



By: Tomorrow's Affairs Staff

Challenging the candidacy before the courts - a risk that Trump is happy to accept



The US Supreme Court is under pressure to decide on the validity of the decisions on the suspension of Donald Trump as a candidate for the Republican presidential nomination in several federal states.

There are already 3 such decisions before the court, previously from Colorado and Maine, and since Wednesday **from Illinois**, when the court decided that Trump could not be among the candidates in the primaries due to his role in the insurrection on January 6, 2021.

It is almost definite that the Supreme Court will not issue its opinion before next Tuesday, and thus, Trump's name will appear on the primary ballot in Colorado and Maine.

The same decision to suspend his candidacy, made in Illinois, puts additional pressure on the Supreme Court to make a decision. The Republican primaries will take place in this stronghold of the Democratic Party on March 19.

However, if the Supreme Court does not issue a decision by March 19, Trump will be eligible to run in that state since Judge Tracie Porter has temporarily suspended her order pending the Supreme Court's ruling.

There are expectations that the Supreme Court will reject the decisions of individual states to disqualify Trump's candidacy.

This is also a path to dismissing all other lawsuits against Trump existing in more than 30 states asking for the same thing - to ban him from running for office, given his participation in the coup on January 6, 2021.

Uncharted territory

The 14th Amendment to the US Constitution, which the plaintiffs have been referring to, is quite clear to the detriment of Trump's candidacy, even though it dates back to the Civil War. It states that a person who "engaged in insurrection or rebellion" after taking an oath to uphold the Constitution is barred from running for office again.

However, are the circumstances in which this rule should be implemented equally clear?

Trump's defence maintains that on January 6, three years ago, just a political protest occurred, not an insurrection, and thus, their client could not face consequences under the 14th Amendment.

"We never accepted... that this was an insurrection" (Jonathan Mitchel)

"We never accepted... that this was an insurrection. President Trump did not engage in any act that can plausibly be characterised as insurrection," said Jonathan Mitchell, Trump's representative at a **hearing before the Supreme Court in February**.

This process also opened a rift regarding the relationship between federal and state authorities, as there were arguments over whether state institutions could meddle in electing the federal president.

For that reason, the case of the validity of Trump's candidacy is a historical earthquake, and the decision could reshape the foundations of the American political and judicial system. Perhaps for the first time with this intensity since the establishment of the state.

Options before the Supreme Court favour Trump

Even though there is a risk of the courts stopping him from trying to win another presidential term, Donald Trump will accept that risk.

This brings him enormous publicity in the direction he wants the discussion to move - towards re-examining the foundations of American politics and the judiciary.

Most of the possible outcomes of the proceedings before the US Supreme Court will

go in his favour. The only outcome that will mean the end of his ambition for a new presidential term would be the decision to accept the suspension of his candidacy from Colorado and now from Illinois.

However, due to the opposing views of the judges on this matter, regarded as going through uncharted territory, there is little chance of that happening. Any other decision will play into Trump's plans for the next November election.



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The Supreme Court not deciding until November will represent a victory for Trump, as it will not prevent him from running. It seems improbable that the US Supreme Court will remain silent until the November elections, but there are no guarantees that this will happen.

The judges might rule that they accept the Colorado Supreme Court's decision to suspend Trump's candidacy, but only for that state. This verdict would take into consideration the arguments that states could not engage with issues regarding the federal president's election.

The Supreme Court could potentially avoid ruling on the entire matter. It could declare the state's dispute with Trump a "**political question**", justifying its exclusion from making a decision.

Such a decision would find a foothold in the Constitution, which states that "no justiciable 'controversy' exists when parties seek

adjudication of a political question." (Article III)

Half a century ago, the Supreme Court stated 6 circumstances under which a case could be considered a "political question" and removed from the decision-making process, given that the court's decision would violate the authority of other parts of government.

Victory of populism

The ideal outcome for Trump would be rejecting the decision to suspend his candidacy since this would put an end to challenging it, referring to violating the Constitution. This alternative remains highly likely.

Whatever the outcome of Trump's case before the state courts, particularly before the Supreme Court, it has already brought political success to the former president.

Challenging his presidential candidacy before the Supreme Court reinforces the belief of his supporters that Trump is a victim of a witch hunt

Challenging his presidential candidacy before the Supreme Court reinforces the belief of his supporters that Trump is a victim of a witch hunt, where the principal actors are the courts, as an instrument for punishing Trump by the establishment.

The division in a society fuelled by the former president is based on dismissing the judiciary's authority as a second-class rather than equal government branch. Their response to electoral disputes and criminal proceedings against Trump is essentially populist, demonstrating that no one but the elected representatives of the people has the right to decide the fate of the former president.

"The people, not activist courts or unelected bureaucrats, should choose who represents them in the White House," said Don Tracy,

Illinois GOP Leader.