

High Court's Verdict on AAP MLAs' Disqualification

Why in news?

 $n\n$

\n

• The Delhi High Court quashes presidential notification disqualifying 20 AAP MLAs on EC's recommendation.

\n

Click <u>here</u> to know more on EC's disqualification.

 $n\n$

What is the Court's verdict?

 $n\n$

\n

- Earlier the High Court refused to stay the disqualification notification.
- But it restrained the ECI from taking any "precipitate measures" such as announcing dates for bypolls to fill the vacancies.
- The Court has now said the Election Commission recommendation in the office-of-profit case was "bad in law".
- It said the principles of natural justice had been violated by the EC.
- \bullet This is because of EC's failure to give the MLAs an oral hearing or opportunity to address their argument on merits. $\mbox{\sc h}$

 $n\n$

What are the directives?

 $n\n$

\n

• The High Court thus directed the EC to hear the arguments afresh by giving the MLAs a proper hearing.

\n

- It also directed the EC to decide the "all important and seminal issue" of what is meant by "office-of-profit in government".
- \bullet This is the first time in over 20 years that the Commission's opinion in an office-of-profit case has been set aside by a court. $\$

 $n\$

What is the CEC's recusal issue?

 $n\n$

\n

• Earlier, one of the then Commissioners, O.P. Rawat had recused himself from the reference proceedings.

\n

• He decided to stay away from the proceedings after the Delhi CM questioned his independence in dealing with the case.

\n

• Rawat later agreed to rejoin the reference proceedings without informing the AAP.

\n

• The Delhi High Court questioned the EC of not informing on the rejoining or withdrawal of recusal by Rawat to the AAP.

\n

 \bullet As informing it would have affected the response of the petitioners.

 $n\n$

What is the Court's observation?

 $n\n$

\n

• The Bench observed that no one could act in a judicial capacity if the previous conduct gives grounds for believing that She/he cannot act with an open mind and impartially.

\n

- \bullet The broad principle is that the person trying a case must act fairly as well as the acts should be above suspicion of unfairness or bias. \n
- These observations are relevant on the question of rejoining of Mr. Rawat after recusal.

۱n

• In this context, the Court rightly accepts the petitioners' view that they were kept in dark.

\n

 \bullet In all, there have been errors and lapses which make the EC's decision questionable. $\ensuremath{\backslash n}$

\n\n

 $n\n$

Source: The Hindu

\n

