



## Manipur Defections - Speaker's Powers to Disqualify

### What is the issue?

- Manipur Speaker Y Khemchand disqualified 3 Congress MLAs and the state's lone TMC (Trinamool Congress) MLA, ahead of the Rajya Sabha election.
- The decision has brought to the fore the concerns with Speaker's powers to disqualify under the Constitution.

### How did the case evolve?

- In 2017, seven legislators who won on a Congress ticket switched sides.
- With this, the BJP formed the government in Manipur.
- The Congress party asked the Speaker to disqualify these seven MLAs under the Tenth Schedule of the Constitution.
- [The Schedule provides for disqualifying members who win the election as a candidate of one party and then join another.]
- Since no action was taken by the Speaker, a writ petition was filed before the High Court of Manipur in Imphal.
- The case sought directions for the Speaker to decide on the petition within a reasonable time.
- However, the larger issue of whether a HC can direct a Speaker to decide on a disqualification petition within a certain timeframe was pending before a Constitution Bench of the Supreme Court.
- So, the High Court did not pass an order, citing this.
- The parties were left with the option to move the apex court or wait for the outcome of the cases pending before it.

### What was the pending case in the Supreme Court?

- It is the 2016 SA Sampath Kumar vs Kale Yadaiah and Others case.
- It was in relation to the disqualification of a Telangana MLA.
- A two-judge bench of the Supreme Court had asked a larger bench to clarify the legal position on -
  - i. the Speaker's powers to disqualify
  - ii. the extent to which such decisions of the Speaker can be reviewed by

the courts

### **How then did the High Court hear the case in 2018?**

- In 2018, the High Court of Manipur, refusing the preliminary objections of the Speaker, decided to hear the case on merits.
- It reasoned that the remedy under the Tenth Schedule is an alternative to moving courts.
- It thus said that if the remedy were found to be ineffective due to deliberate inaction or indecision on the part of the Speaker, the court would have jurisdiction.
- However, the High Court again did not pass orders since the larger issue was pending before the Supreme Court.
- Meanwhile, the Manipur case reached the Supreme Court.

### **What was the Supreme Court ruling?**

- In January 2020, a three-judge bench of the SC expressed its displeasure with the Speaker's lack of urgency in deciding the disqualification petitions.
- It ruled that Speakers of assemblies and the Parliament must decide disqualification pleas within a period of 3 months.
- Extraordinary circumstances are exceptions to this.
- The ruling settled the law for situations where the timing of the disqualification is misused to manipulate floor tests.
- The court also recommended the Parliament to consider taking a relook at the powers of the Speakers, citing instances of partisanship.
- The court also suggested independent tribunals to decide on disqualifications.
- In the context of Manipur, this ruling meant that Speaker Khemchand had to rule on the disqualification within 3 months since.
- Importantly, this three-judge bench also ruled that the 2016 reference to a larger bench by a two-judge bench was not needed.
- [Decisions of a larger bench are precedents, and binding on smaller benches.]

### **Why did the Court intervene again and what was the ruling?**

- Even 3 months after the Supreme Court order, the Speaker did not take a call on the disqualifications.
- On 18 March 2020, in an extraordinary move, the Supreme Court removed Manipur Minister Thounaojam Shyamkumar Singh from the state cabinet.
- It was against him that disqualification petition was also pending before the Speaker since 2017.

- The Court also restrained him “from entering the Legislative Assembly till further orders”.
- Relying on this SC verdict, on 8 June 2020, the Manipur High Court also passed similar orders in the case of the 7 Congress MLAs.

### **What is the recent happening?**

- On 17 June 2020, 3 BJP MLAs resigned.
- Also, 4 ministers in N Biren Singh’s government, all MLAs of NPP (National People's Party), switched camps.
- They offered support to the Congress.
- So, of the 7 MLAs who had in 2017 jumped to BJP, 4 MLAs once again pledged their votes to the Congress.
- One of those four and one among the seven facing disqualification, Congress MLA Paonam Brojen Singh, approached the HC against Khemchand’s conduct a day before the RS election.
- As he had filed a petition, Brojen Singh received protection from the HC and was allowed to vote in the RS election.
- Meanwhile, the HC also instructed the Speaker to announce the disqualifications only after 19 June 2020, the day of RS election.
- But, despite the HC’s instructions, Khemchand disqualified three Congress MLAs and one TMC MLA on the day of RS election.

### **What is the political agenda here?**

- The three other Congress MLAs (who had jumped to BJP in 2017) allowed to vote, went in favour of BJP.
- With the disqualifications, the Congress, which earlier had the numbers to send its candidate to the Upper House, could secure only 24 votes.
- On the other hand, erstwhile royal Leisemba Sanajaoba, the BJP’s Rajya Sabha candidate, was elected, securing 28 votes.
- [The 60-member Assembly has a current strength of 59 MLAs.]
- In essence, the disqualification decision by the Speaker worked in favour of the BJP.

### **Can the EC interfere?**

- The Congress complained to the Election Commission that one of its MLAs voted for the BJP.
- It thus sought cancellation of that vote.
- The EC, however, said that no interference from the Commission was warranted in the matter.
- The EC could not interfere or interject as far as the Speaker’s power under

the Tenth Schedule of the Constitution is concerned.

**Source: Indian Express**

**Quick Fact**

### **Tenth Schedule of the Constitution**

- The Tenth Schedule is also referred to as the anti-defection law.
- It was added to the Constitution through the Fifty-Second (Amendment) Act, 1985.
- The power for this disqualification is vested in the Speaker, who is usually a nominee of the ruling party.



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