

- 1. THE ADJUDICATION AUTHORITY ON MATTERS RELATED TO DISQUALIFICATION OF MPS/ MLAS IS THE PRESIDING OFFICER, WHO IS USUALLY A MEMBER OF THE RULING PARTY. DO YOU THINK THIS PROVISION OF ANTI-DEFECTION LAW IS JUSTIFIED? WHILE GIVING YOUR ARGUMENTS, DISCUSS IF AN EXTERNAL NEUTRAL BODY SUCH AS THE ELECTION COMMISSION WOULD HAVE BEEN A BETTER OPTION FOR THIS TASK.**

The intent to dispense with the evil of political defections which undermine the very foundation of democracy and the principles that sustain it has been met in some measure with the passage of Anti-defection law in 1985. The provisions of the law enumerated in Tenth Schedule to the Constitution state, inter alia, that the decision on defection will be taken by the speaker and such decision thereto is final. The speaker is considered a true guardian of the traditions of parliamentary democracy. He holds fourth place in the Warrant of Precedence and his office has significant historic values. On election, the speaker resigns from his political party. Speaker decides the question of disqualification as an adjudicating authority. The power so enjoyed by the Speaker or Chairman to decide whether a member of either House of Parliament has incurred any disqualification is not discretionary. If the member in question attract para 2 (1), (2) or (3) 8 of the said law, then disqualification will apply and the Speaker makes decision accordingly. So, the Speaker acts in the Tenth Schedule only when there is a claim of disqualification made before him under para 2. When the members constitute the House, the decision regarding their fate in case of disqualification should rests upon the head, the Speaker. The Election Commission, a constitutional body, is solely concerned as an external agency to administering elections to the legislatures but not eligible to find passage inside the House. This secures the Legislature's sanctity and dignity in a parliamentary dispensation.