



## Anti-Defection Law

# ANTI-DEFECTION LAW



ADL was enacted to prevent individual MPs/MLAs from leaving one party for another

### CAUSE

- After the 1967 general elections, party-hopping MLAs led to the downfall of several state governments

### CONSTITUTIONAL PROVISIONS

- Anti-Defection Law under **10<sup>th</sup> Schedule**; inserted via **52<sup>nd</sup> Amendment** (1985)

### GROUNDS FOR DEFECTION

- Voluntary membership resignation
- Disobedience of directions of the political party
- Change of party after the election
- A nominated member joins the political party after the expiry of 6 months

### EXCEPTIONS

- Presiding officer of LS/RS
- A member who leaves party due to a merger (agreed by 2/3rd members)

*91<sup>st</sup> Amendment (2003) made it 2/3<sup>rd</sup> of the members to defect to declare a merger (earlier it was 1/3<sup>rd</sup>)*

### DECISION MAKING AUTHORITY

- Referred to the Speaker/Chairman of House
- Kihoto Hollohan vs. Zachillu and Ors (1992)** - SC said that such decisions are left to the discretion of presiding officer of LS/RS but subjected to judicial review

### ADVANTAGES

- Greater stability by restricting the shift of party relations
- Ensures loyalty of the candidates to the party
- Facilitates democratic realignment of parties by merger
- Helps reducing corruption at political level

### ISSUES

- Irrational distinction** between individual v/s group defection
- No provision for expulsion** of MPs/MLAs for their activities outside legislature
- Ambiguous timeframe** for decision-making by presiding officer of LS/RS
- 91<sup>st</sup> Amendment **doesn't recognise a 'split'** in the party but only a 'merger'

### SUGGESTIONS

- SC suggested setting up an **independent tribunal** to decide defection cases
- 2<sup>nd</sup> ARC Report** recommended transferring decision making power to higher judiciary or EC
- Former VP Hamid Ansari suggested **scope of ADL to be restricted** to conditions that may lead to loss of confidence in govt



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