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WRIT PETITION (CIVIL) NO. 455 OF 2015
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)
WITH

INTERLOCUTORY APPLICATION NO. 1
(APPLICATION FOR EXEMPTION FROM FILING OFFICIAL
TRANSLATION)

ALAGAPURAM R. MOHANRAJ AND ORS. .. PETITIONERS

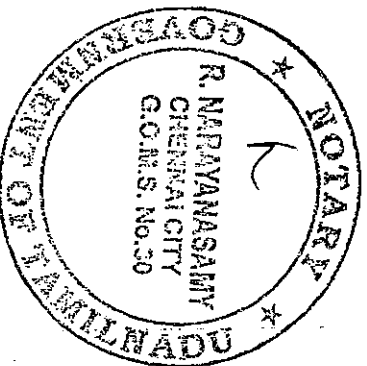
-VERSUS-

TAMIL NADU LEGISLATIVE ASSEMBLY
REP. BY ITS SECRETARY & ANR. .. RESPONDENTS

COUNTER AFFIDAVIT FILED BY THE FIRST RESPONDENT

I, A.M.P. Jamaludeen, S/o. A.M. Peer Mohammed (late),
aged 61 years, residing at No. 174/3, Golden Jubilee Apartments,
Anna Nagar West, Chennai-600 040, do hereby solemnly affirm
and sincerely state as follows:

2. I am the first Respondent herein and discharging duty as
the Secretary, Tamil Nadu Legislative Assembly Secretariat. As
such, I am well acquainted with the facts of this case based on the
records.

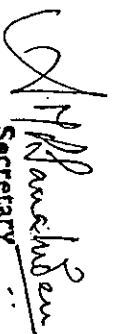


A.M.P. Jamaludeen
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write petition and deny the entire contentions made therein except those that are specifically admitted herein and put the petitioners to strict proof of the same.

4. The above writ petition arises out of an action taken by the Tamil Nadu Legislative Assembly against six of its Members for gross breach of privilege committed by intimidating and trying to assault the Hon'ble Speaker, for causing obstruction to the Watch and Watch staff thereby preventing them from discharging their duties and grave and continued disruption of proceedings of the Assembly on 19.2.2015. 19 Members of the DMMDK who obstructed the proceedings willfully were suspended for the remainder of the session and the issue of attempted assault on the Speaker and watch and ward staff was referred to the Committee of Privileges. In pursuance of the recommendation of the Privileges Committee by a resolution of the Assembly passed on 31-3-2015, six Members belonging to the DMMDK party were suspended from the service of the House from that date till completion of 10 days from the commencement of the next session and during the period they were made ineligible to receive salary, other benefits and facilities admissible to them as Members of the Assembly.

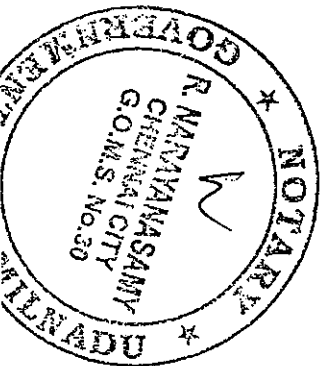


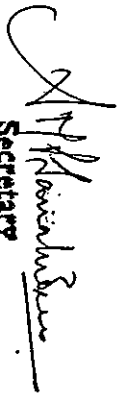

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Members seeking orders for declaring the Assembly resolution null and void, for striking down the period of suspension beyond the session period, for permitting the petitioners to use the Constituency Office and Legislators Residential Quarters, for restoration of all benefits other than those connected with the House, calling for and quashing resolutions of the Assembly dated 19.2.2015 and 31.3.2015 (Marked as Annexure - I) awarding alleged multiple punishments and for declaring the entire proceedings relating to breach of privilege as illegal, against natural justice and violative of petitioners' statutory right under the Tamil Nadu Payment of Salaries Act, 1951.

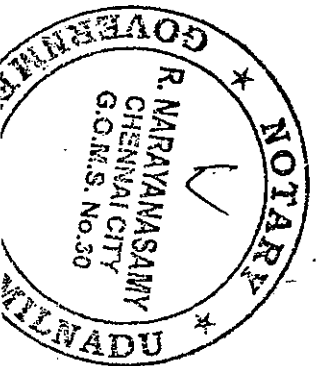
6. I submit that the statement in the Synopsis that the Petitioners were suspended for interrupting the Governor's speech on 19-2-2015 is incorrect. His Excellency the Governor has addressed the House on 17-2-2015. Further the First Petitioner is not the Vice President of the Assembly as wrongly claimed, but the Deputy Leader of the DMMDK Party in the Legislative Assembly.

7. The incidents that happened during the Assembly sitting on 19-2-2015 are submitted below. During the discussion on the




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R. Mohanraj had made certain provocative remarks not related to the subject under discussion and the Hon'ble Speaker expunged those words under the authority vested in the Assembly Rules and asked him to speak on the discussion. However, despite repeated requests to continue the discussion without resorting to unnecessary issues, Thiru Alagaapuram R. Mohanraj persistently argued with the Chair and questioned his authority. Hon'ble Speaker ordered that his speech would not go on record and ordered his eviction for obstructing smooth conduct of proceedings. This was entirely within the powers of the Speaker as per the provisions of the Tamil Nadu Legislative Assembly Rules. However, even before he could complete his ruling, enraged at the order of eviction given by the Speaker, Thiru V.C. Chandhirakumar, Whip of DMMDK Party, who was seated behind, whizzed past Thiru Alagaapuram Mohanraj who was standing before him, charged towards the Hon'ble Speaker in rage, gesturing and arguing angrily with the Speaker. Several DMMDK Members left their seats and rushed towards the Speaker's podium simultaneously to stall the proceedings of the Assembly. Despite repeated requests by the Speaker to return to his seat, Thiru Chandhirakumar in an attempt to assault the Speaker



