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19

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# Raj speaker moves SC over HC order to defer disqualification

## Cites SC's 1992 Hollohan Judgment

Dhananjay Mahapatra  
@timesgroup.com

**New Delhi:** The Rajasthan assembly speaker moved the Supreme Court on Wednesday challenging the high court's July 21 request-cum-directive to defer till July 24 the disqualification proceedings against 19 rebel Congress MLAs led by Sachin Pilot though he had indicated on Tuesday to abide by the HC's directive.

The postponement of disqualification proceedings in deference to the HC directive overnight changed into a challenge before the SC through a special leave petition (SLP), in which the speaker questioned the HC's jurisdiction to intervene in pending disqualification proceedings, in which notices were issued to the rebel MLAs on July 14 to respond by July 17. The MLAs had challenged the validity of the notices before the HC, which reserved its decision after conclusion of arguments on Tuesday.

A bench of Justices Arun Mishra, B R Gavai and Krishna Murari is scheduled to hear the petition on Thursday.

The speaker said the HC could not have directed him on a pending disqualification



Assembly speaker C P Joshi said the disqualification process is part of assembly proceedings and the HC could not intervene

proceeding and it amounted to interference in the proceedings of the House.

Raising a fundamental question against the HC's jurisdiction, the speaker said the SC, in its landmark Kihoto Hollohan judgement in February 1992, had barred judicial intervention in disqualification proceedings pending before the speaker.

The speaker said in the Hollohan judgment, the SC had ruled that "judicial review cannot be available at a stage prior to the making of a decision by the speaker/Chairman and a 'quia time' action would not be permissible. Nor would interference be permissible at an interlocutory stage of the proceedings."

"The proceedings under the Tenth Schedule before the speaker are proceedings of the legislature and, as such, cannot be interfered with as repeatedly held by

the SC as envisaged under Article 212 read with para 6(2) of the Tenth Schedule," the speaker said in his petition filed through advocate Sunil Fernandes.

Because of these reasons, "the impugned order is ex-facie illegal, perverse and in derogation of the powers of the speaker under the Constitution and hence deserves to be set aside," the speaker said.

"The HC order is in effect a stay on the powers of the speaker under the Tenth Schedule to adjudicate on a disqualification petition. Merely because the rebel MLAs sought to challenge the constitutional validity of Para 2(1)(a), the same cannot be a ground for constricting the power of the speaker to even call for reply in the disqualification proceedings of which he is the master till the final decision is rendered," the speaker added.

## ED rejects victimisation claims of Cong

► Continued from page 1

The searches were conducted immediately after registering a probe under the Prevention of Money Laundering Act (PMLA) to seize documents and financial statements to establish money trails.

He also said the fertiliser scam case was first registered by the Directorate of Revenue Intelligence in Ahmedabad sometime in 2009-10 when Congress-led UPA was in power. After investigation and questioning of Gehlot, a showcause notice was filed against him holding him guilty along with others in the alleged fraud.

"It was during the UPA regime in 2013 that the customs had imposed a penalty of Rs 61 crore on Gehlot and his firm for the fertiliser scam," said the ED officer, refuting claims of victimisation by Congress functionaries.

Gehlot had earlier claimed that some companies might have purchased fertiliser from him as middlemen and exported instead of distributing it to farmers. The customs authorities, however, rejected the defence, citing what they called evidence of alleged forgery of documents directly involving the CM's elder brother.