



2025:DHC:377



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment pronounced on: 24.01.2025+ **W.P.(C) 18021/2024**
VIJENDER GUPTA & ORS.

.....Petitioners

Through: Mr. Mahesh Jethmalani, Sr. Advocate along with Mr. Jayant Mehta, Sr. Advocate and Mr. Pavan Narang, Sr. Advocate, Mr. Anil Soni, Sr. Advocate, Mr. Neeraj, Mr. Satya Ranjan Swain, Mr. Ravi Sharma, Mr. Ajay Awasthi, Mr. Kautilya Birat, Mr. Sanjay Pal, Mr. Rudra Paliwal, Mr. Ankush Kapoor, Mr. Soumyadip Chakraborty, Mr. Sachin Saraswat, Mr. Vaibhav Thaledi, Mr. Himanshu Sethi, Mr. Vikramaditya Sanghi and Mr. Sushil Kr. Pandey, Advocates.

versus

GOVERNMENT OF NATIONAL
CAPITAL TERRITORY OF DELHI & ORS.

.....Respondents

Through: Mr. Rahul Mehra, Sr. Advocate along with Mr. Rishikesh Kumar, ASC, Mr. Divyam Nandrajog, Ms. Sheenu Priya, Mr. Vikash Saini, Mr. Atik Gill and Mr. Sudhir, Advocate for GNCTD for R-1 and R-2.
Mr. Sudhir Nandrajog, Sr. Advocate along with Ms. Ankita Singh, Mr. Udit Malik, ASC, Ms. Palak Sharma, Mr. C. Velmurugan and Ms. Rima Rao, Advocates. for R-3.
Ms. Bani Dikshit, Mr. Uddhav Khanna, Mr. Anirudh Sharma, Mr. Dhruva Vig and Ms. Vridhi Kashyap,



Advocates for R-4.

Mr. Shreeyash U. Lalit,
Mr. Himanshu Vats, Ms. Runjhun
Garg, Mr. Lavam Tyagi, and
Mr. Angad Pahal, Advocate for R-5
and R-6.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT

1. The present petition has been filed under Article 226 of the Constitution of India, *inter-alia*, seeking the following prayer/s:-

“(a) issue an appropriate writ, order(s) or direction(s) in the nature of mandamus or any other appropriate writ directing Respondent No. 1 and 2 to forward the 14 CAG Reports in a time bound manner to the Respondent No. 3 and further direct Respondent No. 3 to take all necessary and consequential action for discharge of their Constitutional obligation under Article 151(2) of the Constitution of India, 1950 for summoning the special sitting of the Legislative Assembly and to table those reports before the Legislative Assembly of Delhi in a time bound manner; ”

2. The grievance articulated in the present petition is that the Chief Minister, Government of NCT of Delhi (respondent no.2) has been remiss in not forwarding the 14 CAG reports to the Hon'ble Speaker/respondent no.3, and that the consequent non-tabling of these 14 CAG Reports before the Legislative Assembly of Delhi amounts to a serious infraction of mandatory constitutional requirements.

3. The petitioner no.1 is the leader of the opposition (LOP) in the Legislative Assembly. The other petitioners are also Members of the Legislative Assembly of Delhi.

4. Article 151(2) of the Constitution of India mandates that CAG



Reports relating to the accounts of a State shall be submitted to the Governor or the Lieutenant Governor, who “shall cause them to be laid before the Legislature of the State”. It is emphasized on behalf of the petitioners that the said provision is designed to promote accountability, transparency and good governance through high quality auditing and accounting.

5. The Comptroller and Auditor General (CAG), respondent no.5 is mandated under Chapter V of the Constitution of India to act as a “Constitutional watchdog,” ensuring accountability, transparency, and good governance through high-quality auditing and accounting. The CAG is entrusted with the responsibility of auditing the accounts of the Union, the States, and other authorities.

6. The CAG provides independent assurance to the public, legislature, and executive regarding the effective and efficient use of public funds. It audits all receipts and expenditures of the Central and State governments, as well as government-funded autonomous bodies and corporations.

7. However, as many as 14 CAG Reports, which have been submitted by the CAG to the Secretary of Finance, have not been laid before the Legislative Assembly.

8. Regulation 210 of the Regulations on Audit & Accounts, 2007, issued under Section 23 of the Comptroller and Auditor General’s (Duties, Powers and Conditions of Service), Act 1971, outlines the procedure for forwarding audit reports to legislatures. In terms thereof, an officer authorized by the CAG must send signed copies of the audit report to the Secretary to the Government, Ministry of Finance or Finance Department as the case may be, who shall further take prompt action for the submission of the audit



report to the President or the Governor or the Administrator for further action and for the presentation of the report in Parliament or the legislature in the concerned State or Union Territory.

9. Aggrieved by the inaction of the Government of NCT of Delhi, the petitioners first approached this Court by filing a writ petition bearing no. W.P.(C) 15341/2024 titled “*Vijendra Gupta Vs. Government of NCT of Delhi and Ors.*”. The petitioner sought directions to the Department of Finance, Government of NCT of Delhi to send the CAG Reports to the Hon’ble Lieutenant Governor as mandated under Article 151(2) of the Constitution of India.

10. In the proceedings dated 12.12.2024 in the aforesaid writ petition, the respondents’ counsel informed that there had been some movement of the file in relation to the CAG Reports. Consequently, an additional affidavit came to be filed by the respondent no.4/Lieutenant Governor of Delhi (the same is substantially reproduced in the order dated 16.12.2024 in those proceedings) stating as under:-

“5. Pertinently, it was only in pursuance of the fervent requests made by the LG Office to the Hon’ble Chief Minister, Finance Minister and other functionaries to place the CAG reports with the LG office and thereafter on account of the present Writ petition, that the Hon’ble Finance Minister of Delhi, currently also functioning as the Chief Minister of Delhi has released the long pending CAG reports and forwarded them to the LG office only on 11.12.2024.”

