

Supreme Court on MLAs' Disqualification

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Why in News?

The Supreme Court dismissed a plea challenging the Tamil Nadu Speaker's decision to drop disqualification proceedings against AIADMK MLAs who backed the TVK-led government in a confidence vote.

Tenth Schedule: Anti-Defection Law

- **Incorporated through** - 52nd Constitutional Amendment Act of 1985 to address the issue of political defections by legislators.

Constitutional Provisions	
Article / Provision	Significance
 Article 102(2)	Disqualification of a Member of Parliament under the Tenth Schedule.
 Article 191(2)	Disqualification of a State Legislature member under the Tenth Schedule.
 Tenth Schedule, Paragraph 2	Grounds for disqualification on the basis of defection.
 Tenth Schedule, Paragraph 4	Exception relating to merger of political parties, subject to specified conditions.
 Tenth Schedule, Paragraph 6	Decision on disqualification by the Chairman or Speaker.
 Tenth Schedule, Paragraph 7	Attempts to exclude court jurisdiction; declared unconstitutional by the Supreme Court in Kihoto Hollohan.
 Article 212	Courts generally cannot question legislative proceedings merely on the ground of procedural irregularity.

Authority Responsible for Deciding Disqualification

- The Speaker of the Legislative Assembly is responsible for deciding disqualification matters concerning Members of the Legislative Assembly (MLAs) under the Tenth Schedule.
- For members of Parliament, the Chairman of the Rajya Sabha or the Speaker of the Lok Sabha, as applicable, determines questions of disqualification.

- Such decisions are subject to judicial review, as established in **Kihoto Hollohan v. Zachillhu (1992)**.

Important Supreme Court Judgments

Judgment	Key principle
Kihoto Hollohan v. Zachillhu (1992)	Speaker's decisions under the Tenth Schedule are subject to judicial review.
Ravi S. Naik v. Union of India (1994)	Voluntarily giving up party membership can be inferred from conduct.
Keisham Meghachandra Singh v. Speaker, Manipur Legislative Assembly (2020)	The Supreme Court recommended that Parliament consider an independent mechanism for deciding disqualification petitions, instead of leaving the function exclusively to the Speaker.

Reference

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