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## Case Comment: Pandit M S M Sharma v Shri Sri Krishna Sinha & Ors - Examining a Notable Judicial Precedent in Indian Law

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### INTRODUCTION

The Pandit M.S.M. Sharma v Shri Sri Krishna Sinha & Ors<sup>1</sup> case emerged in the backdrop of an ongoing conflict in the Indian constitutional framework between parliamentary privilege and press freedom. The issue of limiting the publication of legislative proceedings has historical roots, having originated in the English parliamentary tradition. However, its implementation in independent India needed a careful balancing act between democratic principles and institutional integrity. Previous rulings that established fundamental rules governing legislative privilege and freedom of expression influenced the legal landscape.

Cases like Brijbhushan v The State of Delhi<sup>2</sup> and Romesh Thappar v State of Madras<sup>3</sup> highlighted the importance of the fundamental right to freedom of expression, which includes freedom of the press. These cases created the foundation for the ensuing legal discussion by demonstrating the intrinsic link between a free press and the wider range of democratic discourse. The

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<sup>1</sup> *Pandit M. S. M. Sharma v Shri Sri Krishna Sinha and Others* (1959) 1 AIR 395

<sup>2</sup> *Brij Bhushan v State of Delhi* (1950) 1 SCR 605

<sup>3</sup> *Romesh Thappar v State of Madras* (1950) 1 SCR 594

constitutional clauses outlining the rights and privileges in question were crucial to the dispute. The basic right to freedom of speech and expression, which includes press liberty, was secured by Article 19(1)(a)<sup>4</sup>. Similarly, the petitioner's case was strengthened by the protection of individual liberty provided by Article 21<sup>5</sup>.

On the other hand, state legislatures were granted rights under Article 194(3)<sup>6</sup> that were similar to those of the British House of Commons, including the ability to decide whether or not their proceedings would be published. The lack of specific legislation made interpretation even more difficult, which made historical precedents and legislative meaning more closely scrutinised. The judiciary was given the responsibility of maintaining the fundamental values of constitutional democracy while resolving conflicting interests in this complex legal landscape. In the end, the case acted as a testing ground for defining press freedom parameters in the context of parliamentary privilege, reiterating the judiciary's critical role in defending constitutional rights and democratic principles.

## **FACTS OF THE CASE**

In the case of petitioner M.S.M. Sharma, a journalist for the 'Searchlight' newspaper in Patna, Bihar, Maheshwar Prasad Narayan Sinha, a member of the Bihar Legislative Assembly, made a statement on May 30, 1957, in which he attacked the government and made accusations of corruption. The speaker of the assembly declared a portion of the speech to be offensive and gave the order to have it removed. The Speaker made the implication that the criticised section should not be published, even though no explicit orders were issued to the press.

The speech's omitted section was printed in the 'Searchlight' newspaper on May 31, 1957, in defiance of this order. The issue was brought up in the legislative assembly by Nawal Kishore Sinha on June 10, 1957, and as a result, it was sent to the Privilege Committee. On August 18, 1958, after more than a year of investigation, M.S.M. Sharma was called before the Privilege

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<sup>4</sup> Constitution of India 1950, art 19(1)(a)

<sup>5</sup> Constitution of India 1950, art 21

<sup>6</sup> Constitution of India 1950, art 194(3)

Committee to justify not prosecuting him for violating his privileges. After that, legal action was taken against the editor.

M.S.M. Sharma responded by requesting the court to halt the proceedings under Article 32<sup>7</sup>. He questioned if the Article 194<sup>8</sup> privilege was subject to the Article 19(1)<sup>9</sup> Fundamental Right.

## ISSUES OF THE CASE

1. Does the legislative assembly have a power under Article 194(3) of the Indian Constitution to prohibit the publication of the statement which is being done publicly in the house?
2. Do the legislative assembly privileges under Article 194 of the Indian Constitution prevail over the Fundamental Rights guaranteed by the Indian Constitution specifically Freedom of Speech and Expression?