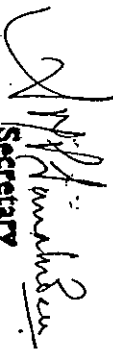

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Thiru Mohanraj. Disappointed that his intention to assault the Speaker was thwarted by the Watch and Ward Staff who threw a protective cordon around the Speaker, he forced his way back to the seat of Thiru Alagaapuram R. Mohanraj in a frenzy, and wildly hurled the books and papers placed on his Table towards the Speaker breaking a mike in the process. Thiru V.C. Chandhirakumar was also supported by a few other DMDK Members during the unruly incidents around the Speaker's Chair and the DMDK Members assaulted the Watch and Ward staff cordon around Speaker's rostrum and prevented them from discharging their duty of evicting Thiru Alagaapuram R. Mohan Raj as per the Speaker's orders. In the melee and scuffle created by the DMDK Members, the Speaker's rostrum was pushed aside a few Watch and Ward staff lost balance and their caps were thrown. On the orders of the Hon'ble Speaker, all the DMDK Members who were on their feet and engaging in unruly conduct were evicted by the Watch and Ward staff with great difficulty.

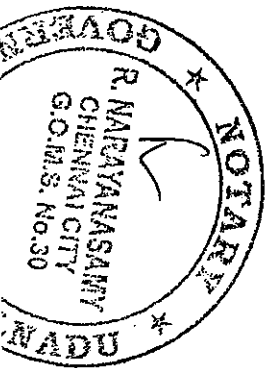
8. The evicted Members continued with their obstruction of the Assembly proceedings by shouting slogans from the lobby behind the Speaker's Chair where they staged a dharna sitting on the floor. As they refused to allow smooth conduct of

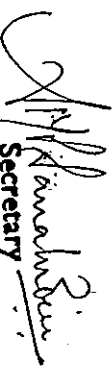



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they persisted, a Motion was moved by the Leader of the House under Rule 121 (2) (Marked as Annexure - II) for suspension of those Members who were indulging in pandemonium, causing obstruction to the business of the House and disruption of the proceedings, for the remainder of the session. The Motion was approved by the House by voice vote. The shouting Members were then removed from the Lobby by the Watch and Ward staff with great difficulty.

9. During the incident the Honble Speaker observed that the DMDK members have intentionally rushed towards him in a deliberate attempt to assault him, have pushed the Speaker's rostrum asode and trampled and damaged documents. He further observed that the assault on the Watch and Ward staff was highly condemnable and that the House was an eye-witness to the incidents. Condemning the deliberate intention of the DMDK members to stall the conduct of proceedings through atrocious activities he observed that this has brought the House into odium. The Leader of the House pointed out that the DMDK members had exceeded the limit and Members of the House, especially those from the Opposition, were witness to the unprecedented murderous attack attempted on the Speaker, Thiru V.C.




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and thrown books, papers and documents and have assaulted the Watch and ward staff and hurled their caps and by their action had brought the House into disrepute

10. Later raising a breach of privilege issue the Leader of the House further observed that the Hon'ble Speaker who is a Constitutional authority and custodian of the dignity of the House was himself subjected to intimidation by Thiru V.C. Chandhirakumar and a few other DMDC Members. They had rushed to the Speaker's Chair, had threatened him with an intention to assault him endangering his safety and caused disrepute to the Office of the Speaker. Further, these DMDC Members, in defiance of the orders of the Hon'ble Speaker and in utter disregard of the Rules and conventions of the Assembly, have threatened and assaulted the Watch and Ward Staff, struck and dislodged their caps and obstructed them from discharging their duties. Such conduct was highly condemnable. He requested that the issue may be referred to the Committee of Privileges for consideration. As per the authority vested in him under Rule 226 of the Tamil Nadu Legislative Assembly Rules (Marked as Annexure - III), the Hon'ble Speaker referred the issue to the Committee of Privileges for examination and report.

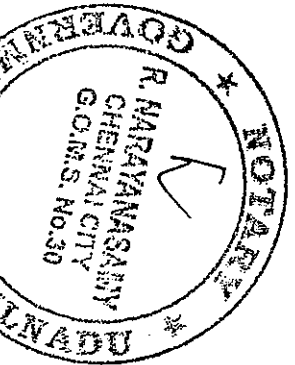


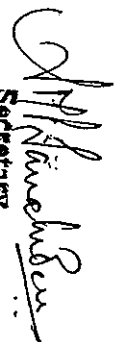

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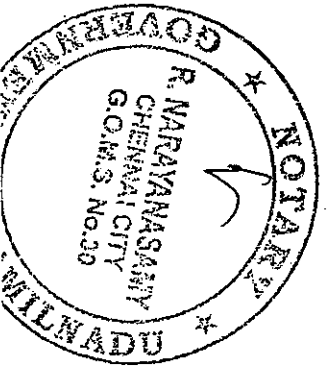
20-2-2015 as the first item in the Agenda, the Committee viewed the official video recording of the incidents on 19-2-2015 and identified Thiru V.C. Chandhirakumar, Thiru Alagaapuram R. Mohan Raj, Thiru S.R. Parthiban, Thiru L. Venkatesan, Thiru C.H. Sekar and Thiru K. Thinakaran as the Members who indulged in violent and indecorous acts in an attempt to assault Hon. Speaker. In the interests of natural justice and with a view to get the views of the concerned Members before proceedings in the matter, the Committee decided to seek explanation from the six Petitioners giving them a week's time. Accordingly, Letter No. 1676/2015-4, TNLAS (Bills-III) dated 20-2-2015 (Marked as Annexure - IV) was sent to them seeking their explanation on the incident; before 27-2-2015. The explanation dated 23-2-2015 from Thiru S.R. Parthiban, explanation dated 24-2-2015 from Thiru Thinakaran, explanations dated 25-2-2015 from Thiru Alagaapuram R. Mohanraj and Thiru L. Venkatesan and explanations dated 26-2-2015 from Thiru V.C. Chandhira-kumar and Thiru C.H. Sekar were received.

