Verdict on TN MLAs Disqualification

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What is the issue?

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- 18 MLAs in Tamil Nadu were disqualified by the Assembly Speaker earlier.
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- A split verdict has been given, regarding the disqualifications, by a two-member Bench of the Madras HC.
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What is the case on?

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- The case relates to a memorandum given by Mr. Dhinakaran’s loyalists to the Governor earlier in 2017.
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- They belong to the Amma Makkal Munnetra Kazhagam, a split party of the ruling ADMK.
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- The memorandum expressed lack of confidence in the Chief Minister.
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- It requested the Governor to set in motion a “constitutional process” against him.
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- Following thus, on party’s Chief Whip's complaint, the Speaker ruled that the MLAs had incurred disqualification.
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- This was on the ground that their action amounted to voluntarily giving up party membership.
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- It thus eventually invited provisions of the anti-defection law.
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What is the rationale for upholding the disqualification?

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- Both judges are cognisant of the limits of judicial review on the matter.
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- But the Chief Justice Indira Banerjee upheld the earlier order of disqualification.
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- She has declined to interfere on the matter.
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- This was on the ground that it was proper to examine only the decision-making process, and not its merits.
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- Mere criticism of the CM or withdrawal of support, by itself, would not attract disqualification.
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- However, if the MLAs' action results in the fall of their party's government, it is "tantamount to implied relinquishment" of their membership.
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- Going by this, there seems to be no perversity or mala fide in the Speaker's action.
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What is the rationale for striking down the disqualification?

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- The other judge, Justice M. Sundar has noted that the Speaker's order is invalid.
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- He terms as mala fide the Speaker's decision not to apply the disqualification rule.
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- This is based on all the four grounds on which judicial review in such cases is permitted.
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- These are perversity, mala fide, violation of natural justice and the constitutional mandate.
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- The Speaker's order was aimed at creating an "artificial majority".

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- The question of voluntarily giving up membership would not arise in this case.
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- This is because the party itself was embroiled in a factional tussle before the Election Commission.
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What are the implications?

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- The matter will now be referred to a third judge.
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- The option would be to choose between the limited view of the decision-making process or the other more expansive view.
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- The issue leaves as many as 18 Assembly constituencies unrepresented.
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- A unanimous judgment would have adversely impacted the government, regardless of the decision.
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- The split judgment on the MLAs' case gives a further lease of life to the TN Chief Minister.
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- But it prolongs the political uncertainty in Tamil Nadu.
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Source: The Hindu

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