Manipur Defections - Speaker's Powers to Disqualify

What is the issue?

- Manipur Speaker Y Khemchand disqualified 3 Congress MLAs and the state's lone TMC (Trinamool Congress) MLA, ahead of the Rajya Sabha election.
- The decision has brought to the fore the concerns with Speaker's powers to disqualify under the Constitution.

How did the case evolve?

- In 2017, seven legislators who won on a Congress ticket switched sides.
- With this, the BJP formed the government in Manipur.
- The Congress party asked the Speaker to disqualify these seven MLAs under the Tenth Schedule of the Constitution.
- [The Schedule provides for disqualifying members who win the election as a candidate of one party and then join another.]
- Since no action was taken by the Speaker, a writ petition was filed before the High Court of Manipur in Imphal.
- The case sought directions for the Speaker to decide on the petition within a reasonable time.
- However, the larger issue of whether a HC can direct a Speaker to decide on a disqualification petition within a certain timeframe was pending before a Constitution Bench of the Supreme Court.
- So, the High Court did not pass an order, citing this.
- The parties were left with the option to move the apex court or wait for the outcome of the cases pending before it.

What was the pending case in the Supreme Court?

- It is the 2016 SA Sampath Kumar vs Kale Yadaiah and Others case.
- It was in relation to the disqualification of a Telangana MLA.
- A two-judge bench of the Supreme Court had asked a larger bench to clarify the legal position on -
    i. the Speaker's powers to disqualify
    ii. the extent to which such decisions of the Speaker can be reviewed by the courts

How then did the High Court hear the case in 2018?

- In 2018, the High Court of Manipur, refusing the preliminary objections of the Speaker, decided to hear the case on merits.
- It reasoned that the remedy under the Tenth Schedule is an alternative to moving courts.
- It thus said that if the remedy were found to be ineffective due to deliberate inaction or indecision on the part of the Speaker, the court would have jurisdiction.
- However, the High Court again did not pass orders since the larger issue was pending before the Supreme Court.
- Meanwhile, the Manipur case reached the Supreme Court.

What was the Supreme Court ruling?

- In January 2020, a three-judge bench of the SC expressed its displeasure with the Speaker's lack of urgency in deciding the disqualification petitions.
- It ruled that Speakers of assemblies and the Parliament must decide disqualification pleas within a period of 3 months.
- Extraordinary circumstances are exceptions to this.
- The ruling settled the law for situations where the timing of the disqualification is misused to manipulate floor tests.
- The court also recommended the Parliament to consider taking a relook at the powers of the Speakers, citing instances of partisanship.
- The court also suggested independent tribunals to decide on disqualifications.
- In the context of Manipur, this ruling meant that Speaker Khemchand had to rule on the disqualification within 3 months since.
- Importantly, this three-judge bench also ruled that the 2016 reference to a larger bench by a two-judge bench was not needed.
- [Decisions of a larger bench are precedents, and binding on smaller benches.]

Why did the Court intervene again and what was the ruling?

- Even 3 months after the Supreme Court order, the Speaker did not take a call on the disqualifications.
- On 18 March 2020, in an extraordinary move, the Supreme Court removed Manipur Minister Thounaojam Shyamkumar Singh from the state cabinet.
- It was against him that disqualification petition was also pending before the Speaker since 2017.
- The Court also restrained him "from entering the Legislative Assembly till further orders".
- Relying on this SC verdict, on 8 June 2020, the Manipur High Court also passed similar orders in the case of the 7 Congress MLAs.

What is the recent happening?

- On 17 June 2020, 3 BJP MLAs resigned.
- Also, 4 ministers in N Biren Singh's government, all MLAs of NPP (National People's Party), switched camps.
- They offered support to the Congress.
- So, of the 7 MLAs who had in 2017 jumped to BJP, 4 MLAs once again pledged their votes to the Congress.
- One of those four and one among the seven facing disqualification, Congress MLA Paonam Brojen Singh, approached the HC against Khemchand's conduct a day before the RS election.
- As he had filed a petition, Brojen Singh received protection from the HC and was allowed to vote in the RS election.
- Meanwhile, the HC also instructed the Speaker to announce the disqualifications only after 19 June 2020, the day of RS election.
- But, despite the HC's instructions, Khemchand disqualified three Congress MLAs and one TMC MLA on the day of RS election.

What is the political agenda here?

- The three other Congress MLAs (who had jumped to BJP in 2017) allowed to vote, went in favour of BJP.
- With the disqualifications, the Congress, which earlier had the numbers to send its candidate to the Upper House, could secure only 24 votes.
- On the other hand, erstwhile royal Leisemba Sanajaoba, the BJP's Rajya Sabha candidate, was elected, securing 28 votes.
- [The 60-member Assembly has a current strength of 59 MLAs.]
- In essence, the disqualification decision by the Speaker worked in favour of the BJP.

Can the EC interfere?

- The Congress complained to the Election Commission that one of its MLAs voted for the BJP.
- It thus sought cancellation of that vote.
- The EC, however, said that no interference from the Commission was warranted in the matter.
- The EC could not interfere or interject as far as the Speaker's power under the Tenth Schedule of the Constitution is concerned.

Source: Indian Express

Quick Fact

Tenth Schedule of the Constitution

- The Tenth Schedule is also referred to as the anti-defection law.
- It was added to the Constitution through the Fifty-Second (Amendment) Act, 1985.
- The power for this disqualification is vested in the Speaker, who is usually a nominee of the ruling party.