6. The CAG reports mentioned at Sr. No. 1 to 12 were received in the LG office on 11.12.2024 at 3:30 PM and the CAG Reports mentioned at Sr. No. 13 and 14 were received on 12.12.2024 at 7:50 PM for seeking approval of the Hon’ble Lt. Governor in terms of Section 48 of the GNCTD Act, 1991 with the purpose of laying such CAG reports before the Legislative Assembly of the NCT of Delhi. In this regard, it is pertinent to apprise this Hon’ble Court that 14 CAG reports have been received from the Office of the Hon’ble Finance Minister:



2025:DHC:377



No.	Report No. & year	Report	Period	Marked to Finance Minister by the Department	Nos. of days file kept by Finance Minister/ Chief Minister
1	Report No 1 of 2022	State Finances Audit Report	Year ended 31.03.2021	09.08.2023	490 days
2	Report No 2 of 2022	Performance Audit on Prevention and Mitigation of Vehicular Air Pollution in Delhi	Year ended 31.03.2021	09.08.2023	490 days
3	Report No 3 of 2022	Revenue, Economic, Social and General Sectors & PSUs	Year ended 31.03.2020 & 31.03.2021	09.08.2023	490 days
4		Finance Accounts	2021-22	09.08.2023	490 days
5		Appropriation Accounts	2021-22	09.08.2023	490 days
6	Report No 1 of 2023	Performance Audit Report on Children in Need of Care and Protection	(2018-19 to 2020-21) Year ended 31.03.2021	09.08.2023	490 days
7	Report No 2 of 2023	State Finances Audit Report	Year ended 31.03.2022	02.08.2023	497 days
8		Finance Accounts	2022-23	21.02.2024	294 days
9		Appropriation Accounts	2022-23	21.02.2024	294 days
10	Report No 1 of 2024	Performance Audit of Regulation and Supply of Liquor in Delhi	2017-18 to 2021-22	08.03.2024	278 days
11	Report No 2 of 2024	State Finances Audit Report	Year ended 31.03.2023	11.07.2024	153 days
12	Report No 3 of 2024	Public Health Infrastructure and Management of Health Services	Year ended 31.03.2023	24.09.2024	78 days
13	Report No.4 of 2024	Performance Audit Report on	Year ended 31.03.2022	10.12.2024	2 days



		<i>Functioning of Delhi Transport Corporation</i>			
14	<i>Report No.5 of 2024</i>	<i>Revenue, Economic, Social and General Sectors & PSUs and Performance Audit of the Department of H&FW and Compliance Audit</i>	<i>Year ended 31.03.2022</i>	10.12.2024	2 days

11. On 16.12.2024, this Court disposed of the said writ petition recording as under:-

“6. In light of the aforesaid affidavit, it now emerges that the Lt. Governor has received the CAG Reports, and has accorded his approval under Section 48 of the GNCTD Act. Further, the Lt. Governor has returned all the CAG Reports to the Chief Minister and has directed that the special sitting of the Legislative Assembly of Delhi be convened immediately in accordance with Rules of Procedure and Conduct of Business in the Legislative Assembly of the National Capital Territory of Delhi, 1997, for laying the CAG Reports on the table of the Legislative Assembly of Delhi without any further loss of time.

7. Mr. Sudhir Nandrajog, Senior Counsel representing Respondent Nos. 1 and 2, asserts that having received the CAG Reports, Respondent Nos. 1 and 2 shall forward the same to the Speaker, Delhi Legislative Assembly/ Respondent No. 3. He states that the Reports shall be forwarded within a period of two to three days from today. The said statement is taken on record.

8. In light of the above, the relief sought in the present case, which was for issuance of a writ of mandamus to Respondent No. 2 to send the proposals to Respondent No. 4 for exercising his duties under Article 151 (2) of the Constitution of India, stands redressed.

9. In view of the above, the present proceedings are closed.

10. At this juncture, it must be noted that Mr. Mahesh Jethmalani, Senior Counsel for the Petitioners, has stressed that once the CAG Reports are forwarded to the Speaker, he must call for a Sitting of the House promptly.



11. In the event that such a decision is not taken, the Petitioners' rights to take recourse to appropriate legal proceedings in accordance with law, are reserved."

12. It is the grievance of the petitioners in this petition that despite the aforesaid order, the CAG Reports continued to languish and till the filing of the present petition, had not even been forwarded to the Speaker of the Legislative Assembly. It is averred in the petition that the petitioners met the Hon'ble Speaker of the Legislative Assembly on 19.12.2024 and gave a Memorandum, highlighting the assurance given by the Government of NCT of Delhi to send the CAG Reports to the Hon'ble Speaker within 2 to 3 days and urged him to convene a special sitting of the Legislative Assembly for laying the concerned CAG Audit Reports in the Delhi Legislative Assembly.

13. It is further averred that on 19.12.2024, the Speaker informed the petitioners that he was not yet in receipt of the said CAG Reports. Consequently, the present petition came to be filed.

14. It further transpires that after the present writ petition was filed, the concerned CAG Reports were forwarded to the Secretary, Legislative Assembly. This was duly recorded in the order dated 24.12.2024 passed in these proceedings. The said order records as under:-

"4. On an earlier occasion, when the Petitioners approached this Court in W.P.(C) 15341/2024, this Court, vide order dated 16th December, 2024, disposed of the petition, noting the statement made by Mr. Sudhir Nandrajog, Senior Counsel representing Respondent Nos. 1 & 2 (in W.P.(C) 15341/2024) affirming that the CAG Reports shall be forwarded to the Speaker, Delhi Legislative Assembly within a period of two to three days.

5. The Petitioners' grievance in the present petition is that the said undertaking has not been given effect to. However, at the outset, on this issue, Mr. Rahul Mehra, Senior Counsel for Respondents No. 1 & 2,



2025:DHC:377



has handed over a copy of a communication sent by the Chief Minister/ Finance Minister Government of NCT of Delhi to the Secretary Legislative Assembly Delhi, which stipulates as follows:

**“PRINCIPAL ACCOUNTS OFFICE
GOVERNMENT OF NCT OF DELHI
A-BLOCK, VIKAS BHAWAN,
IP ESTATE, NEW DELHI.**

No.F.2(9)/Pr.A.O./Appro./C&AG(Audit)/2022-23/997

Dated: 24/12/2024

*To
The Secretary
Legislative Assembly,
Delhi.*

Sub:- Laying of Report No. 1 of 2023 of the Comptroller and Auditor General of India on 'Performance Audit Report on Children in Need of Care and Protection' relating to the Government of NCT of Delhi for the year ended 31 March 2021 on the table of the House.

