

# UPSC PREPARATION

## Privilege Motion - Indian Polity Notes

The privilege motion is moved by a member when he feels that a minister or any member has committed a breach of privilege of the House or one or more of its members by withholding facts of a case or by giving wrong or distorted facts.

### What is Parliamentary Privilege?

- The term 'privilege' means certain rights and immunities enjoyed by each House of Parliament and its Committees collectively, and by the members of each House individually without which they cannot discharge their functions efficiently and effectively.
- The object of parliamentary privilege is to safeguard the freedom, the authority and the dignity of Parliament.
- But they are available to individual members only insofar as they are necessary for the House to perform its functions freely without any let or hindrance.
- Privileges of Parliament do not place a member of Parliament on a footing different from that of an ordinary citizen in the matter of the application of laws, unless there are good and sufficient reasons in the interest of Parliament itself to do so.
- Some of the more important privileges of each House of Parliament and of its members and Committees are
  - Freedom of speech in Parliament,
  - Immunity to a member from any proceedings in any court in respect of anything said or any vote given by her/him in Parliament or any Committee thereof,
  - Immunity to a person from proceedings in any court in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings, prohibition on the courts to inquire into proceedings of Parliament and
  - Freedom from arrest of members in 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 does not, however, extend to preventive arrest or detention under statutory authority by executive order and in criminal cases.

### What is Privilege Motion?

- The Members of Parliament are granted certain privileges individually and collectively so as to perform their duties properly. But if any of the members disregard or misuses any of these privileges or rights, it is considered as a breach of the privilege and is liable for punishment under the Parliamentary laws.
- This motion is applicable for members of both Lok Sabha and Rajya Sabha and if any member notices another member or members breach it, they can move the privilege motion against the accused members.

### Breach of Privilege Motion

- A breach of privilege is an infringement of any of the privileges of MPs or Parliament.
- Chapter 20 of rule 22 for Lok Sabha and Chapter 16 Rule 187 for the Rajya Sabha have mentioned the Privilege motion.

- The scrutiny regarding the breach of this motion in the Lok Sabha is managed by the Speaker and that in the Rajya Sabha is managed by the Chairperson.
- Once the Speaker or the Chairperson considers the accusations to be true then the accused is called to explain themselves.
- A committee of 15 members is elected by the Speaker in the Lok Sabha and a committee of 10 members is elected by the Chairperson at the Rajya Sabha.
- These committees are responsible for managing all the cases and accusations related to the privilege motion and take relevant actions against and breach of the motion.

## Conditions of Admissibility

- Right to raise a question of privilege is governed by the following conditions, namely:—
  - Not more than one question should be raised at the same sitting.
  - The question should be restricted to a specific matter of recent occurrence.
  - The matter requires the intervention of the House.
- In giving consent, the Speaker is guided by the above conditions of admissibility of question of privilege and the past precedents relevant to the matter.
- On receipt of the notice the matter is considered by the Speaker who may either give or withhold consent to the raising of the question of privilege in the House.

## Cases of Privilege Motion

There have been various complains raised for the breach of the privilege motion. There have a few cases that rather a lot of public attention. Few of the most important ones are mentioned below:

- Privilege motion has been moved by the minister of state parliamentary affairs against Trinamool Congress MP to be suspended for remained of the current session. This motion has been approved by the chairmen of Rajya Sabha.
- Breach of privilege motion was passed on the Prime Minister and the Defence Minister of the country, claiming that they had misled the members of the Parliament on the Rafale fighter jet deal.
- The most significant privilege motion was passed in 1978 against Indira Gandhi. The motion was passed on by the then Home Minister Charan Singh claiming excesses made by her during Emergency. She was found guilty and was expelled from the House.
- In another case, in 1976, Subramanian Swamy, a BJP MP was expelled from the Rajya Sabha for disgracing the Indian Parliament through his interviews to foreign journals.

Multiple other cases have been recorded and many have been rejected by the Committees of both the Houses of Parliament. The major reason to introduce the privilege motion was to ensure that no Minister misuses his powers once he gets the privileges of a person of higher authority.

## Frequently Asked Questions:

### Is privilege motion mentioned in Constitution?

Article 105 of the Constitution deals with the powers, privileges and immunities of either House of the Indian Parliament and its Members and committees. Chapter 20 of rule 22 for Lok Sabha and Chapter 16 Rule 187 for the Rajya Sabha have mentioned the Privilege motion.

### What is a no-confidence motion?

If any member of the House feels that the government in power does not have a majority then he/she can move a no-confidence motion. If the motion is accepted, then the party in power has to prove its majority in the House.

