2025 INSC 264

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) No. 530 OF 2024

Dr. Sunil Kumar Singh … Petitioner

versus

Bihar Legislative Council

(Through Secretary) and Ors. … Respondents

JUDGMENT

SURYA KANT, J.

1. The Petitioner has invoked the writ jurisdiction of this Court under Article 32 of the Constitution of India, laying challenge to Report No. 1/2024 dated 14.06.2024 (**Impugned Report**), submitted by the Ethics Committee of the Bihar Legislative Council (**BLC**) recommending his expulsion as a Member of Legislative Council (**MLC**). The consequential notification dated 26.07.2024 relieving the Petitioner from the membership of the BLC issued by the BLC's Secretariat (**Impugned Notification**), is also assailed.

A. FACTUAL MATRIX

2. The present controversy arises from allegations of unparliamentary conduct by the Petitioner, including the use of derogatory

expressions in his capacity as an MLC within the House of the BLC. This conduct of the Petitioner prompted the initiation of proceedings against him by the Ethics Committee. The allegations were found to be substantiated, leading the Ethics Committee to recommend the Petitioner's expulsion from the BLC. Subsequently, a resolution to that effect was passed by a majority of the members of BLC, formalising the decision to expel and relieve the Petitioner. The facts giving rise to the present petition are set out hereinbelow:

2.1. The Petitioner is a member of the political party known as the Rashtriya Janata Dal (**RJD**). He was elected as a member of the BLC on 29.06.2020 for a period of six years. The Petitioner was also nominated as the Chief Whip by the RJD in the BLC.

2.2. The elections for the 17th Legislative Assembly in the State of Bihar were held in November 2020, wherein a coalition government, comprising the Janata Dal (United) (**JDU**) led by the incumbent Chief Minister along with the RJD and the Indian National Congress (**INC**), was formed. This coalition, however, wedged apart in January 2024, and a new alliance between the JDU and the Bharatiya Janata Party (**BJP**) was entered into to form the Government in the State.

2.3. Following these developments, the Hon'ble Governor of Bihar was scheduled to deliver his address on 13.02.2024, at the 206th

Session of the BLC. As soon as the Governor's address was completed and during the motion of thanks, the Petitioner and another MLC, Md. Sohaib approached the well of the House and hurled indecent slogans against the Chief Minister. They mocked him as "*Paltu Ram"*, imitated his body language and sarcastically remarked that *"the man who has not contested a single Mukhiya election till date is the Chief Minister of Bihar*". The Petitioner then alluded to the Chief Minister as an 'expert in manipulations' and insinuated that he was "*just like a snake sheds its skin every year*". This indecorous fracas led to the proceedings of the House being indubitably obstructed, followed by a complaint on 19.02.2024 lodged against the Petitioner and Md. Sohaib before the Chairman of the BLC by a fellow MLC belonging to the Ruling Party JDU.

2.4. The Chairman of BLC issued a letter to the Petitioner and Md. Sohaib informing them about the complaint, which was then forwarded to the Ethics Committee for necessary enquiry. The letter also required both the MLCs to remain present and join the enquiry proceedings on 03.05.2024 before the Ethics Committee.

2.5. Md. Sohaib joined the enquiry proceedings on 03.05.2024 and expressed regret for his conduct in writing and further assured a display of restraint and caution in the future.

2.6. The Petitioner, in stark contrast, did not appear before the Ethics Committee on the date fixed and instead sought exemption, citing engagements and scheduling conflicts due to the onset of the Lok Sabha elections. The Petitioner did not join even the subsequent proceedings and continued seeking exemption from appearing for one or the other reason, which are delineated for the sake of convenience:

Date of proceedings	Requests from Petitioner	Response of the Ethics Committee
03.05.2024	▪ The Petitioner was a star campaigner for his party in the ongoing Lok Sabha elections and was in charge of the Saran Constituency.	Exempted and directed to appear on 22.05.2024
22.05.2024	▪ Busy on account of himself being a candidate in elections of the Board of Directors, National Agricultural Cooperative Marketing Federation of India (**NAFAED**).	Exempted and directed to be present on 31.05.2024 as a last opportunity.
31.05.2024	▪ Tried to place the onus on the Ethics Committee by stating: "*I do not know what is the hurry, haste and impatience that the Committee has again fixed the date 31.05.2025 to present the opinion*". ▪ He demanded information regarding the charges	Exempted, but the request regarding the relevant documents was denied on the grounds of confidentiality; however, Petitioner was permitted to peruse the same on the next date of proceeding, i.e. 06.06.2024.

	against him and the necessary evidence corroborating such allegations.	
06.06.2024	▪ Sought exemption on the grounds of his father's illness.	One last opportunity was given to the Petitioner to present his side, and the Ethics Committee resolved to take action in case the Petitioner did not turn up for proceedings scheduled on 12.06.2024.

2.7. The Petitioner eventually appeared before the Ethics Committee for the first time on 12.06.2024, when a copy of the charges was duly supplied to him. The Petitioner instead of addressing the Ethics Committee on those charges, started questioning its very authority and legitimacy. Having chosen to continue his pattern of defiance, the Petitioner communicated to the Ethics Committee that it was not competent to question him, given his position as the Opposition's Chief Whip. Following a heated discussion between them, the Ethics Committee concluded the proceedings without the Petitioner having addressed any of the charges levelled against him. The next date of the proceedings was then fixed on 19.06.2024.

2.8. The Ethics Committee, in somewhat of an unusual manner, preponed the proceedings from 19.06.2024 to 14.06.2024 without any notice to the Petitioner. The Ethics Committee then discussed

the behaviour of the Petitioner during the previous proceedings and concluded that his conduct was wholly unjustified. The Ethics Committee further mooted the demeanour of both the MLCs, i.e. the Petitioner and Md. Sohaib and closed the proceedings.

2.9. The Ethics Committee thereafter submitted the Impugned Report, recommending the expulsion of the Petitioner from membership of the BLC. As regards to Md. Sohaib, the Ethics Committee recommended his suspension for two days in the upcoming Session.

2.10. The Ethics Committee's report, along with its recommendations for taking punitive measures against the Petitioner as well as Md. Sohaib was presented and discussed on 26.07.2024 in the House. After due deliberations, the majority of the House accepted the recommendations and consequently, the Petitioner was expelled from his membership of the BLC forthwith. Md. Sohaib, on the other hand, was suspended for the first two days of the 208th Session of the House.

2.11. As a sequel thereto, the Secretariat of BLC issued the Impugned Notification dated 26.07.2024, relieving the Petitioner from membership of the BLC and notifying the resultant vacancy caused by such expulsion. The aforesaid measures have prompted the Petitioner to approach this Court through these writ proceedings.