Sir,

I intend to lay on the table of the House a copy of Report No. 1 of 2023 of the Comptroller and Auditor General of India on 'Performance Audit Report on Children in Need of Care and Protection' relating to the Government of NCT of Delhi for the year ended 31 March 2021 in the ensuing Session of the Legislative Assembly of Delhi. Two copies each of the English and Hindi versions of the 'Performance Audit Report on Children in Need of Care and Protection' for the year ended 31 March 2021 are placed below in sealed cover.

Please give suitable date for laying the above said Accounts.

*Yours faithfully,
Sd/-*

**(ATISHI)
CHIEF MINISTER/ FINANCE MINISTER”**

6. Mr. Mehra, on instructions, states that although the aforementioned communication only mentions about Report No. 1/2023 of the Comptroller and Auditor General of India, however the other remaining reports have also been forwarded to the Secretary, Legislative Assembly, today itself.

7. In light of the foregoing, this specific aspect of the Petitioners’



grievance stands redressed. Now the issue that arises for the Court's consideration is with respect to the Petitioner's request for issuance of mandamus directing Respondent No. 3 to summon the special sitting of the Legislative Assembly and to table the CAG reports before the Legislative Assembly of Delhi in a time bound manner.

8. On this particular aspect, the Respondents are directed to file their counter affidavit, within a period of ten days from today. Rejoinder thereto, if any, be filed before the next date of hearing.

15. In the above conspectus, the present petition has been filed seeking that a mandamus be issued to the Speaker of the Legislative Assembly to summon a special sitting of the Legislative Assembly for tabling the CAG Reports.

SUBMISSIONS OF RESPECTIVE COUNSEL

16. Learned senior counsel for the petitioners strenuously contends that the respondents' failure to table the 14 CAG Reports before the Legislative Assembly constitutes a blatant violation of mandatory constitutional and statutory obligations. Further, by withholding the Reports and not submitting them in a timely manner to the Hon'ble Lieutenant Governor as required under Article 151(2) of the Constitution of India and Section 48 of the Government of NCT of Delhi Act, 1991 (hereinafter 'the GNCTD Act'), the respondents have breached their duty to ensure financial transparency and accountability. It is submitted that the respondent no.2 has deliberately withheld the CAG Reports for extended and prolonged periods with an intent to suppress the findings in the CAG Report/s and to avoid their scrutiny in the Legislative Assembly.

17. It is submitted that the conduct of the respondent no(s). 1 to 3 has the



effect of defeating the mandatory prescription in Section 48 of the GNCTD Act. It is submitted that it is incumbent on the Government of NCT of Delhi and the Speaker of the Legislative Assembly to follow the mandatory Rules of Procedure and Conduct of Business in the Legislative Assembly of the National Capital Territory of Delhi, 1997 (hereinafter '**the Rules of Procedure**') and take appropriate steps as contemplated thereunder to ensure that the CAG Reports are tabled in the Legislative Assembly at the earliest.

18. It is submitted that withholding of the CAG Reports denies the public their right to know about the manner in which the public money have been dealt with/spent by the Government of NCT of Delhi. By suppressing these Reports, the Government of NCT of Delhi is undermining the fundamental principles of accountability and good governance which are fundamental to the Constitution.

19. Learned senior counsel for the petitioners emphasizes the urgency of the matter given the upcoming Assembly Elections in Delhi and the imminent expiry of the duration of the current Legislative Assembly. Learned senior counsel relies upon the following judgments to contend that laying of the CAG Reports in the Legislative Assembly is not merely a procedural but a substantive, legal and constitutional mandate for which appropriate directions/Mandamus can be issued by this Court under Article 226 of the Constitution of India:

- (i) '**Raja Ram Pal Vs. Hon'ble Speaker, Lok Sabha and Others**', (2007) 3 SCC 184.
- (ii) '**Ashish Shelar and Others Vs. Maharashtra Legislative**



Assembly and Anothers', (2022) 12 SCC 273

(iii) *'Shivraj Singh Chouhan and Others Vs. Speaker Madhya Pradesh Legislative Assembly and Others'*, (2020) SCC OnLine SC 363.

(iv) *'Association of Unified Tele Services Providers and Others Vs. Union of India and Others'*, (2014) 6 SCC 110.

(v) *'Keisham Meghachandra Singh Vs. Speaker, Manipur Legislative Assembly and Others'*, (2021) 16 SCC 503.

20. Learned senior counsel for the respondent no.3/Hon'ble Speaker, Delhi Legislative Assembly has sought to refute the aforesaid contentions. It is submitted that no writ of Mandamus or any other writ in the similar nature, can be issued against the Respondent No. 3/ Speaker, directing the said respondent to summon/ hold a sitting of the House. This is by virtue of Article 212 of the Constitution of India read with Section 37 of the GNCTD Act. It is submitted that in terms of the said provisions, the respondent no.3 is conferred with the sole authority to regulate the procedure, and the conduct of business of Assembly and/or in maintaining order in the House.

21. It is strenuously emphasized that the power to regulate the procedure and conduct of the business of the House rests in the Speaker; the action/s of the Speaker cannot be questioned by any Court and are not amenable to judicial review. Reliance in this regard has been sought to be placed on the following judgments:

(i) *'Ramdas Athawale Vs. Union of India and Others'*, (2010) 4 SCC 1.

(ii) *'State of Punjab Vs. Principal Secretary to the Governor of*



Punjab and Another, (2024) 1 SCC 384.

22. As such, it is submitted that the only surviving prayer in the present petition *viz.* to issue a direction to the respondent no.3 for summoning a special sitting of the Legislative Assembly for the purpose of tabling the CAG Reports, is misconceived.

