Anti-Defection law

Prelims *– Indian Polity and Governance.*

Mains *– GS II | Significant provisions of Indian Constitution*

Why in news?

The Supreme Court (SC) is considering whether the constitutional courts can set a timeline for the speaker to decide on disqualification petitions under the Tenth Schedule (Anti-defection law).

- **Anti-defection law -** Inserted in the Constitution in *1985* through *52nd amendment act* as the *Tenth schedule*.
- **Purpose** - It lays down the process by which legislators may be disqualified on grounds of defection by the ***Presiding Officer*** of a legislature based on a petition by any other member of the House.
- The law *applies to both Parliament* and *state assemblies*.
- **Grounds of defection**
  - If he/she either voluntarily gives up the membership of his party.
  - If he/she disobeys the directives of the party leadership on a vote. This implies that a legislator defying (abstaining or voting against) the party whip on any issue can lose his membership of the House.
  - If a ***nominated member*** joins a political party after 6 months of being elected.
  - If any independently elected member joins any political party.
- **Exception** - The law allows a party to merge with or into another party provided that ***at least two-thirds*** of its legislators are in favour of the merger.
- **Time limit -** The law ***does not specify*** a period for the Presiding Officer to decide on a disqualification plea.
- **Judicial Review -** The presiding officer's decision on the legitimacy of reasons for disqualification or defection is *subject to judicial review.*

Key supreme court judgements on anti-defection law

- **Kihoto Hollohan vs Zachillhu (1992)** - The SC ruled that the Speaker's decision was subject to judicial review on grounds of malafides, violation of constitutional mandate, non-compliance with principles of natural justice, etc.
- **Keisham Meghachandra Singh vs. Speaker, Manipur Legislative Assembly (2020) -** The Court held that the Speaker cannot employ delaying tactics and has to decide the disqualification petition within a reasonable period.

References

1. The Hindu | Speakers to decide on defections

2. PRS India | What is the anti-defection law?