2.12. We may hasten to add that during the pendency of this petition, Respondent No. 6, Election Commission of India (**Election Commission**), issued a Press Note dated 30.12.2024 declaring the bye-election for the seat held by the Petitioner before his expulsion. The election process was resolved to be completed before 25.01.2025. Considering the impact of the notified election on the outcome of this petition, *vide* order dated 15.01.2025 the declaration of the result of such bye-election was stayed.

B. CONTENTIONS ON BEHALF OF THE PETITIONER

3. Dr. Abhishek Manu Singhvi and Mr. Gopal Sankarnarayanan, learned Senior Counsels appearing on behalf of the Petitioner vehemently contended that the Impugned Report and the consequential Notification are illegal and unconstitutional. They argued that the actions against the Petitioner were actuated by *mala fide* and suffered from gross illegalities, both in procedure and substance.

4. Dr. Singhvi and Mr. Sankarnarayanan canvassed the following grounds in support of their submissions:

a) The expulsion of the Petitioner from the membership of BLC was violative of the principles of natural justice, fair and just play, as the relevant material, including the video clip containing his transgressions were not furnished to him. The

Petitioner was denied access to the material evidence on the pretext that the proceedings of the House are confidential and could only be perused by him during the meetings of the Ethics Committee. The Petitioner was thus caused inexorable prejudice in the matter of preparing his defence.

b) The Ethics Committee explicitly assured the Petitioner on 12.06.2024 that charges would be framed only after receiving all the relevant material, for which the next date of proceeding was fixed on 19.06.2024. The Ethics Committee, however unilaterally and deliberately advanced the date of hearing to 14.06.2024 without his knowledge. The Petitioner has thus been condemned unheard, and in a manner which reeks of malice and amounts to gross illegality.

c) Not only this, the Ethics Committee's report dated 14.06.2024 was circulated selectively with the members belonging to the Ruling Party, and was kept confidential from the members belonging to the Opposition Parties. Such members being in the minority could not effectively participate in the proceedings.

d) In any event, the Petitioner has been hammered with severe punishment, disproportionate to the attributed misconduct and also in comparison to another MLC Md. Sohaib, who,

despite facing somewhat similar allegations, was awarded suspension of two days from the upcoming Session.

e) It is settled law that a 'graded' approach is required where the House is disciplining its members. Deviation from such an approach in the case of the Petitioner is not based on any sufficient material, and the disproportionate punishment imposed on him falls foul of the Fundamental Rights enshrined in Articles 14, 19 and 21 of the Constitution of India.

C. ***CONTENTIONS ON BEHALF OF RESPONDENTS***

5. Contrarily, Mr. Ranjit Kumar, learned Senior Counsel representing Respondent Nos. 1 to 5, strongly opposed the instant Writ Petition urging that the Impugned Report and Notification expelling the Petitioner from the BLC are based on concrete evidence. He submitted that the action against the Petitioner was taken following due process of law, which has been approved by the majority of the House and thus warrants no interference.

6. In this vein, while opposing the Writ Petition, Mr. Kumar advanced the following submissions:

a) At the outset, the Writ Petition is not maintainable. It is liable to be dismissed in terms of Article 212 (1) of the Constitution of India, which states that '*the validity of any proceedings in*

the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure'.

b) It is the prerogative of the House to regulate its Business and Procedure, and the decision so taken cannot be tested on the bedrock of proportionality. The issue of proportionality should be left to the wisdom of the House. In other words, the Court cannot examine the quantum of punishment imposed upon the Petitioner, as such a recourse would amount to reviewing the validity of the proceedings of the House.

c) The Ethics Committee adhered to the principles of *audi alteram partem* as the Petitioner was given reasonable opportunity of being heard. Such a plea is fortified by the fact that the Ethics Committee asked the Petitioner to join its proceedings on 03.05.2024, 22.05.2024, 31.05.2024, 06.06.2024 and 12.06.2024. In fact, it is the Petitioner who deliberately and for reasons best known to him, failed to avail such opportunity. He kept on either avoiding the proceedings or threatening the Ethics Committee with one or the other objection until 12.06.2024 when he entered appearance for the first time.

d) The Petitioner was duly served with the list of charges as soon as he appeared on 12.06.2024. He, however instead of addressing the charges, questioned the very legality and the

authority of the Ethics Committee itself. The Petitioner, being a member of the House, is deemed to have knowledge of the formation of the Ethics Committee under Article 208 of the Constitution and the manner in which its proceedings are conducted.

e) The Petitioner cannot raise the plea of proportionality and seek parity with the other MLC, Md. Sohaib for the reason that the latter duly appeared before the Ethics Committee and cooperated in the proceedings. On the other hand, the Petitioner remained defiant and disregarded the prescribed procedure. Being the Chief Whip of the Opposition, he held a greater responsibility towards the policies, rules and constitutional authority of the House.

f) The Petitioner has a habit of degrading the authority of the House through his indecent and unparliamentary acts for which he was earlier also suspended from the House on 28.03.2022 in the 200th Session of the BLC.

7. Mr. Ankit Agarwal, counsel for Respondent No. 6—the Election Commission, submitted that in view of Section 151A of the Representation of People Act, 1951 (**RP Act**), the Commission was duty-bound to notify the elections as soon as the vacancy occurred.

He further submitted that the Election Commission had nothing to add on the merits of the case.

8. Ms. Meenakshi Arora, learned Senior Counsel, entered appearance for the Intervener, Shri Lalan Prasad, who is the aspirant for election to the MLC seat declared vacant upon the expulsion of the Petitioner. She also asserted that the bye-election declared by the Election Commission for the vacant seat aligned with Section 151A of the RP Act. According to her Section 151A of the RP Act is triggered the moment a 'legal vacancy' occurs, mandating the immediate election to fill up the same.

D. ISSUES FOR CONSIDERATION

9. Having traversed the sequence of events as they emanated, the contentions put forth on behalf of the parties as well as the material on record, we are of the considered view that the following vital issues require analysis:

i. Whether the instant Writ Petition is maintainable in view of Article 212 (1) of the Constitution of India and whether the proceedings of the Ethics Committee are amenable to judicial review?

ii. Can this Court in exercise of its writ jurisdiction review the proportionality of the punishment imposed by the House?

iii. If so, whether the Petitioner's expulsion is disproportionate to the misconduct attributed to him and whether it merits any interference?

iv. If Issue No. (iii) is answered in the affirmative, whether this Court is empowered to determine the quantum of punishment that may be imposed on the Petitioner?

E. ANALYSIS

E.1. Whether the instant Writ Petition is maintainable in view of Article 212 (1) of the Constitution of India and whether the proceedings of the Ethics Committee are amenable to judicial review?