## ARGUMENTS FROM BOTH SIDES

**Arguments from the Petitioner's side:** The petitioner claims that his fundamental rights under Article 19(1) (a) of the Indian Constitution, as well as his rights to personal life and liberty protected by Article 21, have been violated by the notification sent by the committee and the actions that followed.

In addition, it is maintained that the person has a right to press freedom as they are the newspaper's petitioner. The petitioner further claims that the notification sent by the privilege committee is invalid, emphasizing the fact that the chief minister of Bihar serves as the committee's chairman.

**Arguments from the Respondent's side:** The Indian Constitution's Article 194<sup>10</sup> is the main point of argument for the respondent. They argue that the state legislative assembly has similar privileges, powers, and immunities to the British House of Commons, where there are

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<sup>7</sup> Constitution of India 1950, art 32

<sup>8</sup> Constitution of India 1950, art 194

<sup>9</sup> Constitution of India 1950, art 19(1)

<sup>10</sup> Constitution of India 1950, art 194

restrictions on the publication of assembly proceedings. In addition, the respondent claims that the particular section of the speech that was asked to be removed was expressly forbidden from publication and cannot be published by anybody at all. They contend that any publication that violates this ban is an infringement on the privileges of the assembly.

## JUDGMENT & RATIONALE

The court found that the Bihar state legislative assembly had the same rights, privileges, and powers as the British House of Commons under Article 194(3)<sup>11</sup>. The Bihar legislative assembly was considered to have the same privileges as the British House of Commons because it had not passed any legislation relative to its powers, privileges, or immunities. The British House of Commons' established order, which forbade the publication of any proceedings, was taken into consideration by the court.

According to the petitioner, Article 19(1)(a)<sup>12</sup> was violated by Article 194(3)<sup>13</sup>. The court's interpretation led it to the conclusion that parliamentary privilege under Article 194(3) does not infringe upon the fundamental rights protected by Article 19(1)<sup>14</sup>. Although the term 'subject to the provisions of the constitution' appears in clause (1), it is absent from clauses (2) to (4), indicating that the authors of the Constitution did not intend for those clauses to be governed by the provisions of the Indian constitution. Therefore, there is no violation of fundamental rights by Article 194(3). The court further declared that Article 13 of the Indian Constitution renders any legislation that infringes upon Fundamental Rights null and void. Since Article 194(3) was deemed valid, it was inferred that it did not contravene Article 13<sup>15</sup>.

In contrast, Justice Subbarao dissented, arguing that Article 194(3) is subject to Part III, which includes Articles 12 to 35 that deal with Fundamental Rights and referencing the case of *Gunupati Keshavram Reddy v Nafisul Hasan*<sup>16</sup>.

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<sup>11</sup> Constitution of India 1950, art 194(3)

<sup>12</sup> Constitution of India 1950, art 19(1)(a)

<sup>13</sup> Constitution of India 1950, art 194(3)

<sup>14</sup> Constitution of India 1950, art 19(1)

<sup>15</sup> Constitution of India 1950, art 13

<sup>16</sup> *Gunupati Keshavram Reddy v Nafisul Hasan & State of UP* (1952) 1 AIR 636

### **Decision Majority: CJ Sudhi Ranjan Das**

In addressing the first issue, the court found that there was no act in the Bihar Legislature that addressed the authority, privileges, and immunities of the House under Entry 39, List II, and Seventh Schedule of the Indian Constitution<sup>17</sup>. Thus, the Legislative Assembly of Bihar's Houses continued to enjoy the same rights, privileges, and immunities as the House of Commons did at the time the Indian Constitution was drafted.

The court noted that since 1641, a standing order issued by the House of Commons had placed limitations on the publication of its proceedings. This standing order remained in effect since it was neither changed nor revoked. The court decided that the Legislative Assembly of Bihar had the same authority as the House of Commons since it had not passed any legislation in this area as of January 26, 1950.

The petitioner argued that in the event of a disagreement, the 'Right to freedom of speech and expression' under Article 19(1) (a) would take precedence over Article 194(3); nevertheless, the court dismissed this argument. The court reasoned those paragraphs (1) and (2) to (4) are independent of one another and therefore Article 194(3) is not subject to Article 19(1) (a).