23. It is further submitted that the tenure of the present Assembly is coming to an end in the early part of February 2025 and the last sitting of the Assembly was held on 04.12.2024 on which date the Assembly was adjourned *sine die*. As such, the concerned Reports of the CAG cannot be reviewed and examined by the Public Accounts Committee (hereinafter 'PAC') before the tenure of the present Assembly expires. Therefore, it is contended that no useful purpose will be served if the Reports are laid down before the Assembly at this juncture of time, as these reports would be subject to examination only by the successor PAC to be elected by the next Assembly, which will be constituted after the elections.

24. It is submitted that it would be wholly unwarranted and unnecessary to call for a special Session for the sole purpose of laying the concerned Reports of CAG. It is emphasised that the CAG Reports are laid before the Legislature for examination and investigation, which is conducted by the PAC appointed by the legislature, implying that the primary and the most significant object of laying the Reports as contemplated under Article 151 of the Constitution of India, is to enable the Legislature/PAC to conduct a detailed examination of its contents and not to make it available to the public. It is further submitted that no time period is prescribed under Section 48 of the GNCTD Act to table the Reports before the Legislative Assembly.



25. In the circumstances, it is urged that the present writ petition be dismissed.

26. Learned senior counsel for the respondent no(s). 1 and 2 has also drawn attention to the fact that in terms of Rule 192 of the Rules of Procedure, it is provided that subsequent to laying the CAG Reports, the said Reports are referred to the PAC for examination and scrutiny.

27. Reliance has been placed on the judgments of the Supreme Court in '*Arun Kumar Agrawal Vs. Union of India and Others*', (2013) 7 SCC 1, to contend that the CAG Reports, are subject to Parliamentary debate and the PAC may even reject the CAG Reports if it deems fit.

28. Attention is sought to be drawn to the fact that in the said judgment it has been underscored that there is no finality as regards CAG Reports, which are to be subjected to a close scrutiny by the PAC.

29. Learned counsel has also contended that it will be futile to call a special sitting of the Assembly at the fag end of its tenure for the purpose of tabling the concerned CAG Reports when it is quite evident that the same cannot be scrutinized by the PAC prior to the expiry of the current duration of the Legislative Assembly.

REASONING AND FINDINGS:

Laying Of CAG Reports Before Legislative Assembly Is A Mandatory Constitutional Imperative

30. Section 48 of the GNCTD Act provides as under:-

"48. Audit Reports:

The reports of Comptroller and Auditor-General of India relating to the accounts of the Capital for any period subsequent to the date referred to



in sub-section (1) of section 46 shall be submitted to the Lieutenant Governor who shall cause them to be laid before the Legislative Assembly.”

31. Articles 149 and 151 of the Constitution of India provide as under:-

“149. Duties and powers of the Comptroller and Auditor-General

The Comptroller and Auditor-General shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States and of any other authority or body as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States as were conferred on or exercisable by the Auditor-General of India immediately before the commencement of this Constitution in relation to the accounts of the Dominion of India and of the Provinces respectively.

151. Audit reports

(1) The reports of the Comptroller and Auditor-General of India relating to the accounts of the Union shall be submitted to the President, who shall cause them to be laid before each House of Parliament.

(2) The reports of the Comptroller and Auditor-General of India relating to the accounts of a State shall be submitted to the Governor of the State, who shall cause them to be laid before the Legislature of the State.”

32. Regulation 210 of the ‘Regulations on Audit & Accounts, 2007’ issued in pursuance of Section 23 of the Comptroller and Auditor General’s (Duties, Powers and Conditions of Service), Act 1971 [hereafter the “CAG Act”] reads as under:-

“210. Forwarding copies of audit report for laying before legislature

(1) An officer authorised by the Comptroller and Auditor General shall send copies of the audit report duly signed by the Comptroller and Auditor General to the Secretary to the Government, Ministry of Finance or Finance Department as the case may be, who shall take prompt action for the submission of the audit report to the President or the Governor or the Administrator for further action and for the presentation of the report in Parliament or the State or Union Territory legislature. Copies of the audit reports under Section 19A of the Act shall be shall sent to the



Secretary of the Ministry or department concerned or the Administrator of a Union Territory having legislative assembly, who shall take prompt action for laying the same in the Parliament or the legislature of the State or Union Territory.

(2) An unsigned copy of the audit report shall simultaneously be sent to the Secretary to the President or the Governor or the Administrator.”

33. In *Association of Unified Tele Services Providers and Others* (supra), while examining the nature of functions to be discharged by the CAG pursuant to Article 149 of the Constitution of India, it has been observed as under:-

*“Article 149 does confer the power on CAG to discharge duties and powers in relation to the accounts of the Union and the States or any other authority or body, as may be prescribed under the law made by Parliament. CAG, therefore, is exercising constitutional powers and duties in relation to the accounts, while the High Court under Article 226 of the Constitution, so also the Supreme Court under Article 32 of the Constitution, is exercising judicial powers. **Duties and powers conferred by the Constitution on CAG under Article 149 cannot be taken away by Parliament, being the basic structure of our Constitution**, like parliamentary democracy, independence of judiciary, rule of law, judicial review, unity and integrity of the country, secular and federal character of the Constitution, and so on.”*

34. Thus, the Supreme Court has gone to the extent of holding that the duties and powers conferred by the Constitution on the CAG are part of the basic structure of the Constitution akin to parliamentary democracy, independence of judiciary, rule of law, judicial review, unity and integrity of the country, secular and federal character of Constitution, etc.

35. The said judgment has emphasized that the CAG is a constitutional functionary appointed under Article 148 of the Constitution of India and its main role is to audit the income and expenditure of the Government bodies and state-run corporations. It was observed as under :-



“CAG has the power to examine the propriety, legality and validity of all expenses incurred by the Government and the office of CAG exercises effective control over the government accounts and expenditure incurred on the schemes only after implementation of the scheme, as a result, the duties of CAG will arise only after the expenditure has been incurred.”

