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Drastic, but necessary

Speakers must realise that deliberate inaction on defection matters is no more an option

The Supreme Court's order stripping a Manipur Minister of his office and barring him from entering the State Assembly may appear drastic and unusual, but is quite a reasonable and necessary course of action. T. Shyamkumar was elected as a Congress candidate, but defected to the BJP to join the Biren Singh Cabinet. In a landmark judgment in January, which put an end to the deliberate inaction of Presiding Officers on petitions for disqualifying defectors, a Bench headed by Justice Rohinton F. Nariman had ruled that courts have the power to fix a time-frame for Speakers to dispose of petitions under the anti-defection law. In the Manipur case, the court had given a reasonable period of four weeks – the defection complaint is pending since 2017 – but the Speaker failed to comply with it. On March 4, he had promised a decision within 10 days, but on March 18, he again sought time. It is in this background that the court invoked its extraordinary powers under Article 142 of the Constitution to take the sort of measures that would kick in if the defector concerned had been disqualified. The order is interim in nature, and the next hearing is on March 30. This means that the Speaker can still decide the matter, but a strong message has been sent out that courts will no more aid them in their attempts to protect defectors from the consequences of their floor-crossing.

The possible objections to the order keeping the Minister out are two-fold: that it goes beyond the court's power of judicial review, and that any intervention in a matter under the Tenth Schedule of the Constitution (the anti-defection law) can be made only after the Speaker's final decision. However, it ought to be borne in mind that it was out of respect for the Speaker's powers that the court refrained from deciding the matter itself, though there was ample evidence that the Speaker had failed to discharge his duty. His obvious reluctance to decide the matter even within an extended deadline necessitated the latest course of action. In any case, as pointed out in the January verdict, a 2007 precedent (*Rajendra Singh Rana*) is available to show that 'failure to exercise jurisdiction' is a stage at which the court can intervene. The order is a natural follow-on measure after the earlier decision opened a window for judicial intervention whenever Speakers refuse to act on legitimate complaints that some members had incurred disqualification. It is quite disappointing that the Manipur Speaker did not meet the court's deadline even after it was made clear that inaction is no more a legal option for him. This only underscores the importance of the other limb of the court's earlier judgment recommending that Parliament consider creating a new mechanism to replace the 'Speaker' as the adjudicating authority under the Tenth Schedule.