

ANTI - DEFECTION LAW : AN OVERVIEW

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INTRODUCTION

The 52nd Amendment Act of 1985 provided for the disqualification of the members of parliament and the state legislatures on the ground of defection from one political party to another. For this purpose, it made changes in four Articles of the constitution. This act is often referred to as the 'anti-defection law'. Later, the 91st Amendment Act of 2003 made one change in the provisions of the Tenth schedule. It omitted exception provision. Disqualification ground of defection not to apply in case of split.

1. WHAT IS ANTI-DEFECTION LAW ?

Before defining anti-defection law, we should understand the meaning of defection. When an elected representative joins another party without resigning his present party for benefits, it is called defection. Thus a defector is one who is elected from party and enjoys power in another party. The word defection is also called as "Floor Crossing" in UK and "Carpet Crossing" in Nigeria. In India, the term used for this is "Defection". Defection is commonly known as "Horse Trading". Defectors are also called "Fence Sitters" or "Turn Coats".

2. BACKGROUND

Rajiv Gandhi, the then prime minister of India, proposed a bill to remove the evils of defection. The parliament passed the bill as a result of which anti-defection act came into force on 1st April 1985 through 52nd Constitutional Amendment.

The 52nd Amendment to the constitution laid down rules and procedures for restricting members of parliament and state legislatures from defecting from one party to the other party to the other at their sweet will. For this purpose a new schedule, known as the Tenth Schedule, incorporated in the constitution. Through this, the process by which legislators may be disqualified on grounds of defection was laid down in detail.

3. PROVISIONS OF THE ACT

The Tenth Schedule contains the following provisions with respect to the disqualification of members of

parliament and the state legislatures on the ground of defection.

A. DISQUALIFICATION

a. Member of Political Parties : A member of a house belonging to any political party becomes disqualified for being a member of the house, (a). if he voluntarily gives up his membership of such political party; or (b). if he votes or abstains from voting in such house contrary to any direction issued by his political party without obtaining prior permission of such party and such act has not been condoned by the party within 15 days.

b. Independent Members : An independent member of a house becomes disqualified to remain a member of the house if he joins any political party after such election.

c. Nominated Members : A nominated member of a House becomes disqualified for being a member of the House if he joins any political party after the expiry of six months from the date on which he takes his seat in the House. This means that he may join any political party within six months of taking his seat in the house without inviting this disqualification.

B. EXCEPTIONS

The above disqualification on the ground of defection does not apply in the two cases;

a. If a member goes out of his party as a result of a merger of the party with another party. A merger takes place when two-thirds of the members of the party have agreed to such merger.

b. If a member, after being elected as the presiding officer of the House, voluntarily gives up the membership of his party or rejoins it after he ceases to hold that office. This exemption has been provided in view of the dignity and impartiality of this office.

It must be noted here that the provision of the Tenth Schedule pertaining to exemption from disqualification in case of split by one-third members of legislative party has been deleted by the 91st Amendment Act of 2003. It means that the defectors have no more protection on grounds of splits.

C. DECIDING AUTHORITY

Any question regarding disqualification arising out of defection is to be decided by the presiding officer of the house. Originally, the act provided that the decision of the presiding officer is final and cannot be questioned in any court.

D. RULE-MAKING POWER

The presiding officer of a house is empowered to make rules to give effect to the provisions of the Tenth Schedule, all such rules must be placed before the house for 30 days. The house may approve or modify or disapprove them. Further, he may direct that any willful contravention by any member of such rules may be dealt with in the same manner as a breach of privilege of the house. According to the rules made so, the presiding officer take up a defection case only when he receives a complaint from a member of the house. Before taking the final decision, he must give the member a chance to submit his explanation. He may also refer the matter to the committee of privileges for inquire.

EVALUATION OF THE ACT

The Tenth Schedule of the constitution is designed to prevent the evil or mischief of political defections motivated by the lure of office or material benefits or other similar considerations. It is intended to strengthen the fabric of Indian parliamentary democracy by curbing unprincipled and unethical political defections. Rajiv Gandhi, the then prime minister, described it as the 'first step towards cleaning-up public life'. The then central law minister stated that the passing of the 52nd Amendment bill (anti-defection bill) by a unanimous vote by both the Houses of parliament was 'a proof, if any, of the maturity and stability of Indian Democracy'.