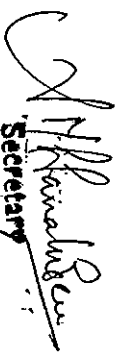
12. The explanations received from the 6 Members (Marked as Annexure - V) were thoroughly considered and deliberated upon in the next meeting of the Committee held on 27.03.2015




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as Annexure - VI) It could be seen from the Report that the angry and violent behaviour of DMDK Members in running towards the Speaker intimidatingly, pushing of the Speaker's rostrum and throwing of papers at the Speaker have not been refuted by even a single member of the Committee. In fact, even the Opposition Members have acknowledged that the angry and emotional act of the DMDK members was quite evident from the video clippings and have condemned such behaviour. Most of the Committee Members pointed out that some DMDK members have been repeatedly indulging in acts of violence inside the Assembly despite several warnings and punishments of suspension handed over in the past and they have now gone to the extent of attempting to assault the Hon'ble Speaker himself and majority Members of the Committee requested that, in the light of habitual unruly behaviour of the DMDK Members, stringent punishment may be given to erring Members in order to uphold the dignity of the House and to ensure that such condemnable and unfortunate incidents do not recur. A few Members from the Opposition, while acknowledging the fault on the part of the DMDK Members, only appealed for lesser punishment in the light of the explanations and assurances given by the petitioners in



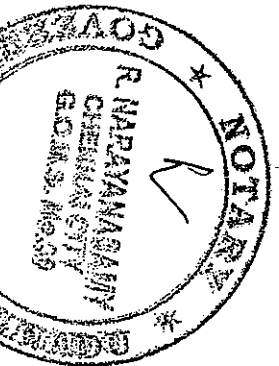

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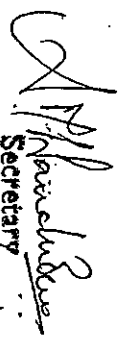
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the Members in the Committee were recorded and they form part of the Report of the Committee. As per the canons followed in parliamentary democracy, based on the opinion of the majority of Members the findings and recommendations of the Committee were formulated in the form of a report and approved by the Committee during its sitting on 30-3-2015.

13. After recording the details of the issue and the views expressed by the Members, the Privileges Committee in its collective and conclusive decision held the Petitioners guilty of gross breach of privilege and recalled that despite several warnings issued to them earlier for indulging in such violent acts and punishment awarded in certain other instances, in utter disregard of the Assembly Rules, conventions and the honour of the House, the DMDK members acted emotionally and indulged in ignoble and disorderly acts as if they are not answerable to anyone or subject to any orderliness. They have now proceeded to intimidate and attempted to assault the Hon'ble Speaker himself and have further obstructed and prevented the Watch and Ward staff acting under his orders from performing their duty.

Finally the Committee had the following words to offer by way of a recommendation:-

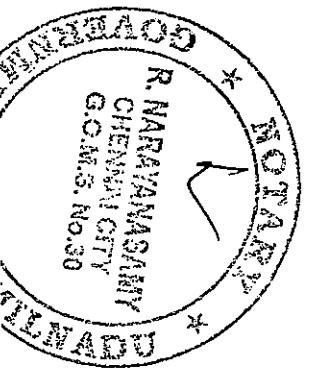




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been repeatedly indulging in activities constituting contempt of the House, in order to restore the dignity and honour of the House, in order to make it clear that in future, representatives of the people, if they indulge in indecent and violent acts inside the Honorable Legislature, have to face severe consequences by way of disciplinary action, and in order to ensure that this serves as a lesson for such erring Members and for all other Members, the Committee concludes that the acts of DMDK Members Thiru V.C. Chandhirakumar, Thiru Alagaapuram R. Mohanraj, Thiru S.R. Parthiban, Thiru L. Venkatesan, Thiru C.H. Sekar and Thiru K. Thinakaran on 19.2.2015 viz. of surrounding and laying siege around the Hon'ble Speaker, trying to assault him, causing damage by pushing his rostrum, hurling documents, causing obstruction to the Watch and Ward staff thereby preventing them from discharging their duties with grave and continued disruption of the proceedings of the House, constitute gross breach of privilege of the House.

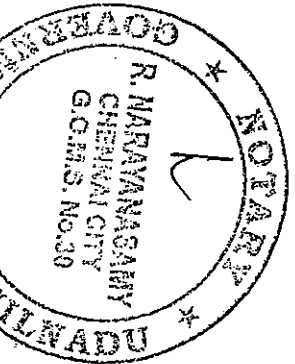
The Committee recommends that the above-mentioned six Members who are guilty of breach of privilege be suspended from the service of the House for a period up to

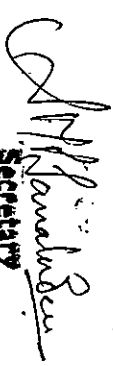



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action be taken to make those Members ineligible to receive salary, any other benefit and facilities admissible to them as Members of the Legislative Assembly, during such suspension."

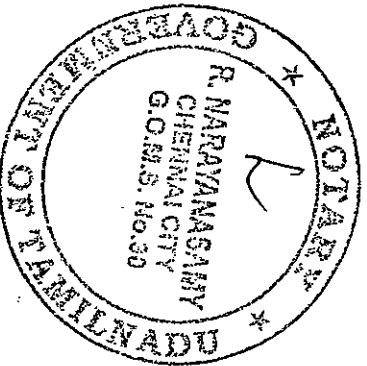
14. The Report of the Privileges Committee was presented to the House by the Chairman as per Rule 229 (a) of the Assembly Rules and as per Rule 229 (b) a motion was moved by the Leader of the House to take up the report for consideration. No amendment was given by any Member as provided for in Rule 229 (c). Immediately the Motion was discussed in the House and Members including those from the Opposition took part in the discussion. Though some Opposition Members requested remission of punishment, none of them had refuted the indulgence of the Petitioners in acts of violence endangering the Speaker and bringing the House into disrepute. After discussion the resolution was put to voice vote as per Rule 99 and the Members stood suspended as per the collective decision of the House. As the resolution was carried, Hon'ble Speaker announced in the House, that the above-named six DMDK Members were being suspended from the House from that date (31-3-2015) till completion of 10 days from the commencement of





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receive salary, other benefits and facilities admissible to them as Members of the Assembly.