10. The Respondents have raised an objection against the very maintainability of the Writ Petition in view of Article 212(1) of the Constitution of India. Since this argument strikes at the core of the instant matter, we find it imperative to address this contention at the very outset. Article 212 (1) of the Constitution of India bars any enquiry regarding any proceeding in the Legislature on the grounds of alleged irregularity of procedure.

11. Having given our thoughtful consideration, we find ourselves unable to concur with the contentions asseverated by the Respondents that the decision of the Ethics Committee is shielded

by the immunity proffered under Article 212(1). We say so because it is no longer *res integra* that there is no absolute bar on calling into question the decisions taken by the Legislature. The protection under Article 212(1) operates only with respect to the 'Proceedings in the Legislature' on the grounds of 'Procedural Irregularities'. It could not have been the intent of the lawmakers to circumscribe Constitutional Courts unconditionally from scrutinising the validity of the actions of the Legislature, which may encroach upon the Fundamental Rights of the members and/or citizens.

12. To simplify the understanding of the embargo postulated under Article 212(1), we deem it appropriate to distinguish the terms— 'Proceedings in the Legislature' and 'Legislative Decision'. These terms represent distinct concepts, each serving a different function in the law-making process.

13. To further explicate, the 'Proceedings in the Legislature' comprise the formal steps, debates, and motions undertaken to facilitate deliberations within the House. It is a structured mechanism that ensures due consideration of a proposed measure, allowing for discussion, amendment, and scrutiny before reaching a final resolution. These procedural steps are not ends in themselves but are designed to channel legislative discourse towards a definitive outcome. Article 212(1) of the Constitution provides immunity for

the manner of such proceedings, and hence, Constitutional Courts would exercise restraint when such proceedings are called into question on the grounds of procedural irregularity.

14. A 'Legislative Decision', on the other hand, is the culmination of the legislative procedure—the formal expression of the will of the House on a given matter. While Proceedings of the Legislature provide the framework within which members exercise their deliberative functions, the Legislative Decision is the authoritative determination that follows such deliberation. These decisions of the Legislature, though emanating from a coordinate branch of Government, are not immune from scrutiny by Constitutional Courts. Judicial review of Legislative Decisions is not an encroachment upon legislative dominion but a necessary safeguard to uphold constitutional supremacy.

15. In this regard, we deem it apposite to underscore the applicability of the principle of '*expression unius est exclusion alterius*', namely, that whatever has not been included has, by implication, been excluded. Applying the aforesaid principle, we have no doubt in concluding that the prohibition under Article 212(1) operates only with respect to the scrutiny of 'Proceedings in the Legislature' on the touchstone of 'Irregularity of Procedure'. It does not oust the power of judicial review of the decisions of the Legislature, whether

Legislative or Administrative, on the grounds of illegality or unconstitutionality.

16. Constitutional courts are entrusted with the responsibility of ensuring the lawfulness of the decisions of the Legislature rather than substituting their judgment to decide the rights of the parties. A decision-making authority, be it the Legislature or otherwise, while exercising its powers, must act within the limits prescribed by the Constitution. Any determination by the authority concerned, if found to be in excess of its constitutional authority or violative of Fundamental Rights, is subject to judicial probe. Such overarching decisions cannot be sustained to preserve integrity in the legal system by preventing excess and abuse of power.

17. Reverting to the facts of the instant case, the Impugned Report recommending the expulsion of the Petitioner was made by the Ethics Committee in the discharge of its administrative functions. These functions have been assigned in the Rules framed by the State Legislature under Article 208 of the Constitution. The Rules so enacted govern the internal functioning, discipline of the House and the procedure by which the House regulates its affairs. However, such administrative actions, even though referable to the Rules formulated under Article 208 of the Constitution, do not constitute the legislative functions of the House. As discussed in

the preceding paragraphs, the legislative functions pertain to law-making, deliberation, and policy formulation, whereas the present action of the Ethics Committee is purely administrative in nature, aimed at enforcing discipline and ethical standards amongst the members of the House.

18. The distinction between legislative and administrative functions is well recognized in constitutional jurisprudence. When a legislative body frames rules under Article 208 and subsequently enforces them through disciplinary measures, such enforcement is an exercise of administrative power rather than legislative power.

19. It is well established that administrative actions, even when undertaken by legislative bodies or their committees, are subject to judicial review where they affect the rights and interests of individuals. In fact, this Court in ***Ashish Shelar and Ors. v. The Maharashtra Legislative Assembly and Anr.***[1] has held that the substantive disciplinary or rationality of the self-security measure inflicted upon the erring member is open to judicial review on the touch stone of being unconstitutional, grossly illegal, irrational or arbitrary.

[1] Ashish Shelar and Ors. v. Maharashtra Legislative Assembly and Anr.; (2022) 12 SCC 273.

20. There can thus be no doubt that if such an administrative decision is found to be arbitrary, mala fide, or in violation of constitutional rights, it is open to judicial intervention in the same manner as any other executive action of the State. Determining whether an impugned action or breach is an exempted irregularity or justiciable illegality is a matter of judicial interpretation and would undoubtedly fall within the ambit of Constitutional Courts.

21. We also clarify here that the scrutiny in the instant Writ Petition pertains to the recommendation of the Ethics Committee subsequently ratified by the majority of the House. This Court is not concerned with the procedure adopted either by the Ethics Committee or the House while making or acting on such recommendation. In this context, the present action resulting in civil consequences for the Petitioner, cannot be immune from judicial review under the pretext of legislative privilege.

22. We cannot be ignorant that the grounds raised before us traverse beyond mere procedural irregularity and challenge the Petitioner's expulsion on the footing of proportionality. Needless to say, the imposed punishment has a significant impact on the Petitioner's Fundamental Rights and a chilling effect on the representative democratic framework of our society, issues that we have dealt with in greater detail, in the later parts of this judgement.

23. Consequently, on an overall consideration of legal position, we are of the view that the Respondent's argument *qua* maintainability of the Writ Petition must fail. We hold that the action of the Ethics Committee neither forms part of the 'Proceedings of the Legislature' nor is it tantamount to a 'Legislative Decision'. Accordingly, entertaining the instant petition would not fall foul of the restrictions imposed by Article 212 (1) of the Constitution.

E.2. Can the Courts examine the proportionality of punishment imposed on a member while reviewing the validity of the action taken by the House?

24. Having held that the instant Writ Petition is maintainable, it would now be apposite to address the preliminary question of plausibility of judicial interference in the issue concerning the proportion of punishment, when examining the validity of the action taken by the House. We will undertake the analysis of this issue through a two-pronged approach: (***i***) the relevance and nature of the 'doctrine of proportionality'; and (***ii***) the role of Constitutional Courts in reviewing a decision taken by the House.