36. Relying upon the judgment in the case of **‘Arvind Gupta v. Union of India’** (2013) 1 SCC 393, it was noted as under;

“39. In Arvind Gupta v. Union of India, this Court, while examining the scope of Articles 149, 150 and 151 of the Constitution, vis-a-vis the reports of CAG, noticed and pointed out that CAG’s functions are carried out in the economy’s efficiency and effectiveness with which the Government has used its resources and it was pointed out that performance/audit reports prepared under the regulations have to be viewed accordingly. In Arun Kumar Agrawal v. Union of India this Court while interpreting Section 16 of the 1971 Act held that:

“60. CAG has to satisfy himself that the rules and procedures designed to secure an effective check on the assessment, collection and proper allocation of revenue are being duly observed..... CAG also has to examine decisions which have financial implications, including the propriety of decision-making.”

*This Court also noticed that the report of CAG is required to be submitted to the President, who shall cause them to be laid before each House of Parliament, as provided under Article 151(1) of the Constitution of India. **By placing the reports of CAG in Parliament, CAG regulates the accountability of the executive to Parliament in the field of financial administration, thereby upholding the parliamentary democracy.***

37. The above observations reflect the vital significance accorded to the placing of the CAG reports in the concerned legislature. The Supreme Court has gone to the extent of holding that the same is an adjunct of parliamentary democracy.

38. It is evident, therefore, that laying the Reports of CAG in the concerned legislature is in the nature of a mandatory constitutional



imperative. It is the means through which the elected representatives are entitled to have access to the CAG Reports and thereby hold the Government of the day accountable in the field of financial administration.

39. Although no time period is prescribed under Section 48 of the GNCTD Act to table the Reports before the Legislative Assembly, it would be subversive of the constitutional mandate to with-hold these reports from the legislature for an inordinately long period after the same have been forwarded by the CAG to the concerned government, in accordance with Regulation 210 of the 'Regulations on Audit & Accounts, 2007' framed under the CAG Act.

Delay In Tabling The CAG Reports Before The Legislative Assembly

40. As brought out in the order dated 16.12.2024 (whereby W.P.(C) 15341/2024 was disposed of), 14 CAG Reports were forwarded by the CAG to the Finance Minister. The particulars of these Reports together with the date/s on which they were forwarded to the concerned Department of Government of NCT of Delhi and also the days/period for which these Reports were kept with the respondent no.1/respondent no.2 before being forwarded to the Lieutenant Governor (as contemplated under Section 48 of the GNCTD Act) are as under:-

<i>No.</i>	<i>Report No. & year</i>	<i>Report</i>	<i>Period</i>	<i>Marked to Finance Minister by the Department</i>	<i>Nos. of days file kept by Finance Minister/Chief Minister</i>
1	Report No 1 of 2022	State Finances Audit Report	Year ended 31.03.2021	09.08.2023	490 days
2	Report No 2	Performance	Year ended	09.08.2023	490 days



2025:DHC:377



	of 2022	Audit on Prevention and Mitigation of Vehicular Air Pollution in Delhi	31.03.2021		
3	Report No 3 of 2022	Revenue, Economic, Social and General Sectors & PSUs	Year ended 31.03.2020 & 31.03.2021	09.08.2023	490 days
4		Finance Accounts	2021-22	09.08.2023	490 days
5		Appropriation Accounts	2021-22	09.08.2023	490 days
6	Report No 1 of 2023	Performance Audit Report on Children in Need of Care and Protection	(2018-19 to 2020-21) Year ended 31.03.2021	09.08.2023	490 days
7	Report No 2 of 2023	State Finances Audit Report	Year ended 31.03.2022	02.08.2023	497 days
8		Finance Accounts	2022-23	21.02.2024	294 days
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10	Report No 1 of 2024	Performance Audit of Regulation and Supply of Liquor in Delhi	2017-18 to 2021-22	08.03.2024	278 days
11	Report No 2 of 2024	State Finances Audit Report	Year ended 31.03.2023	11.07.2024	153 days
12	Report No 3 of 2024	Public Health Infrastructure and Management of Health Services	Year ended 31.03.2023	24.09.2024	78 days
13	Report No.4 of 2024	Performance Audit Report on Functioning of Delhi Transport Corporation	Year ended 31.03.2022	10.12.2024	2 days
14	Report No.5 of 2024	Revenue, Economic, Social and General Sectors & PSUs and Performance Audit of the Department of H&FW and	Year ended 31.03.2022	10.12.2024	2 days



		Compliance Audit			
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41. It is quite evident that most of these CAG Reports were kept pending with the respondent no.1/respondent no.2 for an inordinately long period of time. Evidently, the Government of NCT of Delhi did not act alacrity even when W.P.(C) 15341/2024 came to be filed. The said W.P.(C) 15341/2024 was listed in this Court on 29.10.2024 on which date notice was issued to the concerned respondents. It is noted from the Annexure-R6 to the short affidavit filed on behalf of the respondent no.4, that the third part of the 5th Session of the current Legislative Assembly was reconvened from 19.11.2024. At that point of time, W.P.(C) 15341/2024 was pending. In fact, an early hearing application came to be filed in the said writ petition on behalf of the petitioners therein, consequent to which the writ petition was taken up for hearing on 02.12.2024 in which the petitioners highlighted the urgency in light of the fact that the ongoing Session of the Legislative Assembly was due to the lapse on 04.12.2024. In response, the submissions on behalf of the learned counsel for the respondent nos.1 to 3 was recorded as under:-

“Mr. Nandrajog categorically states that the term of Assembly is till the middle of February and therefore, the presumption that this is the last session is incorrect and the power to summon rests with the Lt. Governor.”

42. The above statement is not altogether accurate inasmuch as it is now the common case of the parties that it is the speaker alone who is authorized to convene a sitting of the house. Reliance in this regard is placed on Rule 17 of the Rule of Procedure to contend that it is the sole prerogative of the Speaker to call a sitting of the House after it was adjourned *sine die* on



04.12.2024.