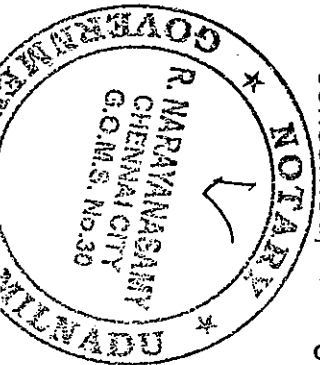
15. Thus, the six Members were suspended on 31-3-2015 through a resolution passed in the open House where Members of all the parties, including Members of the DMMDK who were not suspended. Similarly all the representatives of the media including newspapers were present and the decision of the House was widely publicised by them. The passing of the resolution for their suspension after approval of the recommendations of the Privileges Committee finds a place in the Bulletin (Brief Record of business transacted) (Marked as Annexure - VII) copies of which were sent to all serving MLAs including the Leader of the DMMDK Party. The fact that the Petitioners were aware of the widely published media reports of their suspension could be seen from the fact that their Party leader and Leader of the Opposition had issued Press statements against the resolution on the very next day. (Marked as Annexure - VIII) Therefore, the Petitioners are in no way disadvantaged due to lack of individual communications.

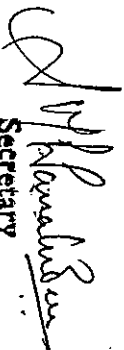



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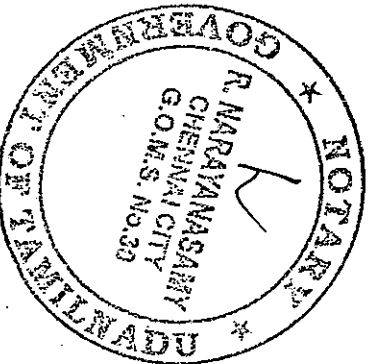
Speaker had suspended all the 19 Members of the DMKD, is not true. As far as the Legislative Assembly is concerned, the DMKD consists of 28 Members and no communication has so far been received either from the Leader of the Opposition or from the Whip of the DMKD. Legislature Party (2nd Petitioner) that certain Members of their party remain as disaffected members of the party and are behaving independently with an intention to cause split in the party. Out of 28 Members, only those Members who had obstructed the proceedings and disrupted the business of the House were suspended. Other DMKD Members who were not present on the day or who did not indulge in disruption were not suspended. The suspension of some Members for the remainder of the session is only a result of their disruption of proceedings and the Petitioners could not attribute any motives against it.

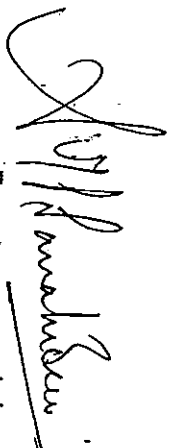
17. The charge that the impugned resolution shakes the very foundation of democracy and the elected representative system is refuted. On the contrary, it is based on the principles of democracy that the system of majority gains importance. All decisions of the House are to be made by voting and it could only be decided by majority. As far as the Hon'ble Speaker is concerned, though elected on the ruling party ticket, once




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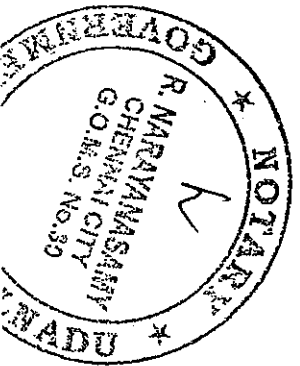
Similarly the decision and recommendation of the Privileges Committee could be only based on the view of majority of the Members. As per Rule 227 (3) of the Tamil Nadu Legislative Assembly Rules, the Hon'ble Deputy Speaker will be the ex-Officio Chairman of the Committee. The Assembly and the Committees function in a transparent and democratic manner and just because the decisions of the Committee and Assembly went against the Petitioners, malafide intent and political motives could not be attributed by the Petitioners against an august body like the Legislature or its Committee. As it may be seen, the necessity for the resolution arose due to the disorderly violent conduct of the Petitioners inside the Assembly on 19-2-2015 and this has nothing to do with party affiliation. There are several opposition parties other than DMKD in the Assembly and other party Members have not been subjected to such suspension in the instant case. Hence the allegations of bias or political enmity are totally refuted.

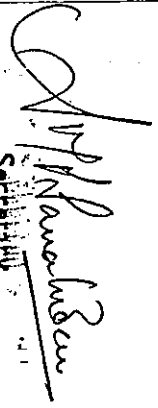



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"twice for the same offence" is refuted. It may be clearly seen that the initially the DMDC Members were suspended for the remainder of the Session, for the obstruction of proceedings and disruption of business against rules, as per the penal provisions in Rule 121 (2) of the Assembly Rules. This had to be done to restore normalcy and continuation of peaceful conduct of proceedings during the session. The breach of privilege issue against the six Petitioners, referred to the Privileges Committee was for a different and very serious matter of intimidation and attempt to assault the Honble Speaker, the custodian of the House and assault on Watch and Ward staff and preventing them from discharging their duties. This charge was proven and culminated in the suspension of the six Petitioners from 31-3-2015 till completion of 10 working days from the commencement of the next session. Thus these two matters are entirely different and the contention of the Petitioners that they have been suspended "twice for the same offence" is thoroughly misplaced and untrue.

