-outs of information are used as a willing ally to totalitarian excesses of power. They have no place in a democracy," Justice D.Y. Chandrachud said in a separate opinion for himself and Justice A.K. Sikri.

The judgments came on a petition filed by Kalpana Mehta about the justifiability of the action taken by the Drugs Controller-General of India and the Indian Council of Medical Research on the approval of Human Papilloma Virus (HPV) vaccine manufactured by GlaxoSmithKline Asia and MSD Pharmaceuticals for preventing cervical cancer in women.

The experimentation of the vaccine was done as immunisation by Gujarat and Andhra Pradesh (before bifurcation) with the help of PATH International.

Ms. Mehta, represented by senior advocate Colin Gonsalves, highlighted the untimely deaths and grant of compensation following the experiment of the vaccine on young girls who had not reached the age of majority without the consent of their parents/guardians.

The petitioner relied on the 81st Parliamentary Standing Committee report of 2014, which concluded that the vaccine experiment was a "serious breach of medical ethics."

The question of law whether the Supreme Court can admit parliamentary committee reports was referred to the Constitution Bench in April 2017.

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