Furthermore, the petitioner argued that Article 19(1) (a) of the Constitution is violated by Article 194(3). The court considered this point. Article 13 of the Constitution states that any legislation that violates it will be null and void, as the court pointed out. 'Harmonious Construction' should be used in conflicting circumstances, the court held, and Article 19(1) (a) and Article 194(3) have equal weight. Article 19(1)(a) is universal in such disputes, but Article 194(3) is particular. The court dismissed the petition after finding that the Assembly's notification was genuine.

### **Decision: Dissent: Justice Subbarao**

An alternative perspective on the application of fundamental rights and the interpretation of the law is offered by the dissenting opinion in this case. In his dissent, Subba Rao, J. questions the

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<sup>17</sup> Constitution of India 1950, art 245

majority's view, claiming that it unduly restricts the right to free speech, especially when it comes to the press.

Subba Rao, J., begins by praising the Chief Justice's and the majority's thoughtful ruling, but he voices his disagreement because he believes their logic unduly curtails the freedom of speech, which is a basic right guaranteed by the Constitution.

He examines the case's details, which include the petitioner, the editor of the 'Searchlight' daily, publishing hearings from the Bihar Legislative Assembly. The petitioner was facing legal action from the Assembly's Committee of Privileges for allegedly disclosing portions of the discussion that had been erased, in violation of the Assembly's privilege.

The minority opinion raises doubts about the Legislature's ability to limit the disclosure of its proceedings, especially when doing so would violate the inalienable right to free speech and expression. Examining the powers, privileges, and immunities of State Legislatures under Article 194<sup>18</sup> of the Constitution, Subba Rao, J. contends that no privilege claimed by the Legislature should violate the fundamental rights that are granted to individuals under Article 19(1)(a)<sup>19</sup>.

He underlines that parliamentary privilege should give way in order to defend citizens' rights when it conflicts with fundamental rights. In addition, Subba Rao, J. cites historical examples and legal precedents to bolster his claim that legislative privilege ought not necessarily supersede fundamental rights.

The minority opinion concludes that as there is no proof that the publishing was done maliciously, the petitioner's fundamental right to disclose the legislative proceedings should be maintained. Subba Rao, J., advocates for a well-rounded strategy that upholds individual rights as well as legislative privileges. Rather than leaving the Legislature's authority, privileges, and immunities unclear, he suggests passing laws that define and govern these entities.

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<sup>18</sup> Constitution of India 1950, art 194

<sup>19</sup> Constitution of India 1950, art 19(1)(a)

## ANALYSIS OF THE JUDGEMENT

The decision made in *Pandit M.S.M. Sharma v Shri Sri Krishna Sinha and Others*<sup>20</sup> represents a critical turning point in the understanding of the constitutional framework of India's relationship between legislative privilege and fundamental rights. The case sparked a complex legal argument that centred on the conflicting goals of legislative autonomy and press freedom, which finally required the judiciary to negotiate intricate constitutional provisions and historical precedents.

In presenting the majority opinion, Chief Justice Sudhi Ranjan Das gave an in-depth review of the relevant constitutional requirements. The court emphasised the similarity between the privileges of the British House of Commons and the Bihar Legislative Assembly, drawing comparisons to the development of parliamentary privilege throughout history. The court maintained the conventional wisdom that legislative bodies have inherent powers similar to those of the House of Commons by highlighting the lack of particular law governing the Assembly's privileges.

A stringent constructionist approach is demonstrated by the court's interpretation of Article 194(3) as independent of Article 19(1)(a), which places more emphasis on the specifics of parliamentary privilege than on the more general safeguards of fundamental rights. The court affirmed the supremacy of legislative authorities in controlling the publishing of its proceedings while attempting to resolve possible inconsistencies between constitutional provisions by applying the idea of harmonious interpretation.

Moreover, the court's reference to past cases, including the House of Commons standing rule from 1641,<sup>21</sup> supported the idea of parliamentary practice continuity and its applicability to the interpretation of Indian constitutional provisions. This historical viewpoint gave the Assembly more legitimacy to regulate how its proceedings were disseminated, even in the lack of explicit legislation.