43. It is also evident that the concerned respondents/Government of NCT was remiss in forwarding the concerned CAG Reports to the Lieutenant Governor as mandated under Article 151(2) of the Constitution of India, even after this aspect was strenuously agitated by filing writ petition bearing no. W.P.(C) 15341/2024. In the meantime, the third part of the 5th Session of the current Legislative Assembly was adjourned *sine die* on 04.12.2024.

44. On 16.12.2024, the writ petition bearing no. W.P.(C) 15341/2024 was disposed of by this Court after taking note of the affidavit filed by the respondent no.4 therein/Lieutenant Governor of Delhi (through its Principal Secretary) that the concerned CAG Reports had been forwarded to the Office of Lieutenant Governor only on 11.12.2024 and 12.12.2024. The said affidavit also notes that the Lieutenant Governor had accorded his approval under Section 48 of the GNCTD Act on 13.12.2024 and forwarded the CAG reports to Hon'ble Chief Minister, so that necessary steps could be taken for laying all the 14 CAG Reports before the Legislative Assembly of Delhi in the present Session.

45. Even thereafter, the respondent/Government of NCT of Delhi did not act with alacrity in the matter. It was only after the present writ petition was filed that the concerned CAG Reports were forwarded to the Secretary, Legislative Assembly, by the respondent no.2.

46. It is quite evident that there has been an inordinate delay on the part of the respondents/Government of NCT of Delhi in taking requisite steps for laying the CAG Reports before the Legislative Assembly. The sequence of events and the timelines reveal a disdainful disregard by the



respondents/Government of NCT of Delhi of its constitutional obligation/s in this regard, as set out in the judgments of the Supreme Court in *Association of Unified Tele Services Providers and Others* (supra) and *Arvind Gupta* (supra).

Whether a direction can be issued to the respondent no.3 to summon a special sitting of the Legislative Assembly

47. On a conspectus of the relevant provisions of the Constitution, the Government of NCT Act, 1991, the “Rules of Procedure” and the legal position as enunciated by the Supreme Court, this Court does not find it tenable to issue a writ in the nature of mandamus directing the respondent no. 3 to summon a special sitting of the Legislative Assembly. The reasons are enumerated hereunder.

47.1 Under the Rules of Procedure, for the purpose of laying the reports of the CAG before the House it is incumbent on the Government to inform the Assembly Secretariat to include the relevant agenda in the list of business to be transacted in the House. In this regard, Rules 24, 27 and 289 provide as under :

“24 Information about the business to be taken up in the House

The Government shall inform the Assembly Secretariat about the business to be taken up in the House in the first week of any session at least fifteen days before the commencement of such meeting and thereafter on each last working day of the week, the leader of the House or any member of the Council of Ministers shall inform the House, after the question hour about the business to be taken up in the next week.”

“27 Arrangement of Government business

On days other than those allotted for the business of Private



Members no business other than Government business shall be transacted without the consent of the Speaker. The Secretary shall arrange the business in such order as the Speaker may, in consultation with the Leader of the House, decide:

Provided that the Speaker may, in consultation with the Leader of the House, alter or amend the order of the business.”

“289 Laying of any paper or documents on the table of the House

No paper or document shall be laid on the Table without the order or the authority of the Speaker:

Provided that when a paper or document is laid on the Table, prior notice shall be given to the Secretary:

Provided further that whenever statutory regulations, rules, sub-rules, bye-laws, etc. are required to be laid on the Table, prior notice thereof shall be given by the minister to the Secretary in writing along with the authenticated copies of the relevant documents at least, one day in advance.”

Even under Regulation 210 of the Regulations of Audit and Accounts, 2007, it is clearly provided that it is the responsibility of the “*Government, Ministry of Finance or Finance Department*” to take “*prompt action for the submission of the audit report to the President or the Governor or the Administrator for further action and for the presentation of the report in Parliament or the State or Union Territory legislature*”.

Thus, the primary onus to take requisite steps for laying the concerned CAG report in the Assembly is on the Government and not on the respondent no. 3/Speaker. It was only on 24.12.2024 that the respondent no. 2 addressed a communication (supra) to the Secretary, Legislative Assembly, communicating its intention to lay the concerned reports on the table of the



House. At this stage, there is no material on the basis of which it can be presumed by this Court that no follow up action shall be taken for the purpose of laying the CAG reports as and when the Assembly reconvenes.

47.2 From the plain language of Article 212(2), it is evident that there is a clear proscription that *“no officer or member of the Legislature of a State in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers”*.

Section 37 of the Government of NCT of Delhi Act, 1997, also provides as under :-

“37. Courts not to inquire into proceedings of Legislative Assembly.—(1) The validity of any proceedings in the Legislative Assembly shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of the Legislative Assembly in whom powers are vested by or under this Act for regulating procedure or the conduct of business, or for maintaining order in the Legislative Assembly shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.”

As such, the regulation of procedure for the conduct of business of the Legislature is an aspect which is not subject to the jurisdiction of the Court. Moreover, under Rule 17 of the Rules of Procedure, the power to summon/convene a sitting of the Legislative Assembly which has not been prorogued is solely within the domain of the Speaker. The said rule provides as under:

“17. Adjournment of the House and procedure for reconvening

(1) The Speaker shall determine the time when a sitting of the House shall



be adjourned sine die or to a particular day, or to an hour or part of the same day:

Provided that the Speaker, if he thinks fit, call a sitting of the House before the date or time to which it has been adjourned or at any time after the House has been adjourned sine die.

(2) In case the House, after being adjourned is reconvened under proviso to sub-rule (1), the Secretary shall communicate to each member the date, time, place and duration of the next part of the session."