E.2.1. The Doctrine of Proportionality: A dynamic precept

25. The expression 'proportion' is derived from the Latin term *proportio*, which corresponds to comparative size, number or degree. The

'doctrine of proportionality' essentially signifies that any action should be steeped in reason or logic. This concept highlights the need for clear justification in decision-making, asserting that decisions made without sufficient objective reasoning are often at odds with intended goals. In order to holistically understand the 'doctrine of proportionality' and the manner in which it is applied, it is, therefore, imperative to examine its disposition in: (***i***) the domestic sphere; and (***ii***) in international jurisprudence.

E.2.1.1 The Domestic Sphere

26. The doctrine of proportionality in Indian jurisprudence is guided by the principle of selecting the most appropriate and least restrictive measures to achieve the intended objective. The courts' role is limited to ensuring a proper balance between the adverse effects of an action or penalty on an individual's rights, liberties, or interests and the purpose it seeks to serve. In summary, while there may be a range of discretionary choices, it is within the courts' purview to assess whether the chosen measure excessively infringes upon rights.

27. The test of proportionality, in this context, is satisfied by considering a myriad of factors such as fairness, justice, absence of vindictiveness, predominance of objectivity, adherence to natural justice, fair play, and the recognition of mitigating circumstances

etc. These factors, while not exhaustive, are instrumental in maintaining the delicate balance between imposing consequences for wrongful actions and ensuring that such measures do not result in right-based transgressions.

28. In the Indian legal spectrum, the notion of proportionality finds its place in a multitude of legal issues. To instantiate:

(i) Service and Labour Laws

29. This Court has time and again highlighted the importance of proportionality when dealing with the question of punishment or disciplinary action for misconduct at the workplace, whether it be in public service or private organisations. The nature of the misconduct, the circumstances of the occurrence, the history and effect of the incident are all factors which ought to be taken into consideration.

30. For example, in ***Dev Singh v. Punjab Tourism Development Corpn. Ltd.***[2], a public servant was penalised with dismissal from service for the offense of misplacing and losing an official file. This Court, in appeal, considered the facts that the employee was serving the Corporation for twenty years with a previously unblemished record, the misconduct was not deliberate or

[2] Dev Singh v. Punjab Tourism Development Corporation Ltd. & Anr. ; (2003) 8 SCC 9.

motivated, and the file was not shown to be of grave importance or sensitivity, reduced the punishment to withholding of increment of the employee. On the other hand, in a case involving a delinquent employee who did not join duty upon transfer, the Court considered his extended absence of over 233 days and his refusal to visit the appointed doctor to substantiate his claim for medical absence, and concluded that the punishment of removal from service was proportionate to the misdemeanour.[3]

31. Thus, service laws in India are riddled with such like precedents, mandating employers, including the Government, to take all circumstances into account and undertake proportionate action against such offences.

(ii) Administrative Law

32. In similar parlance to service law, administrative law also places great importance on approaching decision-making with proportionality. For instance, blacklisting from Government tender auctions, which is a harsh punishment is considered proportionate in dire cases, such as where the contractor has embezzled funds in collusion with Government employees.[4] However, this Court has

[3] LIC of India v. R. Dhandapani; (2006) 13 SCC 613.
[4] Kulja Industries Ltd. v. Chief General Manager, Western Telecom Project BSNL & Ors.; (2014) 14 SCC 731.

also protected contract awardees from withdrawal of the contract on mere hyper-technical grounds.[5]

33. Even beyond government auction, proportionality ought to go to the root of decision making by the Government. The litmus test that needs to be administered is whether the harshest or strongest measure is necessarily required to be implemented in a given case. In a situation where a lessee was in default of lease premium, rent, and interest due to underdeveloped surroundings, this Court held that the harsh step of resumption of the land as well as forfeiture of the already paid sum would be too harsh, when recovery proceedings are available.[6] On the other hand, this Court has also upheld the stronger step taken by the Railway Recruitment Board for re-test of limited candidates, when there was evidence of paper leaking and mass-cheating.[7]

(iii) Constitutional Law

34. Constitutional law is perhaps the area of law where the term proportionality is used most commonly. This is so because the proportionality test, initially identified in ***Modern Dental College***

[5] Vice-Chairman and Managing Director, City & Industrial Development Corporation of Maharashtra Ltd. & Anr. v. Shishir Realty (P) Ltd. & Ors.; (2022) 16 SCC 527.
[6] Teri Oat Estates (P) Ltd. v. U.T., Chandigarh & Ors.; (2004) 2 SCC 130.
[7] Chairman, All India Railway Recruitment Board & Anr. v. K. Shyam Kumar & Ors.; (2010) 6 SCC 614.

& Research Centre v. State of M.P.,[8] is widely used to consider the *vires* of legislative as well as executive actions.

35. The test of proportionality, thus, applies to cases where action is brought to protect the right guaranteed by the Constitution or other laws. It largely seeks to identify whether the restriction sought to be placed on the right is proportionate to the objective sought to be achieved by the restriction. It often belies a comparison between the importance of the public purpose of the restriction on one hand and the public right on the other hand.

36. This comparison has played out distinctly in different circumstances. When dealing with the laws empowering the Executive to restrict internet in areas with underlying disturbances (like the Union Territories of Ladakh and Jammu & Kashmir), this Court has compared the importance of the right to speech and expression against that of national security concerns.[9] On the other hand, when considering the arguments in ***Association for Democratic Reforms v. Union of India***[10], a Constitution Bench of this Court had the occasion to compare the importance of the right to financial privacy and the right to political transparency, which

[8] Modern Dental College & Research Centre & Ors. v. State of M.P. & Ors.; (2016) 7 SCC 353.
[9] Anuradha Bhasin v. Union of India & Ors.; (2020) 3 SCC 637.
[10] Association for Democratic Reforms & Anr. v. Union of India & Ors.; 2024 SCC OnLine SC 150.

also led to the evolution of what is called the 'double proportionality standard'.

37. Perhaps the clearest application of proportionality principles on the touchstone of constitutional law has been in the case of ***Internet & Mobile Assn. of India v. RBI***[11]. Here, this Court delved into various circumstances surrounding the use, merits, and demerits of virtual currencies, taking a view on the impact of its proliferation as well as curtailment on the economy, individual investors, and its exchanges, thus coming to the conclusion that the relevant RBI circulars had a disproportionate impact on the market *vis-à-vis* the RBI's aim to regulate virtual currencies.

(iv) Criminal Law

38. In criminal law, of course, the dispensation of justice strives to be ever more precise and perfect; this is doubtless because of the ramifications of a verdict in such trials, which militate against physical liberty and autonomy—an autonomy that is most dear to modern society. Even here, it is most noticeable that the principle of proportionality has been widely accepted and promulgated as the vital safeguard against prejudice, excessiveness, and unreasonableness.

[11] Internet and Mobile Association of India v. Reserve Bank of India; (2020) 10 SCC 274.

