

EXPUNCTION OF UNPARLIAMENTARY EXPRESSIONS FROM PROCEEDINGS

Restrictions on freedom of speech by members

It is the essence of the parliamentary system that people's representatives should be free to express themselves without fear of legal consequences.

2. Article 105 (2) of the Constitution of India provides that no member of Parliament shall be liable to any proceedings in any court in respect of anything said by the member in Parliament or any committee thereof. What they say is subject only to the discipline of the Rules of Parliament, the good sense of the members and the control of proceedings by the Speaker. Freedom of speech enjoyed by members in Parliament may thus be said to be absolute; however, it does not give unrestricted freedom to a member to say anything against any individual or to use defamatory or indecent or undignified or unparliamentary words.

3. Article 121 of the Constitution prohibits discussion in Parliament with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of the duties except upon a motion for presenting an address to the President for the removal in the manner prescribed.

4. Rule 352 of the Rules of Procedure provides *inter alia* that a member shall not reflect upon the conduct of persons in high authority except on a substantive motion drawn in proper terms. The words 'persons in high authority' mean persons whose conduct can only be discussed on a substantive motion drawn in proper terms under the Constitution or such other persons whose conduct, in the opinion of the Speaker, should be discussed on a substantive motion drawn up in terms to be approved by the Speaker. A member, while speaking, shall not use offensive expressions about the conduct of proceedings of Parliament or any State Legislature.

5. Similarly, Rule 353 of the Rules of Procedure lays down that no allegation of a defamatory or incriminatory nature shall be made by a member unless the member has given adequate advance notice to the Speaker and also to the Minister concerned so that the Minister may be able to make an investigation into the matter for the purpose of a reply. It further provides that a member may be prohibited from making any such allegation if the Speaker is of the opinion that it is derogatory to the dignity of the House or that no public interest is served by making such allegation.

Power to expunge defamatory, indecent or unparliamentary words

6. Under Rule 380 of the Rules of Procedure and Conduct of Business in Lok Sabha, the Speaker/the Chairperson is vested with the power to order expunction

of words which, in the opinion of the Speaker/the Chairperson, are defamatory or indecent or unparliamentary or undignified from the proceedings of the House. Similarly, the Speaker/the Chairperson may order expunction of words which are defamatory or insinuatary in nature or level allegation against a high dignitary or authority or organization.

Expressions coming within the scope of expunction

7. Besides defamatory, indecent or unparliamentary words, certain words, phrases and expressions have, over the years, come to be held as unparliamentary in various Parliaments of the world. There are occasions when the Speaker/the Chairperson deprecates the use of such words and asks the member concerned to withdraw them. If such words are not withdrawn forthwith, the Speaker/the Chairperson may order their expunction.

8. Similarly, words or expressions used by a member in violation of the rules while making allegations against any person may be considered defamatory and come within the scope of expunction. Needless to say, obscene or indecent words or expressions or those that tend to lower the dignity of the House, also attract expunction.

9. On certain occasions, the Speaker/the Chairperson has also ordered, in its discretion, expunction of words considered to be:—

- prejudicial to national interest;
- prejudicial to the maintenance of friendly relations with a foreign State;

- derogatory to high dignitaries, including heads of friendly foreign States;
- likely to offend national sentiments or affect the religious susceptibilities of a section of the community;
- likely to discredit the Army;
- not in good taste or otherwise objectionable; and
- likely to bring the House into ridicule or lower the dignity of the Chair, the House or its members.

10. Sometimes, the context in which a word is used may make it unparliamentary. For instance, members do frequently refer to market economy, stock market or shortage of essential commodities in the market, but reference to the House as a “market place” has been held to be unparliamentary.

Expunction of certain remarks under other circumstances

11. There are instances when a member on being asked to withdraw certain remarks held to be not relevant to the debate, refused to do so, the Speaker/the Chairperson ordered the expunction of those remarks.

On being asked not to quote from a document of which advance notice has not been given and which is not relevant to the debate, if the member continues to quote therefrom, the Speaker/the Chairperson may order expunction of the quotations. Direction 115A (4) of Directions by the Speaker/the Chairperson provides that where a member without being called upon to speak, continues speaking despite the Speaker/the Chairperson asking the member to desist from it, the Speaker/the Chairperson may order expunction of the speech from the proceedings. Likewise, if a member continues to interrupt the speech of another member or a Minister, the Speaker/the Chairperson may direct that such interruptions be not recorded.

Procedure for expunction:

A. Inside the Chamber of the House on the same day

- (i) The Speaker, the Deputy Speaker or the Chairperson, as the case may be, on defamatory, indecent, unparliamentary or undignified words being uttered by a member, may, immediately thereupon *suo motu*, order expunction of such words.
- (ii) On a member or a Minister drawing the attention of the Speaker/the Chairperson to the objectionable words, the Chair may order their expunction.

- (iii) Expunction may also be ordered on the attention of the Speaker/the Chairperson being drawn to the objectionable words by the officers at the Table.

B. Outside the Chamber of the House

- (i) There may, however, be situations in which the Speaker/the Chairperson may, of its own volition or, on its attention being drawn to the objectionable words by a member, a Minister or an officer at the Table, observe that it will take a decision after going through the verbatim proceedings. Under such circumstances, the relevant verbatim proceedings are placed before the Speaker, the Deputy Speaker or the Chairperson, as the case may be, and after going through the verbatim proceedings, may order expunction of objectionable words.
- (ii) There may also be situations where no objection is taken to certain words uttered in the House but such words are subsequently brought to the attention of the Chairperson as being objectionable by a member, a Minister or the Secretariat. Under such circumstances, the Speaker/the Chairperson may, after going through the verbatim proceedings, order expunction of such words.