47.3 The scope of authority of the speaker to regulate the procedure and conduct of business of the House, has been comprehensively considered by the Supreme Court in ***State of Punjab Vs. Principal Secretary to the Governor of Punjab and Another*** (supra). It has been held therein as under :

"41. Article 178 of the Constitution provides for the office of the Speaker and Deputy Speaker of a Legislative Assembly. Article 212 of the Constitution precludes the courts from inquiring into the proceedings of the legislature of the State. A corresponding provision with regard to Parliament is contained in Article 122. The decision in Ramdas Athawale is significant in that it dwells on the role of the Speaker of the House and interprets Article 122 of the Constitution. The Constitution Bench observed¹⁴; (SCC pp. 12-13, para 31)

"31. The Speaker is the guardian of the privileges of the House and its spokesman and representative upon all occasions. He is the interpreter of its rules and procedure, and is invested with the power to control and regulate the course of debate and to maintain order. The powers to regulate the procedure and conduct of business of the House of the People vests in the Speaker of the House. By virtue of the powers vested in him, the Speaker, in purported exercise of his power under Rule 15 of the Rules of Procedure and Conduct of Business in Lok Sabha got issued Notice dated 20-1-2004 through the Secretary General of the Lok Sabha directing resumption of sittings of the Lok Sabha which was adjourned sine die on 23-12-2003. Whether the resumed sitting on 29-1-2004 was to be treated as the second part of the fourteenth session as directed by the Speaker is essentially a matter relating purely to the procedure of Parliament. The validity of the proceedings and business transacted in the House after resumption of its sittings cannot be tested and gone into by this Court in a proceeding under Article 32 of the Constitution of India."



42. The Court observed that under Article 122(2), the decision of the Speaker in whom powers are vested to regulate the procedure and conduct of business is final and binding on every Member of the House. Hence, this Court held that the validity of the Speaker adjourning the House sine die and the later direction to resume sittings could not be inquired into on the ground of any irregularity of procedure. The Court reaffirmed that the business transacted and the validity of proceedings after the resumption of sittings of the House pursuant to the direction of the Speaker cannot be inquired by the courts. This follows the fundamental principle that it is the right of each House of the legislature to be the sole judge of the lawfulness of its own proceedings so as to be immune from challenge before a court of law.

43. As stated above, Rule 16 of the Rules of Procedure empowers the Vidhan Sabha to adjourn from time to time by its own order. The first proviso to Rule 16 acknowledges that adjournment of the Vidhan Sabha may be either to a particular day or sine die. An adjournment sine die postulates that there is no specific date on which the sitting of the Vidhan Sabha is convened. The first proviso requires express consultation with the Speaker in that regard, for the adjournment of the Vidhan Sabha. However, even when an adjournment takes place the Speaker is entrusted in public interest to call a meeting of the Vidhan Sabha before the date to which it has been adjourned. **These provisions are a clear indicator of the control of the Speaker in the conduct, both of the legislative business of the House and matters pertaining to its adjournment.**

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44. Therefore, it was legally permissible for the Speaker to reconvene the sitting of the Vidhan Sabha after it was adjourned sine die without prorogation. Further, the Speaker was empowered as the sole custodian of the proceedings of the House to adjourn and reconvene the House.”

(emphasis supplied)

47.4 In ***Ramdas Athawale Vs. Union of India and Others*** (supra), the Supreme Court has held as under:-

28. The question that arises for consideration in this writ petition is whether the decision of the Speaker directing resumption of sitting of the



Lok Sabha which was adjourned sine die on 23-12-2003 is susceptible to judicial review in a proceeding under Article 32 of the Constitution of India?

29. Under Article 122 of the Constitution, the courts are precluded from making inquiry into proceedings of Parliament. Article 122 reads as under:

“122. Courts not to inquire into proceedings of Parliament.—(1) The validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of Parliament in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in Parliament shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.”

30. A plain reading of Article 122 makes it abundantly clear that the validity of any proceeding in Parliament shall not be called in question on the ground of any irregularity of procedure. The prayer in the writ petition is to declare the proceedings in the Lok Sabha pursuant to the Notice dated 20-1-2004 issued under the directions of the Speaker as unconstitutional. The petitioner is essentially raising a dispute as to the regularity and legality of the proceedings in the House of the People. The dispute raised essentially centres around the question as to whether the Speaker's direction to resume sittings of the Lok Sabha which was adjourned sine die on 23-12-2003 is proper?

31. The Speaker is the guardian of the privileges of the House and its spokesman and representative upon all occasions. He is the interpreter of its rules and procedure, and is invested with the power to control and regulate the course of debate and to maintain order. The powers to regulate the procedure and conduct of business of the House of the People vests in the Speaker of the House. By virtue of the powers vested in him, the Speaker, in purported exercise of his power under Rule 15 of the Rules of Procedure and Conduct of Business in Lok Sabha got issued Notice dated 20-1-2004 through the Secretary General of the Lok Sabha directing resumption of sittings of the Lok Sabha which was adjourned sine die on 23-12-2003. Whether the resumed sitting on 29-1-2004 was to be treated as the second part of the fourteenth session as directed by the Speaker is essentially a matter relating purely to the procedure of Parliament. The validity of the proceedings and business transacted in the House after resumption of its sittings cannot be tested and gone into by this Court in a proceeding under Article 32 of the Constitution of India.



32. *There are two articles to which reference must be made. Article 118(1) provides that each House of Parliament may make rules for regulating, subject to the provisions of the Constitution, its procedure and conduct of its business. The rules, in fact, are made and known as the Rules of Procedure and Conduct of Business in Lok Sabha. Rule 15 of the Rules of Procedure and Conduct of Business in Lok Sabha provides that:*

“15. Adjournment of House and procedure for reconvening.—(1) The Speaker shall determine the time when a sitting of the House shall be adjourned sine die or to a particular day, or to an hour or part of the same day:

Provided that the Speaker may, if he thinks fit, call a sitting of the House before the date or time to which it has been adjourned or at any time after the House has been adjourned sine die.

(2) In case the House, after being adjourned is reconvened under the proviso to sub-rule (1), the Secretary General shall communicate to each member the date, time, place and duration of the next part of the session.”

33. *Article 118(1) makes it perfectly clear that when the House is to make any rules as prescribed by it, those rules are subject to the provisions of the Constitution which obviously include the fundamental rights guaranteed by Part III of the Constitution.*

34. *Similarly, Article 122(1) makes a provision which is relevant. It lays down that:*

“122. Courts not to inquire into proceedings of Parliament.—(1) The validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of procedure.”

