

Rameshwar Prasad vs Union of India (2006): Bihar Assembly Dissolution & the Governor's Powers

Court: Supreme Court of India (Constitution Bench) **Citation:** (2006) 2 SCC 1; AIR 2006 SC 980 **Date:** 24 January, 2006 **Bench:** Y.K. Sabharwal, C.J., K.G. Balakrishnan, B.N. Agrawal, Ashok Bhan and Arijit Pasayat, JJ.

Facts of the Case

The 2005 Bihar Legislative Assembly elections resulted in a hung assembly, with no party or alliance able to form a government. President's Rule was imposed under Article 356, and the assembly was kept in "suspended animation" — neither dissolved nor allowed to function. A subsequent notification dissolved the assembly entirely, before it had held even a single sitting, on the stated ground that attempts were being made to form a government through illegal means. Fresh elections were announced. Members elected to the dissolved assembly challenged the dissolution before the Supreme Court.

Issues Before the Court

1. Can a Legislative Assembly be dissolved under Article 174(2)(b) when it has not met even once?
2. If the dissolution is unconstitutional, should the assembly be restored to its earlier position?

Arguments

The petitioners argued the dissolution was premature, that the allegations of illegal government-formation were never proved, and that the Governor ought instead to have facilitated government formation, suggesting the real aim was to block a particular political alignment. The respondents argued the Governor's action was a necessary step to protect the democratic process from being undermined.

Decision of the Court

By a 3:2 majority, the Supreme Court held that the dissolution of the Bihar Legislative Assembly was unconstitutional, since it was not based on sufficient material and the assembly had never even met. The Court held that a proclamation under Article 356 is subject to judicial review and can be struck down if mala fide or based on irrelevant grounds, and that the Governor's Article 361(1) immunity protects him personally but does not immunise the decision itself from review. However, since fresh elections were already under way, the Court declined to restore the dissolved assembly. Justices Arijit Pasayat and K.G. Balakrishnan dissented.

Principle of Law

The power to dissolve a Legislative Assembly under Article 174(2)(b), and executive action under Article 356 more broadly, must rest on sufficient, credible material rather than suspicion, and remains subject to judicial review notwithstanding the personal immunity given to the Governor under Article 361(1).

Important Legal Provisions

Article 174(2)(b) (power to dissolve the Legislative Assembly); Article 172 (five-year term of an assembly); Article 188 (oath before sitting and voting); Article 356(1) (President's Rule); Article 361(1) (Governor's personal immunity).

Important Observations

The Court relied on the Sarkaria Commission's observation that the Governor's functions involve judgment calls not reducible to fixed rules, given the sensitivity of the office, while still holding that this discretion is not unchecked — it must be exercised on genuine material and remains open to judicial scrutiny. The Court balanced the need to correct a constitutional wrong against the practical reality that an election process was already under way.

Simple Explanation

The Governor could not dissolve the assembly just on suspicion that something illegal was being attempted — real proof was needed. And just because the Governor personally cannot be sued for the decision doesn't mean the decision itself is beyond a court's examination.

Teaching Notes

Connect this case to *S.R. Bommai vs. Union of India* (1994), which first firmly established judicial review of Article 356 proclamations — Rameshwar Prasad applies and extends that principle to a Governor's dissolution power under Article 174(2)(b). The 3:2 split (not unanimous) is a frequently tested detail.

Key Points for Students

- Dissolution of an assembly before it ever met was held unconstitutional.
- Article 356 proclamations are subject to judicial review, not beyond question.
- The Governor is an independent constitutional office, not a Central Government agent.
- Article 361(1) protects the Governor personally, not the validity of the decision.
- The assembly was not restored despite the unconstitutional dissolution, due to elections already under way.
- Decided by a narrow 3:2 majority.

Case-Law Video

Watch the video explanation: <https://www.youtube.com/watch?v=VCeO98zFVvM>