ADVANTAGES

The following can be cited as the advantages of the anti-defection law -

- It provides for greater stability in the body politic by checking the propensity of legislators to change parties.
- It facilitates democratic realignment of parties in the legislature by way of merger parties.
- It reduces corruption at the political level as well as non-developmental expenditure incurred on irregular elections.
- It gives, for the first time, a clear-out constitutional recognition to the existence of political parties.

CONCLUSION

The Anti-defection law was passed by the parliament in the year 1985. Thereafter almost thirty-two years have elapsed, but the law fails to curb the evil of political defection has to its desired extent due to certain inbuilt loopholes in the law. The main intent of the law was to combat "the evil of political defections". The Tenth Schedule provides for the disqualification of the members of parliament and the state legislatures on the ground of defection one political party to another. The scope, object and constitutional validity of the Tenth Schedule were examined in detail in *Kihoto Hollohon Vs Zachilhu*, case. The object is to preserve the democratic structure of the legislature and to safeguard political morality of the legislators.

REFERENCES

- Jenna Narayan (2007) : 'Defect - Shun'. Understanding Schedule X to the constitution of India, INDIA LAW JOURNAL.
- I'd., Schedule X, 2.
- Kihoto Hollohon v. Zochila and others*, AIR 1993 SC 412.
- Ravi S Naik v. Union of India*, AIR 1994 SC 1558.
- G.C. Malhotra, *Anti-Defection Law in India And the commonwealth* (lok Sabha Secretariat, 2005.).
- Keshavananda Bharati and others v. State of Kerala and Another*, AIR (1973) 4 SCC 225.
- Mannadi Satyanarayan Reddy v. Andhra Pradesh Legislative Assembly and ors* decided on 8-4-2009.
- D., Schedule X, 4.


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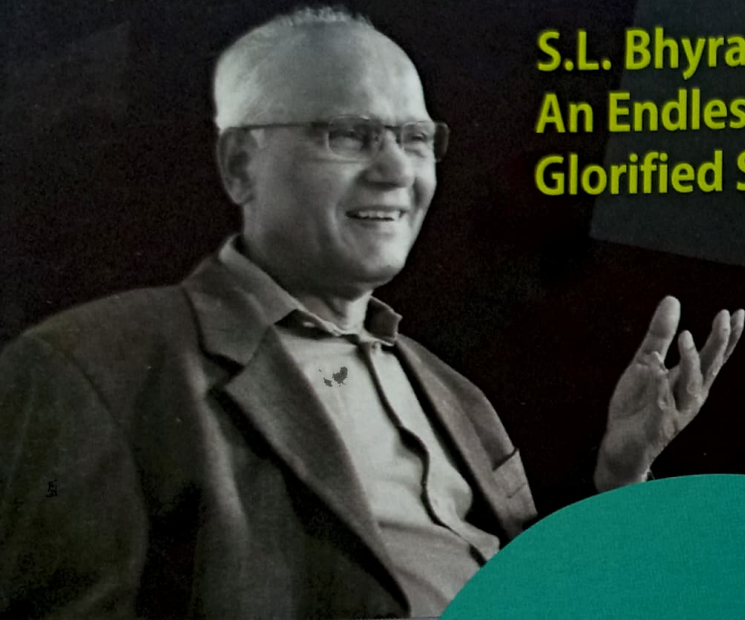


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Dimensions of Education

An International Journal of Education and Research Quarterly

Approved by the U.G.C. Care List Serial No.: 60

7th March 2020

Vol. : 9

Issue : 4

Publisher

Jayadev M. Menasagi

Vidyanidhi Prakashana, Gadag.

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DIMENSIONS OF EDUCATION

An International Journal of Education and Research Quarterly, Gadag-Karnataka

Editor : **Dr. N.B. Kongawad**, Shakti Nagar, Dharwad, Karnataka State
Printer, Publisher and Owned by: **Jayadev Mailarappa Menasagi**, Vidyandhi Prakashana, Sri Sivakumar Agency,
Station Road, Near Mahendrakar Circle, GADAG-582101 Dist. Gadag, Karnataka State, India
Printed at **Maima Akshara Mudrana**, J.T.Math Road, GADAG-582101 Dist: Gadag, Karnataka State, India
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