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SC for curbs on powers of Speakers

Court asks Parliament to amend Constitution in this regard

KRISHNADAS RAJAGOPAL
NEW DELHI

The Supreme Court on Tuesday asked Parliament to amend the Constitution to strip Legislative Assembly Speakers of their exclusive power to decide whether legislators should be disqualified under the anti-defection law.

An independent tribunal ought to be appointed instead to determine the fate of an MP or an MLA who has switched sides for money and power, the court said.

This is the second time in as many months that the court has highlighted the issue of taking away the disqualification power under the Tenth Schedule from Speakers.

In a 109-page judgment by a three-judge Bench, led by Justice N.V. Ramana in the Karnataka MLAs' disqualification case, the court had held that a Speaker who cannot stay aloof from the pressures and wishes of his political party does not deserve to occupy his chair. This judgment of November last also urged Parliament to "reconsider strengthening certain aspects of the Tenth Schedule, so that such undemocratic practices are discouraged".

On Tuesday, in a 31-page judgment, a three-judge Bench led by Justice Rohinton F. Nariman questioned why a Speaker, who is a member of a particular political party and an insider in the House, should be the "sole and final arbiter" in the disqualification of a political defector.

Not impartial

"It is time Parliament had a rethink on whether disqualification petitions ought to

be entrusted to a Speaker as a quasi-judicial authority when such Speaker continues to belong to a particular political party either de jure or de facto," the court said.

The Tuesday judgment came on an appeal filed by Congress legislator Keisham Meghchandra Singh against the Manipur Assembly Speaker for the disqualification of Minister T. Shyamkumar, who after contesting on Congress ticket, switched sides to favour the BJP.

The court asked the Assembly Speaker to decide the disqualification petition in four weeks. The petitioners were given liberty to approach the Supreme Court in case the Speaker failed to comply.

For 'outside' authority

The court asked, why disqualification proceedings under the Tenth Schedule (anti-defection law) should be kept in-house and not be given to an "outside" authority. Even the final authority for removal of a judge is outside the judiciary and in Parliament, it reasoned.

Disqualification petitions under the Tenth Schedule should be adjudicated by a mechanism outside Parliament or the Legislative Assemblies. The court suggested a permanent tribunal headed by a retired Supreme Court judge or a former High Court Chief Justice.

Only swift and impartial disqualification of defectors would give "real teeth" to the Tenth Schedule, Justice Nariman wrote in the judgment for the Bench, also comprising Justices Aniruddha Bose and V. Ramasubramanian.