



# Speaker cannot be indecisive on pleas over defection : SC

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## Context

- Hearing petitions filed by Bharat Rashtra Samithi (BRS) leaders seeking timely action by the Telangana Speaker on disqualification proceedings pending against 10 MLAs who shifted allegiance to the ruling Congress party in the State, the Bench headed by Justice B.R. Gavai said a **Speaker could not use his indecision to defeat the worthy objective of the Tenth Schedule (anti-defection law) of the Constitution.**
- **The courts cannot certainly tell a Speaker to decide in a particular manner, but can it not tell a Speaker to decide within a specified and reasonable period,** Justice Gavai asked. Fact
- The main question in the case is whether constitutional courts cannot direct **Speakers, who act as quasi-judicial tribunals under the anti-defection law, to decide petitions filed with them under the Tenth Schedule** within a specified period.

## What is an Anti-Defection Law?

### About:

The anti-defection law punishes **individual Members of [Parliament \(MPs\)](#)/[Members of the Legislative Assembly \(MLAs\)](#)** for **leaving one party for another.**

Parliament added it to the Constitution as the **Tenth Schedule** in 1985 in order to bring **stability to governments by discouraging legislators** from changing parties.

The Tenth Schedule - popularly known as the **Anti-Defection Act** - was included in the Constitution via the **52nd Amendment Act, 1985.**

It sets the provisions for the **disqualification of elected members** on the **grounds of defection to another political party.**

It was a response to the **toppling of multiple state governments by party-hopping MLAs after the general elections of 1967.**

### Does not Penalise Group MP/MLAs:

However, it **allows a group of MP/MLAs to join (i.e., merge with) another political party without inviting the penalty for defection.** And it does not penalise political parties for encouraging or accepting defecting legislators.

As per the **1985 Act**, a '**defection**' by **one-third of the elected members** of a political party was considered a '**merger**'.

But the [91st Constitutional Amendment Act, 2003](#), changed this and now **at least two-thirds of the members of a party must be in favour of a "merger"** for it to have validity in the eyes of the law.

The members disqualified under the law **can stand for elections from any political party for a seat in the same House but cannot become a minister**

The decisions on questions as to disqualification on ground of defection are referred to the [Chairman or the Speaker](#) of such House, **which is subject to 'Judicial review'**.

However, **the law does not provide a timeframe** within which the presiding officer has to decide a defection case.

### **Grounds for Defection:**

**Voluntary Give Up:** If an elected member **voluntarily gives up his membership of a political party**.

**Violation of Instructions:** If **he votes or abstains from voting in such House contrary** to any direction issued by his political party or anyone authorized to do so, without obtaining prior permission.

**Independent Elected Member:** If any independently elected member **joins any political party**.

**Nominated Member:** If any nominated member joins any political party **after the expiry of six months**.