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Rebel legislators need not attend House: Supreme Court

Says Speaker can decide on resignations 'when appropriate'

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NEW DELHI

The Supreme Court on Wednesday gave the 15 dissident MLAs from Karnataka complete freedom to opt out of the ongoing Assembly session even as it acknowledged the Speaker's discretion to decide on their resignations as and when he considers it appropriate.

A five-page order pronounced by a Bench, led by Chief Justice of India Ranjan Gogoi, gave a clear indication to the 15 rebel Congress-Janata Dal (Secular) legislators, led by Pratapgouda Patil, that they could bail out of the trust vote scheduled for Thursday.

"Until further orders, the 15 members of the Assembly ought not to be compelled to participate in the proceedings of the ongoing session



Gearing up for a fight: Congress leader Siddaramaiah going to meet the Speaker on Wednesday. • K. MURALI KUMAR

of the House and an option should be given to them that they can take part in the said proceedings or to opt to remain out of the same," the interim order said.

The free run given by the Supreme Court to the dissident legislators means they can defy a party whip without fear of disqualification for defection under clause 2 (b) of the Tenth Schedule of

the Constitution. Clause 2 (b) mandates that a legislator is liable for defection if he or she "votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf..."

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Karnataka rebel MLAs need not attend House'

On the other hand, the court said it should not shackle the Speaker's authority. He should be allowed to arrive at a decision on the resignations at an "appropriate time". "In the present case, the discretion of the Speaker while deciding the issue should not be interfered by a direction or observation of this court. The Speaker should be left free to decide the issue in accordance with Article 190 read with Rule 202 of the Rules of Procedure and Conduct of Business in Karnataka Legislative Assembly framed in exercise of the powers under Article 208 of the Constitution," the court held.

The court said the Speaker, once he had taken a call on the resignations, should place his decision before the court. The court's order may act as an impetus for the Speaker to take a quick call on the pending disqualification as well as resignation of the MLAs. In fact, senior advocate A.M. Singhvi, for the Speaker, submitted on July 16 the final day of argu-

ments - that the Speaker could decide both disqualification and resignations "by tomorrow". The Speaker's grounds for rejection of the resignations remains limited. He can reject a resignation only if it is not in proper format or if found to be involuntary or bogus. In this case, the MLAs have already filed sworn affidavits in the court that their resignations are voluntary and genuine.

The Bench described its order on Wednesday as a "prudent" interim exercise and a deft balancing act in the face of "conflicting and competing" rights of the Speaker and the dissident MLAs. The court said the interim order is only meant to maintain the constitutional balance between the authority of the Speaker and the rights of the rebel MLAs.

The decision comes as a complete U-turn from the court's order on July 11, asking the Speaker to decide the resignations of 10 of the 15 MLAs "forthwith or within the remaining part of the day".