



CRITICAL REASONING

Direction for questions: Read the passage and answer the question based on it.

The phenomenon of defections is not new to Indian politics. It has been plaguing the political landscape for over five decades. The recurrence of this evil phenomenon led to the 1985 Anti-Defection Law, which defined three grounds of disqualification of MLAs — giving up party membership; going against party whip; and abstaining from voting.

Resignation as MLA was not one of the conditions. Exploiting this loophole, the 17 rebel MLAs in Karnataka resigned, their act aimed at ending the majority of the ruling coalition and, at the same time, avoiding disqualification. However, the Speaker refused to accept the resignations and declared them disqualified. This was possible as the legislation empowers the presiding officer of the House (i.e. the Speaker) to decide on complaints of defection under no time constraint.

The law originally protected the Speaker's decision from judicial review. However, this safeguard was struck down in *Kihoto Hollohan v. Zachillhu and Others* (1992). While the SC upheld the Speaker's discretionary power, it underscored that the Speaker functioned as a tribunal under the anti-defection law, thereby making her/his decisions subject to judicial review. In *Shrimanth Balasaheb Patel & Ors vs Speaker Karnataka Legislative Assembly & Ors* (2019), where the three-judge SC bench upheld the then Karnataka Speaker's decision of disqualification of the 17 rebel MLAs. However, it struck down his ban on the MLAs from contesting elections till 2023, negating the only possible permanent solution to the problem. The Supreme Court played the role of a neutral umpire in this political slugfest. The Anti-Defection Law provided a safeguard for defections made on genuine ideological differences. The 91st Constitutional Amendment introduced in 2003 deleted the provision allowing split. The 91st Amendment also barred the appointment of defectors as Ministers until their disqualification period is over or they are re-elected, whichever is earlier.

The main issue is that the defectors treat disqualification as a mere detour, before they return to the House or government by re-contesting. This can only be stopped by extending the disqualification period from re-contesting and appointment to Chairmanships/Ministries to at least six years. The minimum period limit of six years is needed to ensure that the defectors are not allowed to enter the election fray for least one election cycle, which is five years.

[Source (edited) S.Y.Quraishi, "When a defection is a mere detour for an MLA", The Hindu, <https://www.thehindu.com/opinion/op-ed/when-defection-is-a-mere-detour-for-an-mla/article30463693.ece/>]

1. Which statement sums up the mood of the author regarding the state of Anti-Defection laws in the country?
 - (a) The author lauds the chanakya niti of political parties to find loopholes of the Anti-Defection laws in the country.
 - (b) The author is satisfied with the decisions of the Supreme Court which have curbed the practice all together.
 - (c) The author is concerned with the loopholes of the anti-defection law being used to defeat the purpose of the law itself.
 - (d) The author is satisfied with the effects of 91st amendment act to fill in the gaps of the law.

2. The recent judgement of the SC in *Shrimanth Balasaheb Patel & Ors vs Speaker Karnataka Legislative Assembly & Ors (2019)* upheld which of the following statement?
 - (a) The speaker can disqualify MLAs from their seat on account of defection and debar MLAs from contesting from the same seat till the term of the assembly expires.
 - (b) The speaker cannot disqualify MLAs from their seat if they had tendered their resignations already.
 - (c) The speaker can disqualify MLAs from their seat on account of defection but cannot bar them from contesting again even for the same seat.
 - (d) The speaker is merely a figurehead and has no power to disqualify an MLA or debar them from recontesting.
3. What amendment is the author suggesting to the current law to curb loopholes?
 - (a) Disclosure of bank account transactions of MLAs for public to see if an MLA has not been lured by money offered by another party.
 - (b) Speaker's power to disqualify and debar of MLAs found defecting should be made final and absolute.
 - (c) Deregistration of the political party which has indulged in horse trading of MLAs to bring down democratic governments.
 - (d) Extension of disqualification period from re-contesting and appointment to Chairmanships/Ministries to at least six years.
4. What is the main loophole of the current Anti-Defection Law as per the author?
 - (a) The MLAs need not disclose the money they receive from party/leaders for defecting.
 - (b) The SC has judicial overview over the decision of the Speaker of the house.
 - (c) The Whip issued has killed democratic spirits of individual MLAs.
 - (d) Disqualified MLAs can recontest for the same assembly seat with no bar from contesting elections for any period of time.
5. What is the role of the Supreme Court in matters of Anti-Defection cases?
 - (a) Supreme Court has no power to deal with decisions of the Speaker in matters dealing with Anti-Defection cases
 - (b) Supreme Court is biased towards the political party that pays the highest to the Judges as bribes.
 - (c) Supreme Court has judicial oversight over decisions taken by the Speaker in matters dealing with Anti-Defection cases.
 - (d) Supreme Court can override the Speaker and take up the role of the Speaker itself

CRITICAL REASONING - 01: ANSWER KEY

1. **Answer:** C

Explanation: The tone of the article is critical of the current status quo wherein defections are happening without any consequences on the defectors at all. He highlights the gaps in the law and tells how the entire purpose of the law is being defeated by these gaps. Therefore, the mood of the author is of concern with the loopholes of the law that are making the law in place redundant.

2. **Answer:** C

Explanation: The Judgement of the SC held that the Speaker has power to disqualify MLAs in case of defections but limited their power to quantify the time period when they can contest again. There is no law which limits the time period to recontest, therefore only option c is correct.]

3. **Answer:** D

Explanation: The author states that the major loophole of the law is that defectors are able to recontest from the same seat from different party ticket and even become ministers of the new government. This defeats the purpose of the law of defection which is to punish defectors from holding position of power. Thus by banning them from recontesting for the seats of the assembly they have been disqualified from and also by prohibiting them from becoming ministers at all. Therefore option D.

4. **Answer:** D

Explanation: The purpose of defection law is to punish those MLAs who got elected from one party ticket and then betray the trust of people and join another party for sake of power or money. The current law despite disqualifying them doesn't prohibit them from coming back to the same assembly from which they have been disqualified. Therefore, option D.

5. **Answer:** C

Explanation: The SC is the highest court of the land. Even the cases of Anti-Defection law which are matters related to an assembly for which the Constitution has given the Speaker the power to adjudicate. To avoid miscarriage of justice, the SC still has judicial oversight over such decisions. Therefore, option C.

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