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**Advantage Raj
rebels as SC
lets HC rule on
disqualification**

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Dhananjay.Mahapatra
@timesgroup.com

New Delhi: The Supreme Court on Thursday refused to oblige the Rajasthan Speaker who had rushed with a petition to prevent the high court from deciding the validity of his notice to rebel Congress MLAs, including Sachin Pilot, on disqualification petitions: a development which will put the Congress government headed by Ashok Gehlot in a tight spot and intensify political activity in the state.

The court has scheduled further hearing in the matter on Monday which means the 19 rebel Congress MLAs led by Pilot could breathe easy till then even if the HC's order on Friday upholds the Speaker's notices on party chief whip Mahesh Joshi's petition seeking their disqualification. The Speaker promised not to go ahead with disqualification proceedings.

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SC: Raj HC not barred from pronouncing order today

Order Will Not Be Implemented Till Directions From Apex Court

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Appearing for the Speaker, senior advocate Kapil Sibal repeatedly pleaded that the SC, in its 1992 Kihoto Hollohan judgment, had categorically barred judicial interference in proceedings pending before the Speaker. However, Harish Salve, counsel for the rebel MLAs, said the Speaker had participated in proceedings before the HC for five days without demurring. "It is not open for the Speaker to take a chance before the HC, agree to defer proceedings, and then remember the Hollohan judgment to request the SC to stop the HC from giving its verdict," Salve said.

Taking a middle path, a bench of Justices Arun Mishra, B R Gavai and Krishna Murari said the HC would not be barred from pronouncing its order on Friday, but the HC order would not be implemented till further directions from the SC. However, it expressed concern



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over the danger posed by the controversy as it had raised "questions about democracy and its survival".

The SC said the legal questions posed by the Speaker on jurisdiction of courts as well as issues arising from the controversy — whether disqualification could be used as a weapon to silence dissent in a democracy — would require a detailed hearing. "Even in such circumstances, are courts permitted to exercise their jurisdiction? What will hap-

pen to whom (rebel MLAs) is not the question. Question is what happens to democracy," it said.

In its order, the bench said, "The case requires prolonged hearing so as to decide the question of jurisdiction. However, prayer is made that the high court should not pass an order. As the high court has already heard the matter after prolonged arguments and reserved the order, we are not staying passing of the order, however, whatever order is

passed, shall be ultimately subject to the outcome of this petition."

The order means a breather for Pilot and his fellow Congress rebels and not just because the Speaker, as promised, will not go ahead with the proceedings. If the HC order quashes the Speaker's notices to them, the Pilot camp will brandish it as a moral victory even though it will not give them any relief from the proceedings before the Speaker till the SC takes a final decision.

As a result of the flux arising after the hearing in SC, the rebel MLAs in the next three days are likely to intensify their efforts, both within the party and outside, to try and attract more MLAs to their fold to rock the CM's boat.

Senior advocate Mukul Rohatgi, appearing for some rebel MLAs, said, "The Speaker is arguing as if he is the Congress party. He is constitutionally mandated to be neutral. But here he is expressing his political concerns. So, he is not impartial."