12. Objections to words on the ground of their being unparliamentary should ordinarily be taken at the time they are spoken and, in any case, before the multigraphed proceedings for the day are issued.

13. Orders of expunction, if any, are generally obtained from the Presiding Officer concerned the same day and carried out in the proceedings before they are released.

14. In rare cases, the Speaker/the Chair has ordered expunction on a subsequent day, after the issue of multigraphed proceedings, either *suo motu* or on representation by a member or by the person affected, especially a high dignitary under the Constitution (in the latter case, even long after the uncorrected version of debates was issued but before the debates were printed).

15. In certain cases, suitable words may be substituted for the expunged words in order to make the meaning intended by the member clearer or to mitigate the effect of the words taken exception to. As the proceedings are telecast live by LSTV, the word is removed and in the proceedings, it is shown as "Not recorded".

16. It is entirely for the Chair presiding over the House at the time the objectionable words are spoken to judge and decide whether those should be expunged, and the Chair alone can review its decision if any

submissions about its decisions are made. The Chair's decision is final and no appeal lies to the Speaker. But where a decision on the question of expunction of any objectionable words, etc. is reserved by the person so presiding at the time for a decision by the Speaker, the latter, after going through the proceedings, may pass orders of expunction, if necessary.

Indication in proceedings regarding expunctions

17. When an expunction is ordered by the Speaker/ the Chairperson on the same day, an indication "*Expunged as ordered by the Chair*" is given at the relevant place in the proceedings.

18. If the Speaker/the Chairperson has directed in respect of a member's speech or interruptions that nothing would go on record, an indication "*Not recorded*" is given at the relevant place in the proceedings.

19. If the expunction is ordered on a subsequent day, after the issue of multigraphed proceedings, an indication to this effect is given in the form of a footnote in the relevant page of the printed debates only.

Restrictions on publication of expunged portions

20. The Press is expected to take note of the orders of expunction or non-recording passed in the House. By way of abundant caution, intimation of the expunction is

also given to the Press by the Secretariat. Non-receipt of such intimation by Press correspondents does not, however, protect them from the consequences that might ensue as a result of the publication of the expunged or non-recorded words. Expunctions ordered by the Speaker outside the Chamber of the House, if they happen on the same day, are also communicated to All India Radio, *Doordarshan* and important news agencies as expeditiously as possible and they are requested to ensure non-broadcast/non-telecast/non-publication of the expunged matter.

21. The effect in law of an order of the Speaker/the Chairperson expunging words, remarks or a portion of the proceedings is as if those words/remarks or that portion of the proceedings had not been spoken. Publication of expunged portions by the Press may involve a question of breach of privilege of the House or contempt of the House arising out of such publication.

Removal of expunged portions from video-tapes

22. Apart from preparing the typed version of the proceedings, the entire proceedings of the Lok Sabha are also tele-filmed. Recording of proceedings is done by LSTV Channel on video tapes which are preserved in the Audio-Visual Unit of the Lok Sabha Secretariat.

23. The portions of each day's proceedings which are not permitted by the Chair to go on record or which are expunged subsequently are erased from the original

tapes the very next day to bring the same in conformity with the official report.

Removal of Unparliamentary words from speeches Laid on the Table of the House

24. The Verbatim Reporting Service meticulously goes through the speeches laid on the Table of the House and in case any unparliamentary/defamatory/indecent word comes to the notice, that word will be deleted before it forms part of the record. In order to mitigate the effect of deletion of any such unparliamentary/defamatory/indecent word or expression from the sentence, an indication "Not recorded" is given in the verbatim proceedings.

Expunctions from proceedings of Parliamentary Committees

25. If the Chairperson of a Parliamentary Committee or a sub-Committee is of the opinion that words, phrases or expressions in the proceedings of the Committee or sub-Committee, as the case may be, contain information which will not be in the public interest to publish or that these contain observations of a purely personal character, the Chairperson may order such words, phrases or expressions be expunged from the proceedings. Those portions will be removed and an indication "Not recorded" is given in the verbatim proceedings.

Uploading of Proceedings on the Websites

26. In case any Hon'ble Member uses any unparliamentary expression on the floor of the House and that gets unnoticed, it is brought to notice of Hon'ble Speaker/Deputy Speaker or the Chairperson as the case may be in writing along with the relevant verbatim proceedings for the orders and till orders are received, the proceedings invariably are not uploaded on the Website.

Need for use of parliamentary language

27. Thus, the members of Parliament, notwithstanding the freedom of speech which they enjoy, is subject to the Rules of the House in regard to the words which they use in debate. They are expected to uphold, maintain and foster the dignity and traditions of Parliament by using parliamentary language and to abide by certain norms of parliamentary propriety in regard to the language which they use, so as to maintain the high level of parliamentary debates.

[Points to be observed by members while speaking and expunction of unparliamentary expressions from proceedings are governed by Rules 352, 353, 380 and 381 of the Rules of Procedure and Conduct of Business in Lok Sabha, Direction 115A(4) of the Directions by the Speaker. Also see article 121 of the Constitution.]

31

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PREFACE

This Abstract is part of the Parliamentary Procedure Abstracts Series. This Abstract deals specifically with expunction of unparliamentary expressions from the proceedings of the House and brings out the need for members to observe restraint on using unparliamentary, defamatory, indecent or undignified words during the course of their speeches. It is based on the Constitution of India, the Rules of Procedure and Conduct of Business in Lok Sabha, the Directions by the Speaker under Rules of Procedure and the decisions/observations and rulings given by the Chair from time to time. It is intended to serve as a handy guide for ready reference.

The information contained in this Abstract is, however, not exhaustive. It will, therefore, be prudent to refer to and rely on the original sources for full information.

NEW DELHI

Secretary General