39. We have consistently observed in cases of sentencing the considerations of proportionality taking centre stage, such as in ***Shivu v. Registrar General, High Court of Karnataka***,[12] which held as follows:

> "***The principle of proportion between crime and punishment is a principle of just desert that serves as the foundation of every criminal sentence that is justifiable.*** *As a principle of criminal justice it is hardly less familiar or less important than the principle that only the guilty ought to be punished. Indeed, the requirement that punishment not be disproportionately great, which is a corollary of just desert, is dictated by the same principle that does not allow punishment of the innocent, for any punishment in excess of what is deserved for the criminal conduct is punishment without guilt."*
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> *.....*
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> ***Proportion between crime and punishment is a goal respected in principle, and in spite of errant notions, it remains a strong influence in the determination of sentences****. Anything less than a penalty of greatest severity for any serious crime is thought to be a measure of toleration that is unwarranted and unwise. But in fact quite apart from those considerations that make punishment unjustifiable when it is out of proportion to the crime, uniformly disproportionate punishment has some very undesirable practical consequences.*"
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> [Emphasis Supplied]

40. In fact, this Court has consistently acknowledged that the degree of punishment should be commensurate to the gravity of the offence, such that it is consistent with the principle of proportionality. For illustration, nowhere in criminal law is the discourse on proportionality vaster than in cases of death penalty, where the mitigating and aggravating circumstances of the

[12] Shivu & Anr. v. Registrar General, High Court of Karnataka & Anr.; (2007) 4 SCC 713.

perpetrator are weighed in tandem and scrupulously studied.[13] Thus, a sort of 'balance sheet' is drawn up which aids in undertaking the exercise of satisfying proportionality.[14] What emerges, therefore, is that the application of proportionality is not severable from the outcomes of that exercise.

41. We may also hasten to note the use of this principle in bail matters, where the Court seeks to restrict its own discretion by levying proportionality. In a catena of decisions,[15] this Court has repeatedly cautioned against excessively stringent or disproportionate bail conditions as a side-effect of granting this important relief.

(v) Interpretation of Statutes

42. In our considered opinion, the principle of proportionality also finds purchase in something as fundamental as the interpretation of statutes, which, in turn, colours all the spheres of law we have previously laid out. Statutory interpretation is that unique tool a jurist possesses to give meaningful voice to the law enacted by the Legislature, and it has been our jurisprudence to always read proportionality into the laws we seek to interpret.

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[13] Bachan Singh v. State of Punjab; (1982) 3 SCC 24.
[14] Lehna v. State of Haryana; (2002) 3 SCC 76.
[15] Frank Vitus v. Narcotics Control Bureau & Ors.; 2024 INSC 479; Munish Bhasin and Ors v. State (Govt. of NCT of Delhi) and Anr.; (2009) 4 SCC 45; Mohammed Zubair v. State of NCT of Delhi and Ors.; 2022 SCC OnLine SC 897; Parvez Noordin Lokhandwalla v. State of Maharashtra & Anr.; (2020) 10 SCC 77.

43. Indeed, many landmark judgments of this Court, which have interpreted key provisions of our legal code often operate with an in-built proclivity towards simulating proportionality. Take, for instance, the ruling in ***Maneka Gandhi v. Union of India***,[16] wherein this Court held against excessive restrictions on liberty, especially those which are disproportionate to the State's purported objectives. Thus, one might legitimately argue the Indian experience with 'due process' began with the reading of proportionality into our *grund norm*, i.e. the Indian Constitution.

44. Interpreting statutory provisions involves understanding and giving effect to the Legislature's intent, so as to avoid absurd or unjust outcomes—an idea that aligns with ensuring that the means adopted by a statute are commensurate with its ends. In essence, an interpretation should not lead to outcomes that unduly burden individuals or contradict the broader objectives of justice and fairness. This concern reflects a proportional mind set: that the impact of a statute should be weighed against its intended purpose, much as Indian courts have done in cases like ***Maneka Gandhi*** **(*supra*)** and ***Arnesh Kumar v. State of Bihar***.[17] These

[16] Maneka Gandhi v. Union of India; (1978) 1 SCC 248.
[17] Arnesh Kumar v. State of Bihar & Anr.; (2014) 8 SCC 273.

cases clearly demonstrate the wide prevalence of the principle of proportionality in the application and implementation of law.

45. The doctrine of proportionality is also firmly entrenched in our Legislative Policy. Some notable examples include: (***a***) the authority vested in Labour Courts and Industrial Tribunals under the Industrial Disputes Act, 1947 to modify the quantum of punishment imposed on a workman; (***b***) the prescription of minimum and maximum sentences in Penal Laws, such as the Indian Penal Code, which is now succeeded by the Bharatiya Nyaya Sanhita, 2023 (***c***) the Statutory Rules and Bye-laws etc. regulating the service conditions of government employees as also those working in entities deriving their status from Article 12 of the Constitution. These legal provisions meticulously calibrate the imbibing of proportionality principles by the Indian Legislature. Thus, while a minor infraction may warrant a 'censure', serious offences such as the misappropriation of public funds may justifiably result in 'dismissal' from service.

E.2.1.2 International Jurisprudence

46. Beyond the spectrum of domestic laws, we find that the doctrine of proportionality is also widely applied in foreign jurisdictions, following a similar rationale to that employed by Indian courts. Some instances include:

(i) Germany

47. In similar parlance to that of Indian constitutional jurisprudence, the doctrine of proportionality in German law is applied to every case of a state act constituting an '*eingriff*' or encroachment, into a constitutional freedom or property right.[18] To satisfy the proportionality requirement, the act of state under scrutiny must be:[19] (***a***) appropriate to promote its objective; (***b***) necessary to promote that objective; and (***c***) Adequate (balancing operation), i.e. the prejudice to the freedom or property right in question must not be inadequate in comparison with the weight of the interests supposed to justify the intervention.

48. To further demystify these factors, the suitability test (a) is fulfilled by demonstrating that the act in question be apt to promote the objective against which it is measured.[20] The necessity requirement (b) mandates that, among several equally effective means to achieve the objective, the least restrictive one must be chosen. An act of the state is deemed unnecessary if its objective can be achieved through a less intrusive method.[21] The adequacy test (c) assesses whether the benefit gained by restricting the right justifies the

[18] BVerfGE 16, 194 (at 201, 202).
[19] Cf. G. LübbeWolff, The Principle of Proportionality in the Case-Law of the German Federal Constitutional Court, Human Rights Law Journal 2014, vol. 34, pg. 12.
[20] BVerfGE 104, 337 (at 345).
[21] BVerfGE 121, 317 (at 344).

extent of the intrusion, ensuring that the objective's value outweighs the resulting loss.

