

Anti-Defection Law

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Why in News?

The anti-defection law has attracted national attention with Raghav Chadha, a member of Rajya Sabha belonging to the AAP, and three others leaving AAP to join the BJP.

- **Anti-Defection law** - It was enacted in 1985 & inserted in the Constitution through the *52nd Constitutional Amendment Act as the Tenth Schedule*.
- **Purpose** - For preventing political defection where legislators elected on a party ticket leave that party to join the other party.
- It lays down the process by which legislators may be disqualified on grounds of defection.
- **Applicable** - The law applies to both *Parliament & State assemblies*.
- **Role of the Presiding Officer** - The disqualification of members is decided by the Presiding Officer of the Parliament/legislature based on a petition by any other member of the House.
- **Grounds of Defection**
 - If he/she 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.
 - **91st Constitutional Amendment Act, 2003** - It eliminates the 1/3rd "split" exception, requiring a 2/3rd merger to avoid disqualification.
- **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 Judicial findings**
 - **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.
 - **Ravi S. Naik v. Union of India (1994)** - The Court ruled that the Speaker must act as a neutral adjudicator, and an MP/MLA can be disqualified without formally

resigning if their conduct shows defection.

- **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.
- **Padi Kaushik Reddy v. State of Telangana (2025)** - The SC ruled the Speaker of the Telangana Assembly does not have constitutional immunity under Articles 122/212 when deciding disqualification petitions under the Tenth Schedule.
- Also, directed the Telangana Speaker to conclude all 10 disqualification proceedings within three months.

References

1. [Indian Express | Split in AAP 6 MPs joins BJP](#)
2. [PRS | Anti-defection law](#)

