

RAMESHWAR PRASAD VS. UNION OF INDIA¹

Rameshwar Prasad versus Union of India is a 2005 case that deals with the validity of dissolution of the state Legislative Assembly by invoking Article 174(2) and declaration of President's Rule. The 2005 Bihar Legislative Assembly elections held in February resulted in a fractured result with no single party emerging victorious and having a majority. The President invoked Article 356 on the request of the Governor, which dissolved the legislative assembly and initiated the process for a fresh election.

Bihar in 2005 voted twice, first in February and second time in October. The first election was held in February in 243 seats, with no party getting a clear majority. The Assembly remained in deadlock. The Governor, on 23 May 2005, through a notification, dissolved the Legislative Assembly using Article 174(2)(b), which empowers the governor to do so. The Governor also sent a report to the President stating that illegitimate means, like horse trading, were being used by various parties to attain the majority to form a government and requested to declare President's Rule. The President, on receiving the report, declared the President's Rule and ordered for fresh elections.

Rameshwar Prasad, with other elected members, moved to the Supreme Court challenging the constitutional validity of the President's Rule and the notification. The petitioner argued that the Governor dissolved the assembly before the first meeting. The petitioner also argued that the Governor invoked Article 174 (2)(b) without having any sufficient material evidence. A bench of 5 judges was formed for the hearing of this case.

Question of Law

The major question of law before the Court was regarding 174(2)(b). While the article does give the power to the Governor to dissolve the legislative assembly. In this case, the assembly was not convened even once; thus, the major contention was regarding the validity of the action taken by the Governor. Additionally, the validity of the invocation of Article 356 was also questioned. If both of these actions were held unconstitutional, the court also dealt with the question of whether to hold the February 2005 election valid or go for re-election.

Judgment

The court in this matter held that the dissolution of the Legislative Assembly done by the Governor on the grounds of 174(2)(b) is not constitutionally valid, as no meeting of the assembly took place. The Court, in its judgment, stated that neither Article 174, which deals with 'duration of the assembly', nor the Representation of the People's Act, 1951, under which the Bihar

¹ AIR 2006 SUPREME COURT 980

Legislative Elections took place, states any provision regarding dissolution before meeting. It also invalidated Article 356, as the court found the absence of relevant materials required for declaring President's Rule. The Court, while accepting the validity of the February 2005 mandate, held that the assembly cannot be restored as elections were held in October 2005. In the October 2005 election, JDU emerged victorious, forming a government and ending the deadlock.