(ii) European Union

49. In this instance, the principle of proportionality is laid down in Article 5(4) of the Treaty on the European Union (**EU**). It seeks to set actions taken by EU institutions within specified bounds. In EU law a proportionality test is applied both to EU acts and to acts of the Member States.[22]

50. Under this principle, EU when reviewing an act or a measure, analyses whether the same is:[23] (***a***) an appropriate or suitable measure; (***b***) in pursuit of a legitimate objective; (***c***) among the appropriate measures constitutes the least restrictive means (**LRM**); and (***d***) not manifestly disproportionate in terms of a cost versus benefits balance.

51. It is pertinent to mention that not all of these steps are applied in every case. Albeit, the LRM test and the manifestly disproportionate standard are often used as alternatives rather than in conjunction.

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[22] Sauter W. Proportionality in EU Law: A Balancing Act? Cambridge Yearbook of European Legal Studies, 2013;15:439-466.

[23] Case C-331/88 The Queen v Minister of Agriculture, Fisheries and Food and Secretary of State for Health ex parte Fedesa et al [1990] ECR I-4023 [13]; Principle of Proportionality, European Union, available here: https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://eur-lex.europa.eu/EN/legal-content/glossary/principle-of-proportionality.html&ved=2ahUKEwjR9aun6NSLAxXhzDgGHTAsHtcQFnoECCQQAQ&usg=AOvVaw14i3cuEILjPFx1jQZjNOuR.

Even when proportionality in the strict sense is applied, an explicit balancing of costs and benefits is uncommon. Instead, the manifestly disproportionate test serves as a rough measure of justice, as its terminology suggests.[24] It is designed to allow a relatively wide margin of discretion to the authorities whose measures are under review.

(iii) United States of America

52. American jurisprudence though it has made limited use of the term 'proportionality', notions akin to proportionality including balancing of constitutional values,[25] often appear in the US system of substantive doctrinal standards of constitutional judicial review.[26] Consequently, the US Courts have retained its two standards of strict scrutiny and rational basis scrutiny, when adjudicating challenges to State or Federal Legislation.

53. For the purposes of the present discussion, we will limit our analysis to the *strict scrutiny test*, which posits that a government action must be necessary to achieve a compelling government interest.[27] This method of constitutional analysis employs several inquiries that are also present in a traditional proportionality

[24] Joined Cases C-453/03, C-11/04, C-12/04 and C-194/04 ABNA Ltd et al v Secretary of State for Health et al ECR I-10423 [80]–[84].
[25] Kathleen M. Sullivan, The Justices of Rules and Standards, 106 Harv. L. Rev. 22, 61 (1992).
[26] Erwin Chemerinsky, Constitutional Law 529–31 (Aspen Pub. 2001).
[27] Griswold v. Connecticut, 381 U.S. 479, 503–504 (1965).

review. First, the Court must determine whether the Government action infringes on a fundamental right or discriminates against a suspect class.[28] If it does, the Court must invalidate the government action unless it is necessary for the attainment of a compelling Government interest.[29] The Government interest involved must be sufficiently important to justify a suspect classification or Government invasion of individual autonomy.[30] The result is that the Government action is invalidated if the Court is able to find a less restrictive, yet equally effective, alternative to the proposed method.

54. It is therefore evident that the doctrine of proportionality is fundamentally embedded in the concept of fairness in action across domestic, foreign, and international legal systems. This principle ensures that measures taken are appropriate, necessary, and balanced in relation to the objectives they seek to achieve. Proportionality is deeply intertwined with the principles of the Rule of Law and natural justice, as it guards against arbitrary or excessive actions. Consequently, it is interpreted as an implicit requirement in almost every legal provision, unless it is explicitly barred by the legislation itself.

[28] Clark v. Jeter, 486 U.S. 456, 461 (1988).
[29] Griswold, 381 U.S. at 504.
[30] Griswold, 381 U.S. at 504.

55. In the specific context of the instant appeal, what must therefore be borne in mind is that when contemplating the decision of expulsion of a Legal or Public Representative such as the Petitioner, inflicting punishment beyond the necessary period may suffer from the vice of being irrational and arbitrariness. Such action then becomes prone to challenge on the grounds of being illegal and unconstitutional.

E.2.2. Scrutinising the 'Action' of the House – The role of Constitutional Courts

56. In the aforesaid context, Constitutional Courts assume a crucial role in ensuring that the actions imposing punishments on members are proportionate and just. This is achieved through a structured approach that balances legislative authority with judicial oversight. This Court, in a recent decision in ***Ashish Shelar (supra)***, has eruditely held that:

> "***The sweep of Article 21 is expansive enough to govern the action of dismembering a member from the House of the legislative assembly in the form of expulsion*** *or be it a case of suspension by directing withdrawal from the meeting of the Assembly for the remainder of the Session".*
>
> [Emphasis supplied]

57. Insofar as the specific punishment of expulsion is concerned, this Court, in ***Raja Ram Pal v. The Hon'ble Speaker of Lok Sabha***,[31] recognised the power of the Legislature to expel a member. However, it laced the existence of such power with a word of caution. It was held that the "*expulsion of a member is a grave measure and normally, it should not be taken*". Needless to say, the expulsion of a member from the House constitutes a higher degree of deprivation and must only be sustained in exceptional circumstances.

58. There is no gainsaid that imposing a disproportionate punishment not only undermines democratic values by depriving the member from participating in the proceedings of the House but also affects the electorates of the constituency who remain unrepresented. It is accurately stated that in our representative democracy, the main function of a legislator is to act as a reflection of the people's will. That is to say, instead of being a free agent to follow their conviction, the legislator is an agent of the electorates and thus obligated to reflect the opinions and values of the people they represent.

59. The removal of a member from the House therefore is a significant issue for both the member and the constituency they represent.

[31] Raja Ram Pal v. The Hon'ble Speaker of Lok Sabha & Ors.; (2007) 3 SCC 184.

The democratic process relies on the active participation of all members, and even brief absences can impede a member's ability to contribute to critical legislative discussions and decisions. This underscores the importance of their presence in all parliamentary activities, as their absence can have far-reaching implications on the legislative outcomes and the representation of their constituency's interests. We clarify that while representation of the constituency is not the sole factor in determining the punishment to be imposed on a member, it nonetheless remains an important aspect that merits due consideration.

60. As stated, the absence of a duly elected representative disrupts the democratic process and undermines the voice of the electorate. In such a situation, if the punishment inflicted upon the member concerned appears to be *prima facie* harsh and disproportionate, Constitutional Courts owe a duty to undo such gross injustice and review the proportionality of such disqualifications or expulsions.

61. It is pertinent to add that the aforementioned responsibility involves a delicate balance where courts must act decisively to strike down excessively harsh actions that threaten our democratic fabric while simultaneously exercising restraint to avoid encroaching upon the legislative domain. We reiterate that courts must reflect a certain degree of deference to the legislative will and

wisdom, intervening only when the action prescribed is so disproportionate that it shocks the intrinsic sense of justice.

