High Court's Verdict on AAP MLAs' Disqualification

Why in news?

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- The Delhi High Court quashes presidential notification disqualifying 20 AAP MLAs on EC's recommendation.
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- Click here to know more on EC's disqualification.
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What is the Court's verdict?

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- Earlier the High Court refused to stay the disqualification notification.
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- But it restrained the ECI from taking any “precipitate measures” such as announcing dates for bypolls to fill the vacancies.
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- The Court has now said the Election Commission recommendation in the office-of-profit case was “bad in law”.
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- It said the principles of natural justice had been violated by the EC.
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- This is because of EC's failure to give the MLAs an oral hearing or opportunity to address their argument on merits.
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What are the directives?

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- The High Court thus directed the EC to hear the arguments afresh by giving the MLAs a proper hearing.
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- It also directed the EC to decide the “all important and seminal issue” of what is meant by “office-of-profit in government”.
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- This is the first time in over 20 years that the Commission’s opinion in an office-of-profit case has been set aside by a court.
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What is the CEC's recusal issue?

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- Earlier, one of the then Commissioners, O.P. Rawat had recused himself from the reference proceedings.
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- He decided to stay away from the proceedings after the Delhi CM questioned his independence in dealing with the case.
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- Rawat later agreed to rejoin the reference proceedings without informing the AAP.
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- The Delhi High Court questioned the EC of not informing on the rejoining or withdrawal of recusal by Rawat to the AAP.
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- As informing it would have affected the response of the petitioners.
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What is the Court's observation?

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- The Bench observed that no one could act in a judicial capacity if the previous conduct gives grounds for believing that She/he cannot act with an open mind and impartially.
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- The broad principle is that the person trying a case must act fairly as well as the acts should be above suspicion of unfairness or bias.
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- These observations are relevant on the question of rejoining of Mr. Rawat after recusal.
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- In this context, the Court rightly accepts the petitioners' view that they were kept in dark.

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- In all, there have been errors and lapses which make the EC's decision questionable.
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Source: The Hindu

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