STUDY NOTES · BASIC CONCEPT

What Is the Anti-Defection Law, and Why Must Disqualification Petitions Be Decided Promptly?

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1. Introduction

Political defections occur when elected representatives abandon their political party or act contrary to party directions in circumstances covered by the Constitution.

Frequent defections can undermine electoral mandates, destabilise governments and weaken public confidence in representative institutions. To address this problem, India introduced the **anti-defection law through the 52nd Constitutional Amendment Act, 1985**, which added the Tenth Schedule to the Constitution.

The Supreme Court has emphasised that disqualification petitions must be decided promptly. The remaining tenure of a legislative assembly should not become a justification for allowing such proceedings to remain unresolved.

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2. What Is the Tenth Schedule?

The Tenth Schedule establishes the constitutional framework for disqualification of members of Parliament and state legislatures on grounds of defection.

A member may face disqualification in circumstances including:

- Voluntarily giving up membership of their political party.
- Voting or abstaining from voting contrary to a valid direction issued by their political party, without the applicable permission or subsequent condonation.
- Other circumstances specified under the Tenth Schedule.

Importantly, voluntarily giving up party membership does not necessarily require a formal resignation. The member's conduct may also be considered.

The merger exception under Paragraph 4 applies when the constitutional conditions, including the support of at least two-thirds of the legislature party, are satisfied.

3. Who Decides Disqualification Petitions?

Under Paragraph 6 of the Tenth Schedule, the Speaker or Chairman of the relevant legislative House decides questions of disqualification arising under the Schedule.

Institution	Role
Speaker or Chairman	Initially adjudicates disqualification petitions
High Courts	Exercise judicial review within constitutional limits
Supreme Court	Exercises appellate and constitutional jurisdiction as applicable
Parliament	Can consider legislative or constitutional reforms to improve the mechanism

While adjudicating petitions, the presiding officer performs a quasi-judicial function and must consider the applicable constitutional provisions, evidence and defence presented by the member concerned.

4. Why Are Delays a Serious Problem?

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Delayed accountability

If petitions remain pending for long periods, legislators facing disqualification proceedings may continue in office without a timely determination of their status.

Weakening of democratic mandates

Defections can alter the political balance established by voters, potentially affecting government formation and legislative decision-making.

Concerns about impartiality

Because the Speaker generally has political affiliations, delayed or contested decisions can raise questions about neutrality.

Reduced effectiveness of the law

If a decision comes only near the end of a House's tenure, the deterrent effect of the anti-defection framework may be weakened.

5. What Has the Supreme Court Said?

In *Keisham Meghachandra Singh v. Speaker, Manipur Legislative Assembly* (2020), the Supreme Court stressed the need for timely decisions on disqualification petitions and indicated that three months should ordinarily be the outer limit in the absence of exceptional circumstances.

In *Padi Kaushik Reddy v. State of Telangana* (2025), the Court again directed the Speaker to decide specified pending petitions within three months and made clear that judicial directions can be issued to ensure timely adjudication.

The underlying constitutional principle is that the Speaker's role under the Tenth Schedule does not place the adjudicatory process beyond judicial scrutiny.

6. Is the Speaker's Decision Beyond Judicial Review?

No. In *Kihoto Hollohan v. Zachillhu* (1992), the Supreme Court upheld the constitutional validity of the anti-defection framework while recognising judicial review of decisions under the Tenth Schedule, subject to constitutional limits.

Judicial intervention may address issues such as constitutional violations, mala fides, perversity or failures of natural justice. Courts can also act to ensure that disqualification petitions are decided within a reasonable period.

However, judicial review does not mean that courts routinely replace the Speaker as the original decision-maker.

7. Possible Reforms

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Reform	Expected benefit
Clear statutory or procedural timelines	Reduce unnecessary delays
Independent adjudicatory mechanism	Address concerns about political impartiality
Transparent hearings and reasoned orders	Improve accountability
Effective judicial oversight	Prevent indefinite inaction
Safeguards against deliberate obstruction	Ensure proceedings are not unnecessarily prolonged

An independent tribunal has been suggested in judicial observations as a possible alternative to the existing arrangement. Any such change would require appropriate constitutional or legislative action.

Conclusion

The anti-defection law seeks to protect the integrity of representative democracy, but its effectiveness depends on timely and impartial adjudication. The remaining tenure of a House cannot become a convenient excuse for indefinite delay. **Clear timelines, judicial oversight and institutional reform can help ensure that constitutional accountability is meaningful rather than merely procedural.**