62. Given the foregoing discussion, we hold that there is no absolute bar on the Constitutional Courts to examine the proportionality of the punishment imposed on a member while reviewing the validity of the action taken by the House. By focusing on the proportionality of punishment, courts must ensure that justice aligns with constitutional values and societal norms, thereby upholding the integrity of the democratic process.

63. At this point, it must be added that the determination of what constitutes a disproportionate measure is inherently complex and context-dependent. Such assessment requires a nuanced scrutiny of the specific circumstances surrounding each case. This means that a one-size-fits-all definition is impractical while adjudicating proportionality and the courts must exercise their discretion in a prudent and judicious manner.

64. We deem it appropriate to outline a few guiding principles for courts to consider while scrutinising the proportionality of actions taken by the House against its member(s). We clarify that these parameters are not exhaustive, as considerations will inevitably vary from case to case. An indicative list of such parameters includes:

(a) Degree of obstruction caused by the member in the proceedings of the House;

(b) Whether the behaviour of the member has brought disrepute to the dignity of the entire House;

(c) The previous conduct of the erring member;

(d) The subsequent conduct of the erring member, such as expressing remorse, cooperation with the institutional scrutiny mechanism;

(e) Availability of lesser restrictive measures to discipline the delinquent member;

(f) Whether crude expressions uttered are deliberate and motivated or a mere outcome of language largely influenced by the local dialect;

(g) Whether the measure adopted is suitable for furthering the desired purpose; and

(h) Balancing the interest of society, particularly the electorates, with those of the erring members.

65. We are of the view that a scrutiny of the punishment given to the members by the House on the abovementioned framework will ensure that the legislative actions are justified, necessary, and

balanced, protecting both the integrity of the legislative body and the rights of its members, as well as the larger societal objective. It is also imperative that such legislative action remains mindful of the fundamental principle that the purpose of imposing punishment is not to serve as a tool for retribution but rather to uphold and enforce discipline within the House. The primary objective should be to maintain decorum and foster an environment of constructive debate and deliberation. Any punitive measure must be proportionate and guided by considerations of fairness, reasonableness, and due process, ensuring that it does not unduly stifle democratic participation or undermine the representative nature of the institution.

E.3. Was the Petitioner's expulsion proportionate to the offence alleged against him, and whether it merits any interference?

66. Since we have reiterated the power which vests in this Court to scrutinise the proportionality of punishment imposed on a member while reviewing the validity of the action taken by the House, we may now proceed to examine whether the punishment imposed on the Petitioner was proportionate or it merits any interference.

67. It needs no emphasis that there is no place for aggression and indecency in the proceedings of the Parliament or the Legislature. Members are expected to show complete respect and deference

towards each other. This expectation is not merely a matter of tradition or formality; it is essential for the effective functioning of democratic processes. It ensures that debates and discussions are productive, focused on the issues at hand, and conducted in a manner that upholds the dignity of the institution. The right to speak inside the House cannot be harnessed as a tool to insult, humiliate or defame a fellow member, Ministers and most importantly, the Chair itself.

68. Based on the material placed on record, it is evident that the demeanour of the Petitioner in the House was abhorrent and unbecoming of a member of the Legislature. We are constrained to add that the Petitioner's subsequent evasive and high-handed demeanour before the Ethics Committee was even more egregious. We have no hesitation in observing that the Petitioner actively attempted to delay and obfuscate the proceedings by refusing to cooperate with the Ethics Committee. We have already elaborated on how the Petitioner sought exemption from appearing before the Ethics Committee on some pretext or another. Such behaviour was nothing but a brazen attempt to circumvent the authority of the Ethics Committee.

69. Even when the Petitioner finally appeared before the Ethics Committee, instead of answering the charges against him, he

deemed it appropriate to question the authenticity and legitimacy of the Ethics Committee itself. The Petitioner, who has served as his party's Chief Whip in the BLC, cannot possibly claim that he was unaware of the provisions under which the Ethics Committee was constituted and conducted its proceedings. The haughtiness demonstrated by the Petitioner before the Ethics Committee is, no doubt, highly undignified of a Public Representative.

70. At this stage, it is essential to mention that the Petitioner cannot draw any parity with the other delinquent member, Md. Sohaib, who duly cooperated with the Ethics Committee and expressed remorse for his conduct. The behavioural pattern of the Petitioner, on the other hand, underscores a deliberate attempt to undermine the regulatory process and thwart the dispensation of justice. We are also mindful of the fact that the Petitioner has demonstrated similar misconduct previously as well, for which he was suspended from the House for a brief period.

71. Be that as it may, notwithstanding the conduct of the Petitioner as elaborated hereinabove, we are at the same time of the considered view that the House, as custodian of constitutional values and democratic principles, ought to exercise magnanimity and rise above petty criticism and unwarranted remarks against its members. In doing so, they would exemplify the virtues of

tolerance, restraint, and institutional maturity, thereby reinforcing the dignity, impartiality, and respectability of their office.

72. While we do not discount the fundamental principle that an individual must bear the consequences of their actions, we are equally mindful that the ramifications of such a decision extend beyond the Petitioner alone. The actions prescribed against the Petitioner will inevitably have a direct and significant impact on a vast number of stakeholders, particularly the constituents who have reposed their faith in the Petitioner as their representative. Their voices, aspirations, and democratic rights cannot be disregarded, and it is in furtherance of these principles that the needs and interests of the electorate must take precedence in any decision that affects their representation in a democratic forum.

73. While dealing with individuals, such as the Petitioner, it is imperative that disciplinary measures are undertaken with due regard to the principles of proportionality and fairness. The House, in the exercise of its authority to regulate its own proceedings and maintain order, must not lose sight of the necessity for a calibrated and judicious approach.

74. In fact, this aspect is already prescribed in the Rules governing the procedure of the BLC. In this regard, our attention was drawn to *Rule 10, Chapter 36 of the Bihar Vidhan Parishad – Rules of*

Procedure and Conduct of Business, which provides for the penalties that the Ethics Committee may recommend. A perusal of the provision depicts that if the Committee finds a member violating the code/rules, it may recommend: (***a***) Censure, (***b***) Reprimand, (***c***) Suspension from the House for a specified period; and (***d***) any other punishment as deemed fit.

75. This Court, in a series of decisions, has consistently held that punishment disproportionate to the offence or action is in direct violation of the Fundamental Rights enshrined in the Constitution of India, particularly Articles 14 and 21.[32] The expulsion of the Petitioner from the House not only raises concerns about the violation of Fundamental Rights but also impacts the legal rights of his constituents. We find that the disproportionate nature of the punishment imposed by the House in expelling the Petitioner pricks the conscience of this Court compelling it to intervene on the sheet anchor of justice and fairness.