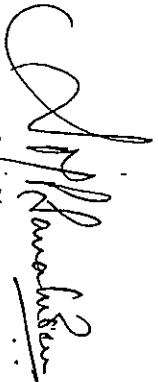
19. Regarding the lodging of an FIR against Petitioners 4 and 5 for assaulting Thiru Vijayan, special S.I. of Police who was a Member of the watch and ward staff, it is submitted that the DMDC Members evicted from the Assembly Chamber continued with their obstruction of the Assembly proceedings by shouting




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staged a dharna sitting on the floor. As they refused to allow smooth conduct of proceedings, they were ordered to be evicted from the Lobby. When the Watch and Ward staff tried to evict the Members, Thiru C.H. Sekar and Thiru K. Thinakaran (Petitioners 4 and 5) assaulted Thiru Vijayan who was on Assembly Watch and Ward duty and he fainted. He was later given first aid in the Secretariat dispensary and sent to the Rajiv Gandhi Government Hospital where he was admitted as an in-patient on the afternoon of 19-2-2015. The Hospital gave this information to B3 Fort Police Station. After visiting the hospital and taking the complaint and after enquiry, the Inspector of the jurisdictional Police Station requested in writing the permission of the Hon'ble Speaker to file FIR, since the scene of occurrence happened to fall within the precincts of the Assembly. Since the incident happened outside the Assembly Chamber but inside the precincts of the Assembly, the Respondent after getting orders of the Hon'ble Speaker replied that the matter may be proceeded as per law. The fact that the written complaint of the S.I. of Police to the Hon'ble Speaker separately, was not referred to the Privileges Committee for investigation stands testimony to the fact that the legal action for assault under the provisions of the IPC had been taken independently by the Police Department after investigation of the



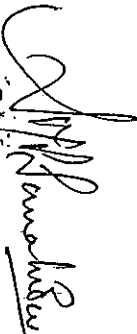

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action pursued by the Legislature for incidents inside the Chamber which resulted in suspension of the six Petitioners. This may be seen from the observation made in the Report of the Privileges Committee that since the issue of assault on the Police Officer had been proceeded upon legally, the same was not under the consideration of the Committee. Thus filing of FIR and legal action for assault outside the Assembly Chamber is not related to the impugned resolution for which the six Petitioners have been suspended by the Assembly till completion of 10 days from the commencement of the next session.

20. The issues raised in this Petition viz, extent of judicial review in matters involving punishment for breach of privilege, following of due process by the Committee of Privileges, proportionality of punishment, etc. have been dealt with in several judicial pronouncements in cases involving Thiru A.K. Bose, MLA, Thiru Vijayakant, MLA, six DMDK MLAs and the Petitioners now try to open settled questions of law once again to suit their interest, which ought not to be countenanced.

21. Regarding the question of reckoning of the period of session and its effect on the suspension, it is submitted that duration of a session is the period between the date of convening and prorogation of the session by H.E. the Governor. The Tenth

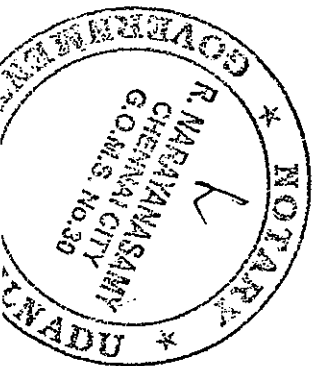




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18-2-2015 after H.E. the Governor's Address on 17-2-2015. The duration of the session is decided by the Business Advisory Committee consisting of Members of all the Parties including the Opposition based on the business before the House and as per the decision of the Business Advisory Committee, the Assembly had been adjourned sine die on 1-4-2015 after general discussion on the Budget for the current financial year. The session has not been prorogued till date. The next sitting of the current Tenth Session commenced on 24-8-2015. (Thus the contention of the Petitioner that they have been suspended for more than one year from 19-2-2015 till January 2016 is hypothetical.)

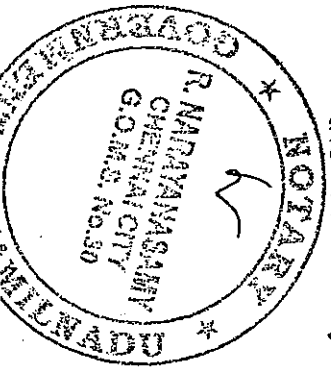
22. Regarding proportionality of punishment, both the Committee and the Assembly took into consideration the fact that during the term of the current Assembly the DMDC Members, who initially started with disruption of proceedings and making threatening gestures, have been emboldened to physically assault their fellow Members inside the Assembly on more than one occasion. Their repeated indecorous behaviour in the Assembly, misuse of their immunity as MLAs and abuse of the Rules and conventions of the Assembly had invited several issues of breach of privilege against them. While their Leader was suspended and other Members severely warned in the first instance, six of the

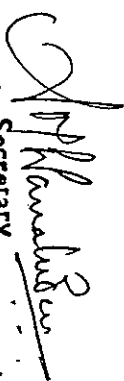



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and other entitlements for assaulting a fellow Member. Several other issues are still under the consideration of the Privileges Committee. Despite previous warnings and suspension with loss of entitlements, the petitioners belonging to the DMDK again repeated their mistakes and on this occasion, in an unprecedented scale they exceeded all the limits and tried to assault the Speaker himself, who is the custodian of the House. The quantum of punishment was thoroughly discussed in the Committee meetings and the Committee recommended the present punishment which has been approved by the Assembly as a whole through a resolution dated 31-3-2015. Thus the punishment was entirely commensurate and proportional to the highly violent behaviour endangering the life of Hon'ble Speaker and constituted gross breach of privilege of the House, which the Speaker represents.

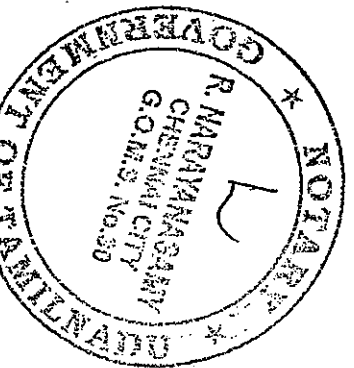
23. The statement that the Respondent had without prior notice or authority entered the premises of the Petitioners viz. the Legislators Residential Quarters and sealed the premises is totally against the truth. The petitioners are eligible to occupy the Residential Quarters only in their capacity as MLAs and this facility of residential accommodation is to enable them to attend the Assembly and Committee meetings in Chennai. The

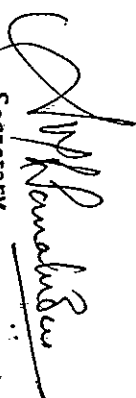



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benefits and entitlements to the Petitioners as MLAs. This naturally includes residential accommodation. The resolution was passed on 31-3-2015 Forenoon and they were given time till 1-4-2015 night and their official residential premises were sealed only after permitting the petitioners to take out their important belongings. Thus sealing of the official residential premises admissible to them as MLAs. was well under the authority of the Assembly decision and was not sudden.

