

Q2 :-

Anti-defection law enacted through 52nd Constitutional amendment act added 10th schedule to the Constitution. It aims at curbing defections and politics of 'Aya Ram, Gaya Ram' in the country which was leading to political instability.

Provisions of anti-defection

A sitting member of a legislature is disqualified by the Presiding officer of the house if

- (a) s/he voluntarily gives up membership of the party on whose ticket s/he was elected.
- (b) s/he does not follow the whip issued by the political party
- (c) if an independent member joins any party
- (d) if a nominated member joins a party after 6 months of joining the legislature.

The law has been able to check horse trading and rising defections from ruling party. It provides stability to the governments, thus ensuring governance.

However the law has been criticised for curbing freedom of speech.

of legislators. They are not able to express their views due to whip.

In addition, the power lies with the Presiding Officer. She acts as a tribunal in such matters. Their actions are ~~not~~ thus subject to judicial scrutiny. However, recent issue of resignation by MLAs in Congress in Karnataka have raised another concern.

The Speaker's inaction on the resignation and initiating disqualification under anti-defection is a concern. This is due to the fact that resigning from legislature and giving up membership of party are not same.

Thus, there is scope of judicial interpretation and the law needs to be clarified.

Reforms required

① Freedom of speech is the blood of democracy and deliberation in the legislatures. ~~But~~ Punjab with its recent law guides the country towards

accepting dissent from members of a party

② speaker's powers needed to be transferred to an apolitical independent authority such as President or Governor.

③ Timelines should be given to the authority to decide on such cases. Cases in Telangana, Andhra Pradesh and Tamil Nadu has been pending for years.

Thus, anti-defection law brings stability to the system and ensures efficient usage of resources. However, it has concerns related to dissent, inaction by speaker and arbitrary use of power. It needs to be reformed to allow dissent within the limits of stability. It would go a long way in strengthening democracy in the legislatures.