76. Given the applicable provisions and the underlying objective of imposing penalties on members of the House, we are of the view that the primary purpose of imposing penalties is to discipline the members and ensure the smooth and orderly functioning of the

[32] Ranjit Thakur v. Union of India & Ors.; (1987) 4 SCC 611; Deputy Commissioner, Kendriya Vidyalaya Sangthan & Ors. v. J. Hussain; (2013) 10 SCC 106.

House. A more measured and balanced approach would have sufficed to address the misconduct while upholding the dignity and decorum of the House.

77. We reiterate that the principle of proportionality is a cornerstone of our judicial system, and it mandates that the severity of the punishment must correspond to the gravity of the offence. Given the aforementioned analysis, we hold that the punishment meted out to the Petitioner was excessive and disproportionate to the nature of the offence he committed.

E.4. If Issue No. (iii) is answered in the affirmative, whether this Court is empowered to determine the quantum of punishment that may be imposed on the Petitioner?

78. Having held that the punishment of expulsion imposed on the Petitioner is harsh and disproportionate, the only natural corollary would then be to consider the appropriate quantum of punishment that should be imposed on the Petitioner and whether this Court can undertake such determination.

79. In ordinary course, when a court concludes that the punishment imposed by the disciplinary authority is disproportionate to the gravity of the misconduct, it does not generally substitute its own assessment of the appropriate penalty. Instead, the established

judicial approach is to remit the matter to the disciplinary authority for reconsideration.

80. This principle stems from the recognition that the authority imposing the punishment is best placed to evaluate the nature of the misconduct and determine an appropriate sanction within the framework of service rules and regulations. Judicial restraint in such matters ensures that courts do not usurp the role of administrative authorities by engaging in executive decision-making.

81. Having said that, it is equally important to underscore that this Court is not devoid of the power to intervene in exceptional circumstances. In order to curtail perpetuating illegality, abridge prolonged litigation, prevent unnecessary hardship to the parties involved and to do complete justice, this Court in exercise of its powers under Article 142 of the Constitution, is vested with the authority to substitute the punishment where the facts and circumstances so warrant.[33]

82. We have already held that the expulsion of the Petitioner is disproportionate and undoubtedly infringes his Fundamental Rights guaranteed under Article 14 of the Constitution.

[33] B.C. Chaturvedi v. Union of India and Ors.; 1995 (6) SCC 749.

Furthermore, the expulsion also has a direct impact on a vast number of stakeholders, particularly the electorates he represents. We cannot be oblivious of the fact that the Petitioner has already undergone almost 7 months of expulsion. He has also missed the 208th Session of the BLC held between 25.11.2024 and 29.11.2024, and since his term is expiring in the year 2026, the Petitioner is left with a short duration.

83. Considering the foregoing facts and circumstances, we are of the view that if this matter is now remanded to the Ethics Committee for reconsideration of the appropriate punishment, the ensuing process is likely to be protracted, which might deprive the Petitioner in participating in the ensuing Sessions.

84. In such situations, the constitutional mandate empowers this Court to transcend procedural limitations and provide equitable relief in cases where rigid adherence to legal provisions may result in injustice. When the established remedies fall short of addressing exceptional circumstances or fail to meet the demands of justice, this Court, as the final arbiter, must invoke its constitutional powers to bridge the gap and ensure a just, fair, and equitable resolution.

85. It is settled law that the extraordinary powers vested in this Court under Article 142 of the Constitution of India, may be invoked in

cases where remitting the matter would result in undue delay and where the interests of justice demand a swift resolution. In view thereof, we are of the considered opinion that the exceptional situation before us warrants invocation of our powers under Article 142 of the Constitution to do complete justice between the parties.

86. Balancing the competing considerations, we hold that the period of expulsion already undergone by the Petitioner is deemed to be considered as a period of his suspension; and in our view, constitutes sufficient punishment for the misconduct displayed by him. Accordingly, the Impugned Report of the Ethics Committee and the subsequent Notification notifying the expulsion of the Petitioner deserves to be modified to that extent. As a segue thereto, the Petitioner is directed to be reinstated as member of the BLC with immediate effect.

87. We may clarify that the indulgence extended by this Court in reducing the punishment imposed on the Petitioner should not be misconstrued as condonation of his conduct. This Court has exercised its discretion squarely in the interests of proportionality and fairness. Consequently, the Petitioner is expected to uphold the dignity of the House and adhere to the standards of discipline befitting its members. Henceforth, it is incumbent upon the Petitioner to conduct himself with decorum and responsibility in

legislative proceedings. Any deviation from this expectation or recurrence of misconduct will not be viewed lightly, and the concerned authority shall be at liberty to take appropriate action in accordance with law.

F. CONCLUSION AND DIRECTIONS

88. In view of the foregoing discussion and considering the totality of the facts and circumstances, we deem it appropriate to allow this Writ Petition in the following terms:

a) The objection raised by the Respondents against the maintainability of the instant petition is rejected. The issues raised in this Writ Petition do not fall within the restrictions outlined under Article 212 (1) of the Constitution of India.

b) There is no absolute bar on the Constitutional Courts to examine the proportionality of the punishment imposed on a Member while reviewing the validity of the action taken by the House.

c) The punishment meted out to the Petitioner was highly excessive and disproportionate to the nature of the misconduct committed by him.

d) The period of expulsion already undergone by the Petitioner shall be deemed as a period of his suspension from the House

and will amount to be sufficient punishment for his misdemeanour. Accordingly, we set aside the Impugned Report of the Ethics Committee as well as the Notification of the BLC, only to the extent of nature of punishment it recommends to be imposed on the Petitioner.

e) The Petitioner is directed to be reinstated as a member of the BLC with immediate effect. However, he shall not be entitled to claim any remuneration or other monetary benefits for the period of his disbandment. The Petitioner shall be entitled to such other perks and privileges which any other similarly placed MLC is entitled to upon completion of their full tenure. For the limited purpose of post-tenure benefits, if any, the Petitioner shall be deemed to have served as MLC for the entire tenure.

f) Should the Petitioner indulge further in such misconduct upon his reinstatement, we leave it to the Ethics Committee or Chairperson of the BLC to take appropriate action, in accordance with law.

g) As an upshot of the foregoing, the Press Note dated 30.12.2024 issued by Respondent No. 6, Election Commission, declaring the bye-election for the seat earlier held by the Petitioner is

hereby quashed, and any action taken pursuant to such Press Note is annulled.

89. The Writ Petition is disposed of in the above terms.

90. Pending interlocutory applications, if any, are also disposed of. Ordered accordingly.

..... J.
[SURYA KANT]

..... J.
[NONGMEIKAPAM KOTISWAR SINGH]

NEW DELHI
DATED: 25.02.2025