24. Acts of assault and gross disorderly conduct inside the four walls of the House constitute breach of privilege and contempt of the House and as such relate to the conduct of the proceedings of the Legislature. Moreover, trying to launch a physical assault on the Hon'ble Speaker himself, who is the custodian of the House and endangering his safety are acts which deserve the strongest condemnation, disapproval and punishment. Punitive action has therefore been taken against the petitioners based on the Resolution of the House. Hence, this petition seeking to quash the proceedings of the Committee of Privileges and the resolutions passed by the Assembly against some of its Members is *ex facie* not maintainable, without jurisdiction and is liable to be dismissed *in limine* as what is




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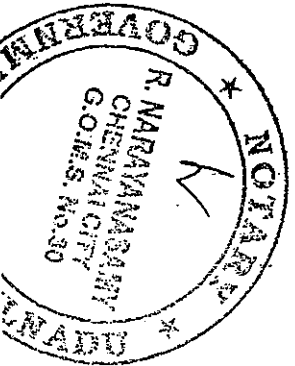
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Legislative Assembly, of which the Privileges Committee is a part.

25. It has been repeatedly held both by the Hon'ble Apex Court as well as the High Courts that under the well founded doctrine of separation of powers, each organ of the State has to exercise its rights and privileges without any infringement. Article 194 (3) of the Constitution of India enshrines that the Legislative Assembly has all powers, privileges and immunities enjoyed by the British House of Commons at the time of commencement of the Constitution.

26. Under Article 212 of the Constitution, the House has powers to regulate its own proceedings and further it is the privilege of the House to conduct its internal proceedings within the walls of the House free from interference including its right to impose disciplinary measures against its Members for assault and disorderly conduct, as they constitute breach of privilege and contempt of the House. The Assembly has proceeded against six of its Members for intimidating and trying to assault the Hon'ble Speaker, assaulting the Watch and Ward staff, obstructing and preventing them from their discharge of their duties, which are in total contravention of the rules and conventions of the Assembly.

The Petitioners have by such unbecoming conduct lowered the dignity of the House as a whole and brought the House into

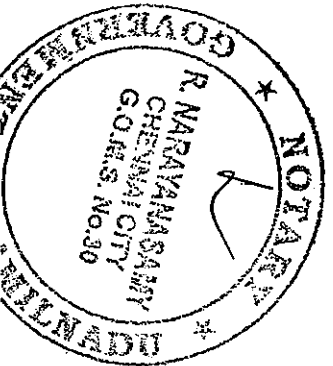


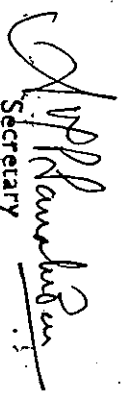

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the Privileges Committee of the House have acted in exercise of the powers lawfully vested in them and the proceedings have followed the provisions of the Constitution of India and the Tamil Nadu Legislative Assembly Rules framed thereunder duly and therefore it is respectfully submitted that the Petitioners cannot invoke Article 32 of the Constitution to quash the proceedings in the absence of any unconstitutionality or illegality as explained in the forthcoming paragraphs. It is submitted that the writ petition is unsustainable either in law or on facts and the same is liable to be dismissed.

27. It is submitted that in many cases like A.K. Bose case (2008 (2) LW 1001), Vijayakant case (2012 (3) CTC 449), V.C. Chandhirakumar & Others case (W.P. No. 10175 of 2013) the power of the Tamil Nadu Legislative Assembly to proceed against its Members for breach of privilege and contempt of the House by passing resolutions for suspension for a specific period exceeding the duration of the session, had been upheld by the Hon'ble High Court of Madras. Thiru V.C. Chandhirakumar, the second Petitioner in the present case is well aware of the fact that his Writ Appeal No. 1287 of 2013 against a single Judge Order in W.P. No.10175 of 2013 was dismissed by the first Bench of the Hon'ble High Court of Madras. Further, Special Leave Appeal (C) No.




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Hon'ble Supreme Court of India was also dismissed. The incidents of violence, the nature of punishment provided by the Assembly against its Members for breach of privilege and the issues raised in aforesaid cases are exactly similar and the Petitioners have conveniently overlooked the orders in these judgements and sought to place reliance on cases like Sushanta Vs Speaker (AIR 1973 Orissa 111) and Om Prakash Chautala Vs State of Haryana (AIR 1998 P&H 80) which are materially different from the present case involving attempted assault on the Speaker. The scope of applicability of certain judgements like in Searchlight Case, UP Special Reference case etc. to a case involving expulsion of Members by the House for improper conduct has been thoroughly delineated and adjudicated upon by the Hon'ble Apex Court in Raja Ram Pal case and need no elaboration here.

28. Regarding the Grounds contained in the Petition, it is submitted that most of them are repetition of Grounds which have already been adjudicated upon in Vijayakant case (2012 (3) CTC 449) and V.C. Chandhirakumar & Others case (W.P. No. 10175 of 2013) by the Hon'ble High Court of Madras. It may be noted that the Hon'ble Supreme Court also upheld the High Court Judgement in V.C. Chandhirakumar case by dismissing the

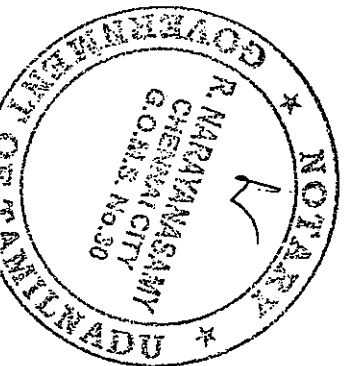


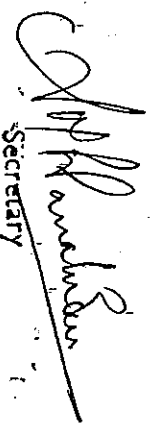

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Parliament or Legislature to expel or suspend its Members and all related Constitutional issues have been thoroughly discussed and adjudicated upon by the Honble Supreme Court of India in Raja Ram Pal case (2007 3 Supreme Court cases 184). The Petitioners have sought to raise settled matters of law again and again couched in different language and sought to project a huge number of grounds through this Petition. However, the counter to the Grounds raised by Petitioners is submitted in the following paragraphs in as concise a manner as possible.

