Election of Deputy Speaker

Why in news?

Hardoi MLA Nitin Agrawal was recently elected Deputy Speaker of the Uttar Pradesh Assembly, which has barely 5 months left in its tenure.

What is the dispute involved?

- Agrawal won on a Samajwadi Party (SP) ticket in 2017, but switched loyalty to the BJP in 2018.
- In 2019, SP sought his disqualification from the Assembly under the anti-defection law.
- The petition remained pending until days before the recent election, when it was rejected by the Speaker.
- Technically, Agrawal, who was elected Deputy Speaker with BJP support, continues to be an SP member of the Uttar Pradesh Assembly.
- The developments raise several questions.
- It also brings attention to the 17th Lok Sabha which, for more than 2 years after it was constituted in 2019, remains without a Deputy Speaker.

What are the provisions in this regard?

- **Article 93** - The House of the People shall, as soon as may be, choose 2 members of the House to be respectively Speaker and Deputy Speaker.
- If the office of Speaker or Deputy Speaker becomes vacant, the House shall choose another member to be Speaker or Deputy Speaker.
- **Article 178** - Corresponding position for Speaker and Deputy Speaker of the Legislative Assembly of a state.
- **Rule 8** - In Lok Sabha, the election of Deputy Speaker is governed by Rule 8 of The Rules of Procedure and Conduct of Business in Lok Sabha.
- Accordingly, the election "shall be held on such date as the Speaker may fix."
- The Deputy Speaker is elected once a motion proposing his name is carried.
- There are similar provisions in the State Legislative Assembly Rules.

Mandatory

- Both Articles 93 and 178 use the words "shall" and "as soon as may be."
- So, not only is the election of Speaker and Deputy Speaker mandatory, but it must also be held at the earliest.

Time-frame for election

- The Constitution says that the election must be held "as soon as possible".
- **Speaker** (Both Lok Sabha and state Legislative Assemblies) – Usually elected during the first session of the new House.
- Usually on the 3rd day, after oath-taking and affirmations take place over the first 2 days.
- **Deputy speaker** - Usually takes place in the second session (sometimes in first session too);

not delayed beyond that without genuine and unavoidable constraints.

Tenure

- Once elected, the Deputy Speaker usually continues in office until the dissolution of the House.
- Article 94 (Article 179 for state legislatures) - The Speaker or Deputy Speaker shall vacate the office if she ceases to be a member of the House of the People.
- They may also resign (to each other), or may be removed from office by a resolution of the House passed by a majority of all the then members of the House.

Powers - Deputy Speaker

- Article 95(1) - While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker.
- In general, the Deputy Speaker has the same powers as the Speaker when presiding over a sitting of the House.
- All references to the Speaker in the Rules are deemed to be references to the Deputy Speaker when she presides.
- No appeal lies to the Speaker against a ruling given by the Deputy Speaker or any person presiding over a sitting of the House in the absence of the Speaker.

Disqualification

- Being Deputy Speaker does not protect an MP or MLA from the law of disqualification, except for the following exemptions in Para 5 of the 10th Schedule to the Constitution (anti-defection law):
- Elected Speaker/ Deputy Speaker shall not be disqualified if she, by reason of election to that office, voluntarily gives up the membership of the political party to which she belonged immediately before such election and does not (as long as in that office) thereafter rejoin that political party or become a member of another political party.
- This exemption applies to the Rajya Sabha Deputy Chairman, Chairman/ Deputy Chairman of a state Legislative Council, and Speaker/ Deputy Speaker of a state Legislative Assembly as well.

Judicial intervention

- Article 122(1) - The validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of procedure.
- There is no precedent of a court forcing the legislature to elect the Deputy Speaker.
- However, the courts do have jurisdiction to at least enquire why there has been no election to the post of Deputy Speaker, since the Constitution does envisage an election “as soon as may be”.
- A petition before the Delhi HC has argued that the delay in the election of the Lok Sabha Deputy Speaker violates Article 93 of the Constitution.

Source: The Indian Express

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