35. Article 122(2) confers immunity on the officers and Members of Parliament in whom powers are vested by or under the Constitution for regulating procedure or conduct of the business or for maintaining order in Parliament from being subject to the jurisdiction of any court in respect of the exercise by him of those powers.

36. *This Court Under Article 143, Constitution of India, In re (Special Reference No. 1 of 1964) [AIR 1965 SC 745 : (1965) 1 SCR 413] (also known as Keshav Singh case [AIR 1965 SC 745 : (1965) 1 SCR 413]) while construing Article 212(1) observed that it may be possible for a citizen to call in question in the appropriate court of law, the validity of any proceedings inside the legislature if his case is that the said proceedings suffer not from mere irregularity of procedure, but from an illegality. If the impugned procedure is illegal and unconstitutional, it would be open to be scrutinised in a court of law, though such scrutiny is*



prohibited if the complaint against the procedure is no more than this that the procedure was irregular. The same principle would equally be applicable in the matter of interpretation of Article 122 of the Constitution.

37. The Notice dated 20-1-2004 is self-explanatory and reveals that the House was adjourned sine die on 23-12-2003 by the Speaker. It is the Speaker's direction to resume its sittings from 29-1-2004 onwards. The Notice clearly says that it was the second part of the fourteenth session and was likely to conclude on 5-2-2004. The Speaker's decision adjourning the House sine die on 23-12-2003 and direction to resume its sittings in part two essentially relates to proceedings in Parliament and is procedural in nature. The business transacted and the validity of proceedings after the resumption of its sittings pursuant to the directions of the Speaker cannot be inquired into by the courts.

38. Under Article 122(2), the decision of the Speaker in whom powers are vested to regulate the procedure and the conduct of business is final and binding on every Member of the House. The validity of the Speaker's decision adjourning the House sine die on 23-12-2003 and latter direction to resume its sittings cannot be inquired into on the ground of any irregularity of procedure. The business transacted and the validity of proceedings after the resumption of sittings of the House pursuant to the directions of the Speaker cannot be inquired into by the courts.

39. No decision of the Speaker can be challenged by a Member of the House complaining of mere irregularity in procedure in the conduct of the business. Such decisions are not subject to the jurisdiction of any court and they are immune from challenge as understood and explained in Keshav Singh case [AIR 1965 SC 745 : (1965) 1 SCR 413] and further explained in Indira Nehru Gandhi v. Raj Narain [1975 Supp SCC 1] wherein it was observed that: (Indira Nehru case [1975 Supp SCC 1] , SCC p. 46, para 70)

"70. ... the House is not subject to the control of the courts in the administration of the internal proceedings of the House."

(emphasis supplied)

47.5 As such, it has been unmistakably laid down by the Supreme Court that the power to reconvene sitting/s of the Legislative Assembly after it has been adjourned *sine die* without prorogation, is the sole prerogative of the Speaker



of the Assembly. It is not permissible for this Court to issue directions with regard thereto.

47.6 On behalf of the petitioners, reliance is placed upon a line of judgments of the Supreme Court which hold that while Articles 122 and 212 of the Constitution of India shield legislative actions from scrutiny based on “irregularity of procedure”, this immunity does not extend to challenges grounded on allegations of substantive illegality or unconstitutionality in respect of proceedings in the house. In this regard, reliance has been placed on the following judgments:

- A. *Powers, Privileges and Immunities of State Legislatures, In re (Special Reference No. 1 of 1964)*, AIR 1965 SC 745.
- B. *‘Raja Ram Pal Vs. Hon’ble Speaker, Lok Sabha and Others’*, (2007) 3 SCC 184.
- C. *‘Ashish Shelar and Others Vs. Maharashtra Legislative Assembly and Anothers’*, (2022) 12 SCC 273.
- D. *‘Keisham Meghachandra Singh Vs. Speaker, Manipur Legislative Assembly and Others’*, (2021) 16 SCC 503.
- E. *‘Shivraj Singh Chouhan and Others Vs. Speaker Madhya Pradesh Legislative Assembly and Others’*, (2020) SCC OnLine SC 363.

However, judicial review as contemplated under the aforesaid judgments, cannot be extended to procedural aspects such as the timing of convening a sitting of the assembly after it has been adjourned *sine die*. Moreover, the concerned CAG reports have not yet been the subject matter of any “proceedings in the legislature” which warrant any judicial review, given the



confines set out in the aforesaid judgments.

Also, the directions issued in case of *Shivraj Singh Chouhan* (supra), were in a completely different context viz. for the purpose of conducting a floor test, in line with the prescription in *SR Bommai v Union of India* 1994 (3) SCC 1, for the purpose of testing confidence of the House in an incumbent government in the course of a “running Assembly”. It was held that the exercise of such power by the Governor, does not impinge upon the authority of the Speaker under Article 193(B) and Schedule X of the Constitution. The directions issued in the said judgment were in this peculiar context.

47.7 Importantly, it has been pointed out that the term of the current Legislative Assembly is about to expire and elections for the purpose of electing the next Legislative Assembly, are barely a few days away. In such a situation, it would be impracticable to hold a special sitting of the assembly. This is also on account of the fact that once the CAG reports are tabled in the House, they have to be examined and scrutinised by the PAC, as contemplated under Rule 192 of the Rules of Procedure. Given that the Legislative Assembly is at the fag end of its current term, the examination and scrutiny by the PAC will now take place only after the newly elected Assembly (pursuant to the upcoming elections) is re-convened.

48. For all the above reasons, this Court is not inclined to accept the prayers of the petitioners that a mandamus be issued to the respondent No. 3/Speaker for summoning a special session of the Legislative Assembly at this stage.

49. However, it is directed that once the Legislative Assembly is



2025:DHC:377



constituted and summoned pursuant to upcoming elections, requisite steps shall be taken by the Respondent/ Govt. of NCT of Delhi, *inter-alia* under Rule 24, 27 and 289 of the Rules of Procedure, for the purpose of laying the CAG Reports, as expeditiously as possible.

50. The present petition is disposed of in the above terms.

SACHIN DATTA, J

JANUARY 24, 2025

at, sv, dn