

Anti-Defection law

Prelims - Indian Polity and Governance.

Mains - GS II | Significant provisions of Indian Constitution

Why in news?

The Supreme Court (SC) is considering whether the constitutional courts can set a timeline for the speaker to decide on disqualification petitions under the Tenth Schedule (Anti-defection law).

- **Anti-defection law** - Inserted in the Constitution in 1985 through 52nd amendment act as the Tenth schedule.
- **Purpose** - It lays down the process by which legislators may be disqualified on grounds of defection by the **Presiding Officer** of a legislature based on a petition by any other member of the House.
- The law applies to both Parliament and state assemblies.
- **Grounds of defection**
 - If he/she either voluntarily gives up the membership of his party.
 - If he/she disobeys the directives of the party leadership on a vote. This implies that a legislator defying (abstaining or voting against) the party whip on any issue can lose his membership of the House.
 - If a **nominated member** joins a political party after 6 months of being elected.
 - If any independently elected member joins any political party.
- **Exception** - The law allows a party to merge with or into another party provided that **at least two-thirds** of its legislators are in favour of the merger.
- **Time limit** - The law **does not specify** a period for the Presiding Officer to decide on a disqualification plea.
- **Judicial Review** - The presiding officer's decision on the legitimacy of reasons for disqualification or defection is subject to judicial review.

Key supreme court judgements on anti-defection law

- **Kihoto Hollohan vs Zachillhu (1992)** - The SC ruled that the Speaker's decision was subject to judicial review on grounds of malafides, violation of constitutional mandate, non-compliance with principles of natural justice, etc.
- **Keisham Meghachandra Singh vs. Speaker, Manipur Legislative Assembly (2020)** - The Court held that the Speaker cannot employ delaying tactics and has to decide the disqualification petition within a reasonable period.

References

1. [The Hindu | Speakers to decide on defections](#)

2. [PRS India | What is the anti-defection law?](#)