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<sup>20</sup> *M.S.M. Sharma v Shri Sri Krishna Sinha and Others* (1959) SCR Supl (1) 806

<sup>21</sup> Grand Remonstrance 1641

In contrast, Justice Subbarao's dissent questioned the majority's understanding of Article 194(3) in relation to basic rights. Justice Subbarao pushed for a more expansive use of basic rights in restricting parliamentary privilege by claiming that Article 194(3) ought to be covered by Part III of the Constitution. The dissent highlighted the necessity for a more expansive interpretation of constitutional provisions to protect individual liberty, citing the *Gunupati Keshavram Reddy v Nafisul Hasan* case<sup>22</sup>.

The case has consequences for the natural law theory, which holds that rights are inalienable and intrinsic, independent of laws. In support of this viewpoint, the petitioner argues that his right to free expression is fundamental and unchangeable. However, the Supreme Court's ruling brought pragmatism because it acknowledged that in order to safeguard larger societal interests like morality and public order, reasonable restrictions on the right to free speech were necessary. This divergence from a rigid devotion to natural law principles is a reflection of a practical approach to reconciling the rights of the individual with the welfare of the group within the legal framework.

The Court's affirmation of the Assembly's jurisdiction under Article 194 of the Indian Constitution resonates with positivism, which rejects inherent rights in favour of laws formed from public consensus. The Court emphasised the formal legality of the Assembly's acts in controlling its procedures by maintaining legislative enactments as the principal source of law. On the other hand, the Court's reliance on justifiability and non-arbitrariness in the legislative process points to a sophisticated awareness that the application of more general fairness and justice principles is not incompatible with legal validity.

The Court's consideration of the case's competing interests is a manifestation of legal realism's emphasis on the dynamic and context-specific character of the law. The Court's careful consideration of the Assembly's power in relation to the petitioner's right to free speech shows a practical recognition of how changing societal objectives and ideals influence the course of the legal system. A flexible and context-sensitive interpretation of legal principles was favoured by

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<sup>22</sup> *Gunupati Keshavram Reddy v Nafisul Hasan & State of UP* (1952) 1 AIR 636



the Court, which showed a break from strict legal formalism by taking into account the particular circumstances and wider societal ramifications.

The ruling in *Pandit M.S.M. Sharma v Shri Sri Krishna Sinha and Others* has a big impact on how the legislative and press in India are balanced in terms of power. The court recognised the value of press freedom while maintaining the institutional integrity of legislative bodies by upholding the Assembly's right to control the publishing of its proceedings. The dissenting view, however, draws attention to the current discussions about the parameters of parliamentary privilege and how they relate to basic rights, emphasising the necessity for more judicial guidance on this intricate matter.<sup>23</sup>

As a result, the ruling highlights the judiciary's function in resolving disputes between conflicting constitutional values and provides valuable perspectives on the changing nature of democracy and government in India.

## CONCLUSION

It is clear from the preceding discussion and analysis of the relevant facts, issues, and the court's ruling in the majority decision that the court sought to create a harmonious interpretation of the existing Fundamental Rights in relation to the privileges accorded to state and federal legislators. This ruling is very important because it establishes a legal standard for cases that come after it. After the court's ruling, the assembly was repeatedly adjourned, the privilege committee was reorganised, and M.S.M. Sharma received a new notice. When M.S.M. Sharma attempted to reopen the case, the court affirmed that the petitioner was bound by the decision made earlier and used the *res judicata* principle.<sup>24</sup>

Still unclear in this matter, nevertheless, was whether or not the powers accorded to state legislatures or parliament had any bearing on Article 21.<sup>25</sup> The question of whether Article 21 supersedes privileges was not addressed by the court, despite the fact that it settled the matter of whether Article 19(1) (a) was subject to them.

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<sup>23</sup> *M.S.M. Sharma v Shri Sri Krishna Sinha and Others* (1959) SCR SUPL. (1) 806

<sup>24</sup> *Ibid*

<sup>25</sup> Constitution of India 1950, art 21