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The Political Crisis in Maharashtra

What is the issue?

The political crisis in Maharashtra has thrown the spotlight on the anti-defection law and the roles of the Deputy Speaker and the Governor.

What is the anti-defection law?

- **Anti-defection law**- The anti-defection law punishes individual MPs/MLAs for leaving one party for another.
- It was added by 52nd Constitutional Amendment Act as the Tenth Schedule in 1985.
- **Coverage**- The law covers three kinds of scenarios.
 - When legislators elected on the ticket of a political party voluntarily give up membership of that party or vote in the legislature against the party's wishes.
 - When an MP/MLA who has been elected as an independent joins a party later.
 - When nominated legislators join a political party after six months of being appointed to the House.
- **Exemption**- The law allows a group of two-third MP/MLAs to join (i.e. merger) another political party without inviting the penalty for defection.
 - For instance, in 2019, all six MLAs of the Bahujan Samaj Party in Rajasthan joined the Congress.
- **Loophole**- The law does not provide a time-frame within which the presiding officer has to decide a defection case.

What is the background of the issue?

- The ruling Shiv Sena called a meeting of all its MLAs in Mumbai but some of its legislators have aligned themselves with the party's rebel leader.
- The party has warned its MLAs that their absence from the meeting would lead to the presumption they wanted to leave the political party.

What is the role of Speaker/Deputy Speaker in antidefection?

- **Role of Speaker**- It is the Assembly Speaker who decides whether an MLA has left a party or a group that constitutes two-thirds of a party.
- But, the position of the Speaker of the Maharashtra Assembly is currently vacant and the Deputy Speaker, Narhari Zirwal has been acting as the Speaker.

Article 180(1) of the Constitution states that the Deputy Speaker performs the Speaker's duties when the office is vacant.

- **Challenge in SC-** The deputy speaker's decision to disqualify Shinde and 15 other MLAs under the provisions of anti-defection law has been challenged in the Supreme Court.
- The petitioners stated that the deputy speaker cannot disqualify any member under the Tenth Schedule of the Constitution during the pendency of his own removal resolution.
- The rebel MLAs were given only 48 hours to submit their reply to the notice but as per the Maharashtra Legislative Assembly (Disqualification on grounds of Defection) Rules, 1986, the legislators who are disqualified are entitled to at least 7 days.
- The Supreme Court extended the deadline given to the rebel MLAs to file their responses to the disqualification notices until July 11.
- References have been made to the landmark judgment in [*Kihoto Hollohan case \(1992\)*](#), in which the Supreme Court upheld the **sweeping discretion** available to the Speaker in deciding cases of disqualification of MLAs.

What is the role of Governor in this matter?

- **Role of Governor-** The Governor has a crucial role when there is political instability in a state.
- In the ***S R Bommai case (1994)***, the court ruled that the place for deciding whether a government has lost its majority was in the legislature.
- In this case, Maharashtra Governor Bhagat Singh Koshyari has asked the state Assembly to convene a special session to conduct a floor test as per the request of the dissidents.
- **SC observations** - The directive was challenged by Shiv Sena whip in the Supreme Court arguing that the floor test is illegal because it cannot include persons facing disqualification (16 rebel MLAs).
- However, rebel MLAs' side argued that calling for the floor test is the Governor's prerogative, and that pendency of a disqualification application has nothing to do with it.
- The court agreed with the dissident MLAs and held that the Governor can direct the floor test immediately to prevent horse trading.
- **Floor test-** A floor test is a legislative procedure through which an incumbent government that is suspected to have lost majority is required to prove it still retains the confidence of the House.
- The Chief Minister moves a motion seeking a vote of confidence, on which MLAs who are present in the House vote.
- If the majority of members vote in favour, the government survives; if the CM loses the vote, the government has to resign.
- Voting can be conducted by either a voice vote or electronically.

What happened aftermath the court order?

- Maharashtra Chief Minister Uddhav Thackeray announced his resignation from the post of Chief Minister.
- Mr. Thackeray said that he was also quitting as a Member of the Legislative Council.

References

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4. <https://www.thehindu.com/news/national/maharashtra-political-crisis-floor-test-will-prevent-horse-trading-supreme-court/article65583271.ece>



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