

### **3. Disqualification Powers of Speakers**

**Prelims Level: Parliament**

**Mains Level: GS-II Parliament and State Legislatures - structure, functioning, conduct of business, powers & privileges and issues arising out of these.**

#### **Why in News?**

- Recently, the Supreme Court has given a significant suggestion regarding disqualification powers of the Speaker in the in **Keisham Meghachandra Singh vs. the Hon'ble Speaker Manipur Legislative Assembly & Ors (2020) case.**

#### **What is the Role of the Speaker?**

- He is the sole representative and guardian of powers and privileges of the members, the House as a whole and its Committees.
- He is the principal spokesperson of the House and represents the collective voice of the House.
- His/her decision in all Parliamentary matters (including disqualification matters under Tenth Schedule) is final, binding and ordinarily cannot be challenged in the Court of law. Thereby, Speaker acts as the ultimate arbitrator.
  - ✓ For example, on this question whether a bill is a money bill or not, his/her decision is final.
- However, on the questions of disqualification of the members, **the Supreme Court in Kihoto Hollohan vs Zachillhu and Others, 1992 case** ruled that the decision of the Speaker in this regard is subject to judicial review.
- He Maintains order and decorum in the House for conducting its business and regulating its proceedings.
- He allocates duration for debates, can discipline members of the House, and even override decisions taken by the Committees of the House.
- He is the final interpreter of the provisions of the Constitution of India, Rules of Procedure and Conduct of Business of Lok Sabha, and Parliamentary precedents within the House.

#### **What is the Issue?**

- As the office of the Speaker is vested with great prestige, position, and authority, and independence impartiality of the Speaker becomes its sine qua non (an essential condition). However, the office of Speaker has been criticized time and again for being an agent of partisan politics.

- The Supreme Court in **Jagjit Singh versus State of Haryana (2006)** highlighted the similar allegations about the confidence on the role of Speaker in the matters of impartiality.
- In **Kihoto Hollohan case (1992)**, one of the judges observed that the suspicion of bias on the Speaker's role could not be ruled out as his/her election and tenure depends on the majority will of the House (or specifically of the ruling party).
- Also in the recent case of **Manipur Legislative Assembly (2020)**, the Supreme Court 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 cases of disqualification of a political defector."
- Hence, there are structural issues regarding the manner of appointment of the Speaker and her tenure in office which need urgent redressal.

#### **What are the Recommendations of the Court?**

- The Court recommended the Parliament to amend the Constitution regarding the role of Speaker as a quasi-judicial authority while dealing with disqualification petitions under the anti-defection law (when such a Speaker continues to belong to a particular political party either de jure or de facto).
- The Court suggested that an independent tribunal can be appointed which will substitute the Speaker of the Lok Sabha and Legislative Assemblies to deal with matters of disqualifications under Tenth Schedule.
- Currently, disqualification of members of a House/Assembly is referred to the Speaker of the House/Assembly.
- The Tribunal will be headed by a retired Supreme Court judge or a retired Chief Justice of a High Court. The Court also suggested that some other outside independent mechanism can adjudicate on such matters. This will ensure that such disputes are decided both swiftly and impartially.

#### **What could be the Possible Solutions?**

- Adopting Global Practices such as the Britain Speaker is strictly a non-party person. There is a convention that the Speaker has to resign from his party and remain politically neutral. Also, once elected remains in office until retirement, even though the majority may change.

- Currently, this Convention is not fully established in India where the Speaker does not resign from the membership of the party on his/her election to the office.
- Hence, this mechanism can be adopted whereby Speakers need to renounce all political affiliations, membership and activity once they have been elected to the office.
- Currently, there is no time frame to adjudicate cases of disqualifications of members of the House.
- However, to contain this liberty of Speaker, the Court in the recent judgment held that, “unless there are any exceptional circumstances, disqualification petitions under the Tenth Schedule should be decided by Speakers **within three months.**”

### **Conclusion:**

- **Impartiality, fairness and autonomy in decision-making** are the hallmarks of a robust institution. It is the freedom from interference and pressures which provide the necessary atmosphere where one can work with an absolute commitment to the cause of neutrality (as a Constitutional value).
- At a time when India’s rank has fallen in the latest **Democracy Index** (2019), it is expected out of Parliament to take steps to revamp and strengthen the institution of the Speaker.
- In this regard, Jawaharlal Nehru described: “As the House represents the nation (in a particular way), the **Speaker being its sole representative becomes a symbol of the nation’s freedom and liberty.** Therefore, this free and honoured position shall always be occupied by persons of outstanding ability and impartiality.”