Question over Oath-Taking Ceremony in Maharashtra

Why in news?

Former CM of Maharashtra, Devendra Fadnavis, alleged that the oath-taking ceremony of the new government under Uddhav Thackeray had violated the Constitution.

What is the charge made?

- On the first day of the Assembly session, Devendra Fadnavis alleged that Constitutional norms were flouted in the oath-taking ceremony.
- He was referring to the invocation by Chief Minister Uddhav Thackeray and each Minister.
- They made invocations at the start of the oath, before reading out the text, which Fadnavis alleged had altered the oath itself.
- [Thackeray invoked Chattrapati Shivaji and “my parents.”
- Eknath Shinde named Bal Thackeray, Ananda Dhige (a Thane Shiv Sena leader who died in 2000), Uddhav Thackeray, and Shivaji.
- Others mixedly invoked Bal Thackeray, Shivaji, Sharad Pawar, Mahatma Phule, Chattrapati Shahu, Babasaheb Ambedkar, Sonia Gandhi, Rahul Gandhi, and the Buddha.]

What does the Constitution specify?

- The mandates are specified in Article 164(3).
- Accordingly, before a Minister enters upon his/her office, the Governor shall administer to him/her the oaths of office and of secrecy.
- This must be according to the forms set out for the purpose in the Third Schedule.
- The Schedule requires the oath-taker either to “swear in the name of God” or “solemnly affirm” to “bear true faith and allegiance to the Constitution…”.
- It is widely accepted that Art 164 makes it clear that the text of the oath is sacrosanct.
- So, the person taking the oath has to read it out exactly as it is, in the given format.
- If a person wanders from the text, it is the responsibility of the person administering the oath to interrupt and ask the person being sworn in to read it out correctly.

- In this case, it was the Governor's responsibility.

Are the objections valid?

- Addition of something before or after the oath is not unlawful as long as the substance of the oath is unaltered.
- The Governor's approval is key in this regard.
- According to experts, if the person administering the oath approves the oath, the matter is closed.
- Immediately on taking the oath, the person who has been sworn in, must sign a register.
- The register is attested by the Secretary to the Governor, which means it has been approved by the Governor.
- In Maharashtra, that approval was also formalised by a gazette notification on the appointment of the CM and 6 ministers.
- So, once Governor takes it as read, it has been attested and the gazette notification has come out, then it can no longer be legally challenged.

What were the earlier instances of deviation?

- The most famous case of a political leader changing the oath was in 1989.
- Devi Lal inserted the words "Deputy Prime Minister" as he was being sworn in to Prime Minister V P Singh's cabinet.
- He was corrected by President R Venkataraman.
- In 2012, Azam Khan of the Samajwadi Party had to retake his oath in Uttar Pradesh.
- This was because he skipped the oath of office, and only took the oath of secrecy.

Source: Indian Express

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