

## Disqualification of MLAs - II

### What is the issue?

\n\n

The recent disqualification of 18 MLAs in Tamil Nadu by the Speaker brings to the fore certain constitutional questions on the role of the Governor and the Speaker.

\n\n

### What are the contentious issues?

\n\n

\n

- **Governor** - The Governor in this case is showing reluctance to order a floor test, despite a request from the opposition party.

\n

- A Constitution Bench has earlier observed that the activities within a political party, as to any turbulence or unrest, were beyond the concern of the Governor.

\n

- The Governor can intervene only when a breakaway group constitutes two-thirds of a party, as stipulated in the Tenth Schedule.

\n

- However, notably the Bench adds that the Governor should take action during a constitutional crisis i.e. when the government is seen to have lost the confidence of or majority in the House.

\n

- Thus the court bars Governors only from political embroilment and not restrict their constitutional duty and responsibility.

\n

- **Court** - On petitions challenging the Speaker's order of disqualifying the MLAs, the court had extended a stay on conducting the floor test.

\n

- Instead, a stay on the disqualification would have addressed the fears of those disqualified as well as obviated the need for the questionable stay on the floor test to be extended.

\n

- The court could have then adjudicated only the constitutional question on

whether the Governor ought to be directed to order a trust vote.

\n

- **Speaker** - The main question in Speaker's order is that would expressing lack of confidence in the Chief Minister amount to voluntarily giving up the party membership.

\n

- Disqualifying rebellious MLAs as a way of ensuring the majority of a Chief Minister is highly questionable and needs scrutiny.

\n

\n\n

## **What should be done?**

\n\n

\n

- The constitution holds floor test as a significant means to ascertaining the confidence and majority of the elected government.

\n

- The partisan element in anti-defection law and the adjudicatory power of the Speaker seem to be defeating this purpose.

\n

- This creates the need for transferring the power to an independent body such as the Election Commission.

\n

- Also, the Speaker's role should be reassessed and a law should be put in place to prevent manipulation while conducting a floor test.

\n

\n\n

\n\n

**Source: The Hindu**

\n

