# LEGISLATIVE PROCEDURE
## ASSEMBLY ABSTRACT SERIES

12

# Privileges and Committee of Privileges


TELANGANA LEGISLATURE SECRETARIAT
HYDERABAD

# PREFACE

This abstract containing the information pertaining to the **Privileges and Committee of Privileges** is a part of Legislative Procedure and is intended to serve as handy guide for ready reference. The information contained in this abstract booklet is in consonance with the Rules of Procedure and Conduct of Business in the Telangana Legislative Assembly.

The information contained in this publication is not exhaustive and it cannot be quoted as an authority. It is hoped that this publication will meet the reference requirements. However, for authenticity, the original source may be referred to and relied upon.

Hyderabad, **Dr. V. NARASIMHA CHARYULU,**
December, 2018. Secretary to State Legislature.

# PRIVILEGES

The term privilege has a special meaning in Parliamentary language. It means certain rights and immunities that are being enjoyed by the Houses of the Legislature as well as their Committees and also members of those Houses. Each House of the Legislature and its Committees enjoy these privileges collectively, where as the members of the Legislature exercise them individually. In the annals of Legislatures, the Parliamentary Privileges have acquired an important place and special significance without which the Houses of the Legislature cannot function more effectively and efficiently.

The purpose of privilege is to protect and safeguard freedom, authority and dignity of each House of the Legislature. The members of the House of the Legislature enjoy these

privileges individually. The individual contribution and participation of members in deliberations and proceedings make each House of the Legislature more successful and effective. The Parliamentary Privileges are available to members only in so far as they are necessary for the House to perform its functions freely without any fear or hindrance.

## Important Privileges:

The Houses of the Legislature, their Committees and the members of each House have freedom of speech in the Legislature of a State. No member of the Legislature of a State is liable to any proceedings in any Court in respect of anything said or any vote given by him in the Legislature or any Committee thereof. No person is liable in respect of the publication by or under the authority of the

House of a Legislature of any report, paper, votes or proceedings. The Courts have no jurisdiction to inquire into the proceedings of the Legislature. The validity of any proceedings in the Legislature of a State should not be called in question on ground of any alleged irregularity of procedure. Similarly no officer or member of the Legislature in whom powers are vested by or under the Constitution of India for regulating procedure of the conduct of business, or for maintaining order in the House of the Legislature should be a matter of subject to the jurisdiction of any Court in respect of the exercise by him of those powers. The privilege of freedom from arrest is available to members of the Legislature only in the case of civil cases during the continuance of the Session of the House and forty days before its commencement and forty days after its

conclusion. The privilege of freedom from arrest is not available to the Members of the Legislature in respect of criminal cases.

## Breach of Privilege :

A Question of breach of privilege of a member or of the House arises when any individual or authority disregards or attacks any of the privileges, rights and immunities, either of the member or of the House or of Committees thereof. When a member of the Legislature is prevented from discharging his duties and functions as a Legislator, the question of breach of privilege arises.

## Contempt of the House :

The offences against the authority and dignity of the House of the Legislature either in the form of disobedience to its orders or libels upon itself, its members or officers amount to

contempt of the House. They are punishable. The Contempt of the House may be defined as “any act or omission which obstruct or impedes either House of Legislature in performance of its functions, or which obstruct or impedes any member or officer of such House in the discharge of his duty or which has tendency, directly or indirectly to produce such results.”

Speeches or writings reflecting on the House, its Committees or members of the Legislature constitute a breach of privilege and contempt of the House. Some other instances of breach of privilege and contempt of the House of the Legislature are reflections on character and impartiality of the Speaker in his discharge of his duties, publication of false or distorted report of the proceedings of the House, publication of expunged proceedings of the

House, molestation of members on account of their conduct in the House or obstructing members while discharging their duties as members or while on their way to or from, attending the House or a Committee thereof.

## Consent of Speaker :

A member may, with the consent of the Speaker, raise a question involving a breach of privilege either one member or of the House or a Committee thereof.

## Notice of question of privilege :

A member who wishes to raise a question of privilege has to give notice in writing to the Secretary before the commencement of the sitting on the day the question is proposed to be raised. In case the question sought to be raised is based on a document, the said document is to be enclosed to the notice.

## Conditions of admissibility :

The right to raise question of privilege is governed by the following conditions :

(i) not more than one question should be raised at the same sitting;

(ii) the question should be restricted to a specific matter of recent occurrence ; and

(iii) the matter requires the intervention of the House.

The Speaker considers the question of privilege basing on the above conditions and the precedents relevant to the matter. He may either give or withhold his consent to the raising of the question of the privilege in the House. The Speaker may, before deciding the issue, give an opportunity to the person incriminated to explain his case to the

Speaker. Then the member is informed of the decision of the Speaker. When the decision of the Speaker withholding his consent to the raising of the matter in that House is conveyed to the Member, he is not permitted to raise the mater on the Floor of the House.

In case the Speaker has given his consent to raise the matter on the Floor of the House, the member who has given notice of privilege is called by the speaker after the questions and before the list of business is entered upon. He should rise in his place and while asking for leave to raise the question of privileges, make a short statement relevant thereto. If objection to leave being granted is taken, the Speaker requests those members who are in favour of leave being granted to rise in their places. If not less than twenty-five members rise accordingly, the Speaker declares that leave is granted. If less than

twenty five members rise accordingly, the Speaker declares that he has not the leave of the House to raise the matter.

The member who has given notice of privilege should be present in the House and ask for leave of the House to raise the issue. He cannot authorise another member to raise the matter on his behalf.

## Consideration of the question of privilege:

After leave is granted by the House for raising a question of privilege, the House may either consider the question and come to a decision or refer it to a Committee of Privileges on a motion made either by the Member who has raised the question of privilege or by any other member. The Speaker may refer any question of privilege to the Committee of Privileges for examination, investigation

and report. The Speaker may issue such directions as may be necessary for regulating the procedure in connection with all matters connected with the consideration of the question of privilege within the Committee of Privileges or in the House.

## Constitution of the Committee of Privileges :

The Speaker nominates a Committee of Privileges. It consists of not more than Seven members.

## Minister cannot be a member :

A Minister should not be nominated a member of the Committee. If a member, after his nomination to the Committee, is appointed as Minister, he ceases to be a member of the Committee from the date of such appointment.

## Examination :

The Committee examines every question referred to it and determines with reference to the facts of each case whether breach of privilege is involved and if so, the nature of the breach and the circumstances leading to it. The Committee may make such recommendations as it may deem fit. The report may indicate the procedure to be followed by the House in giving effect to the recommendations made by the Committee.

## Presentation of the report :

The Chairman or any member of the Committee on his behalf presents the report of the Committee of Privileges to the House.

## Consideration of the report :

After the report is presented to the House, the

Chairman or a member of the Committee or any other member may move that the report be taken into consideration. The Speaker puts the question to the House. After the motion made is agreed to, the Chairman or a member of the Committee or any other member of the Committee or any other member moves that the House agrees or disagrees or agrees with amendments, with recommendations contained in the report.

The usual practice is that in case where the House finds that the matter is too trivial or that the offender has already tendered an adequate apology, the House disposes of this matter deciding not to proceed further in the matter.

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