29. Regarding Ground 1, it is submitted that the contention of the petitioners that in view of Article 194 read with the Assembly Rules made under Article 208, the scope of the proceedings of the House or the Privileges Committee is restricted to the four walls of the Legislature and not beyond it, is thoroughly misconceived and far from truth. The averment that such a resolution cannot curtail statutory benefits available to the Members under the provisions of the Tamil Nadu Payment of Salaries Act, 1951 and Rules and the Representation of People's Act, 1951 are quite contrary to the judicial pronouncements and precedents as detailed below. In similar instances in the past, the resolution of the Assembly suspending Members and depriving



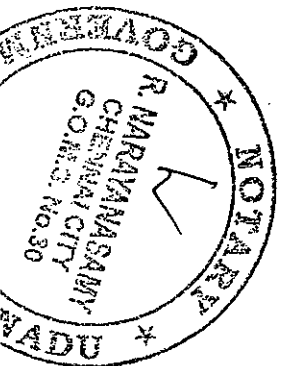

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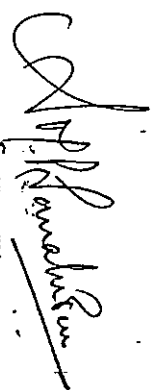
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of suspension has been upheld by the Courts.

30. For example, a Member of the Thirteenth Assembly, Thiru A.K. Bose, was suspended for allegedly flinging the cap of a Watch and Ward Staff towards the Speaker on 18-10-2007. The video clippings were watched by the Speaker and party leaders and on the next day, 19-10-2007, the House itself dealt with the issue and passed a resolution suspending him immediately till the completion of first 10 days of the next session. The issue was not referred to the Privileges Committee. The benefits, salary, privileges and entitlements as Member of the Assembly were denied to him from the period 19-10-2007 to 28-2-2008 till completion of 10 days from the commencement of the next session. Thiru A.K. Bose was deprived of salary, all privileges and perquisites as an MLA for 132 days. The Hon'ble High Court of Madras did not accede to the prayer of the Member for quashing the resolution and dismissed the Petition. (W.P. No. 1526 of 2008 and M.P. Nos. 1 and 2 of 2008).

31. In the fourteenth Assembly, Thiru Vijayakant, founder of DM DK party and leader of the Opposition, was suspended by a resolution of the Assembly passed on 2-2-2012 for making angry and threatening gestures inside the House. This resolution was based on recommendation of the Privileges Committee. The video

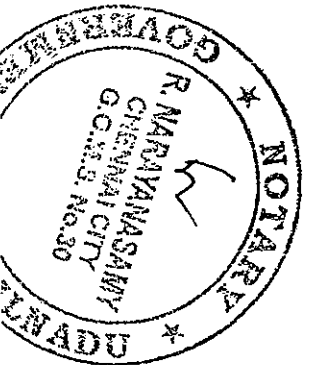


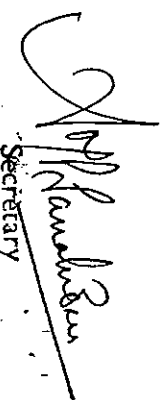

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on 1-2-2012 and on the next day, the House passed a resolution suspending him during that session and the next session continuously for a period of ten days and making him ineligible to get the salary, any other benefits, privileges, or entitlements, admissible to him as a Member of the Assembly and as Leader of the Opposition, during the said period. On completion of the period of suspension, his original position was restored from 2-4-2012. A writ petition filed by Thiru Vijayakant (W.P. No. 4149 of 2012) against his suspension was dismissed by the Hon'ble High Court of Madras stating that "None of the contentions raised by the petitioner are acceptable and I find that the parameters laid down by the apex court for the exercise of the power of judicial review are not satisfied." (W.P. No. 4149 of 2012).

32. Regarding the averment that the statutory right for salary, could not be taken away by a resolution of the House using punitive powers under law of privilege it is submitted that, the benefits, privileges, salary and entitlement of the petitioners are admissible to them only on account of their membership in the Legislative Assembly and when such Membership itself is suspended for a specified period by a resolution passed by the House, suspension of salary and other entitlements follows as a consequence. It has been held in Vijayakant case (Para 58) that

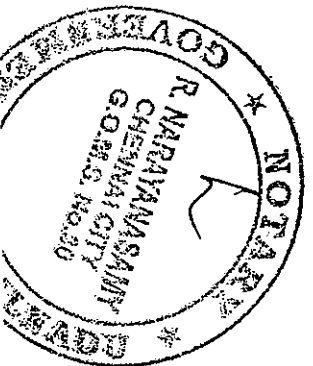


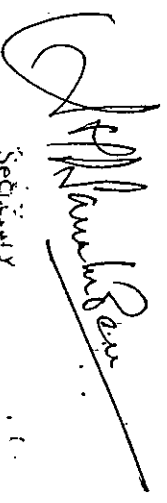

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all other things were its consequences and a Member who has been debarred from discharging his duties and functions, has to suffer all the consequences that go with the office.

33. Further, the contention raised in Ground 1 has been clearly overruled by the Hon'ble Supreme Court in Raja Ram Pal case in paras 151 to 159. The Hon'ble Supreme Court has stated that "Secondly it has been argued that Article 106, which lays down provisions for the salary of the Member, is dependent upon the persons' membership. It is only as long as the person continues to be a Member that he can draw the salary. When the membership terminates, the provisions of Article 106 become inapplicable." (Para 153). It has been further held that "Further, as far as the provision relating to the salary of the Member is concerned, it is quite absurd to claim that because the Constitution makes a provision for salaries, the power of the House to expel is negated since the result would be that the Member would no longer be paid. Salaries are obviously dependent upon membership, and the continuation of membership is an independent matter altogether." (Para 158). It was held further that "Thus, in our view, the above provisions do not negate the power of expulsion of the House, and there is no



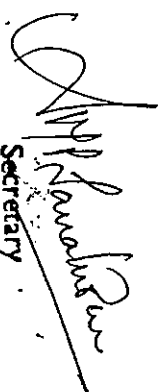

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said provisions."

