



Speaker's Role in Defection

For Prelims: Anti Defection Law, 10th Schedule, All India Presiding Officer's Conference, 52nd Amendment in 1985, 91st Constitutional Amendment Act, 2003, Judicial Review.

For Mains: Grounds for Defection, Speaker's Role in Defection.

Why in News?

Hearing a case related to the Maharashtra crisis in 2022 and whether a speaker facing a notice for his removal can disqualify MLAs in his assembly, the [Supreme Court \(SC\)](#) on **February 15, 2023** **maintained that Speakers should be the first authority** to decide on [disqualification](#).

- Earlier in 2016, the SC in the Nabam Rebia case had held that a Speaker or [Deputy Speaker](#) facing notice of removal cannot decide disqualification proceedings against legislators.

What are the Debates over Discretion of the Speaker's Role?

- For the past three years, the **All India Presiding Officer's Conference**, chaired by [Lok Sabha Speaker](#), has been **reviewing the Speaker's role as envisaged in the 10th Schedule of the Constitution that deals with disqualification of MPs and MLAs.**
- The focus of the discussions is to secure the legislative **speaker's dignity in this matter**. Many presiding officers have expressed views that **their role should be limited** and other mechanisms must evolve to decide cases of defection.
- One proposal being discussed is to **leave the issue of disqualification to the respective political parties** as they give tickets to the MLAs.
- During a **Speaker's Conference in Dehradun in 2021**, several participants voiced their concerns and **pointed out loopholes that often cast a shadow on the speaker's role**.

What is the 10th Schedule of the Indian Constitution?

- **About:**
 - The **Tenth Schedule of the Indian Constitution**, also known as the [Anti-Defection Law](#), was added by the **52nd Amendment in 1985**.
 - It was a response to the **toppling of multiple state governments** by party-hopping **MLAs after the general elections of 1967**.
 - It lays down the **provisions related to disqualification of members of Parliament (MPs) and State Legislatures on grounds of defection**.
- **Exception:**
 - It **allows a group of MP/MLAs to join (i.e., merge with)** another political party without inviting the penalty for defection.
 - And it **does not penalise political parties** for encouraging or accepting defecting legislators.
 - As per the 1985 Act, a '**defection**' by **one-third of the elected members** of a political party was considered a 'merger'.

- But the [91st Constitutional Amendment Act, 2003](#), changed this and now **at least two-thirds of the members of a party** must be in Favour of a "merger" for it to have validity in the eyes of the law.
- **Discretion:**
 - The **decision on questions as to disqualification on ground of defection** are referred to the Chairman or the Speaker of such House, which is subject to '[Judicial review](#)'.
 - However, the **law does not provide a timeframe** within which the presiding officer has to **decide a defection case**.
- **Grounds for Defection:**
 - If an **elected member voluntarily gives up his membership** of a political party.
 - If he/she votes or **abstains from voting** in such House contrary to any direction issued by his political party.
 - If any **independently elected member** joins any political party.
 - If any [nominated member](#) joins any political party after the expiry of six months.

Conclusion

The **role of the Speaker in defection cases** is crucial for ensuring the stability and integrity of the government and the democratic system. It is also important to note that the Speaker has to act in a **fair and impartial manner** while deciding such cases, and the decisions should be guided by the **principles of natural justice and the provisions of the Constitution**.

UPSC Civil Services Examination, Previous Year Question:(PYQ)

Q. Which one of the following Schedules of the Constitution of India contains provisions regarding anti-defection? (2014)

- (a) Second Schedule
- (b) Fifth Schedule
- (c) Eighth Schedule
- (d) Tenth Schedule

Ans: (d)

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