34. The same ground was again raised by Thiru V.C. Chandhirakumar (2nd Petitioner in the instant case) before the Hon'ble High Court of Madras in W.P. No.10175 of 2013. Citing the decision rejecting this contention by the Hon'ble Supreme Court in Raja Ram Pal case and the judgement in Vijayakant case, the single Judge had held that the argument that the impugned proceedings of punishment violate Article 195 and Sections 12 and 12(A) of the Tamil Nadu Payment of Salaries Act are untenable and unacceptable. The Hon'ble Judge also ruled that he cannot accept the submission that the right of the Petitioners under the Representation of People Act, 1951 had been impaired by the impugned proceedings. (Paras 53 and 54). In conclusion, the Hon. Judge had dismissed the case observing that all the questions that arose were already dealt with and answered by the Hon'ble Supreme Court in Raja Ram Pal's case and by the Hon'ble High Court of Madras in A.K. Bose Case and in Vijayakant's case and therefore no merit lay in the contentions. (Para 78). An appeal before the Hon'ble First Bench of the Madras High Court (W.A.1287 of 2013) was also dismissed. Similarly, a Special Leave Petition (Appeal (C) No. 14156/2014) filed before the Hon'ble Supreme Court was also dismissed.




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Members under Rule 121 (2) and subsequent action for breach of privilege have been dealt with in detail in Para 16 and 18 above. Thus immediate suspension by the House for remainder of the session for obstruction of proceedings and subsequent suspension of a few Members for a serious and proven charge of violent acts constituting breach of privilege are two different instances and the contention of the Petitioners that they have been suspended "twice for the same offence" is thoroughly misconceived and untrue. The power of the House to separately examine and identify Members for very severe violent acts like the attempted assault on the Speaker and award severe punishment to them is not diminished or curtailed by the fact that those Members have already been suspended for the session under Rule 121 for obstruction of proceedings.

36. Regarding the charge that the suspension based on the Privilege Committee recommendation is ultra vires Article 190 of the Constitution of India, it is submitted that in Raja Ram Pal case the Hon'ble Supreme Court has held that the power of expulsion from Membership under Articles 101 and 102 (corresponding to Articles 190 and 191 for State Legislatures) was not exhaustive and the termination of membership through a resolution of the House cannot be held to be inconsistent with the above Articles.



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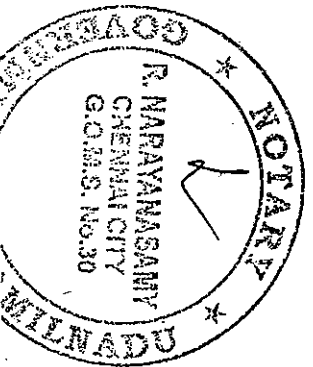
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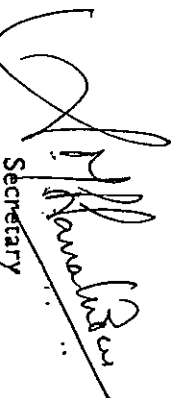
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K. Anbazhagan Vs Secretary, Tamil Nadu Legislative Assembly (AIR1988 Madras 275), wherein some Members were expelled from Membership for burning copies of the Constitution. It is needless to say that suspension is less serious than expulsion. Thus, as it has been held by the Apex Court that even expulsion from the House cannot be inconsistent with Article 190, suspension for a specific period is not ultra vires Article 190 of the Constitution of India and therefore the above Ground has already been adjudicated upon and is devoid of merit.

37. It is further submitted that Article 190 deals with disqualification of a Member and vacation of his seat. The period of sixty days fixed in the said Article is for absence from meetings of the House without the permission of the House. However, in the case of suspension of a Member on a specific charge of breach of privilege for indulging in violent acts inside the Assembly, it is the Assembly itself which has prevented the Member from attending the meetings for a specified period and the restriction of 60 days in Article 190 would not at all operate in case of such suspension. This is also be corroborated from the fact that Rule 120 of the Tamil Nadu Legislative Assembly Rules which empowers the Speaker to direct a member to be absent for disorderly conduct, provides that a Member so directed will not be

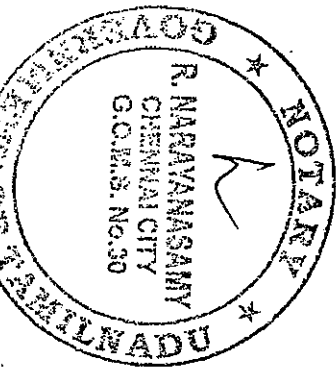



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Constitution. In the instant case, the House itself has by resolution suspended the members and it is a natural corollary that Article 190 (4) would not operate in such cases.

38. Regarding Ground 3, in continuance of the rebuttals in Para 18 above, it is submitted that the same contention was raised in Vijayakant case and the Hon'ble Single Judge of the High Court of Madras had pointed out in Para 48 that the Constitution did not speak specifically of the suspension or expulsion of a Member of the House. In Paras 49 to 52, the Hon'ble Judge made a clear distinction between suspension of Members by the Speaker under Rule 121 for obstruction of proceedings and suspension based on the findings and recommendation of the Privileges Committee in a matter of breach of privilege and contempt of the House which are governed by Rule 229. The Hon'ble Judge had rightly pointed out that action under Rules 120 to 122 could be taken by the Speaker without reference to the Committee of Privileges and therefore limitation on suspension to a period not exceeding the remainder of the session may be a limitation on the power of the Speaker under Rules 120 to 122 but not a limitation on the power of the House. It has further been ruled that the phrase "not longer than the duration of the remainder of the session" is found only in



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