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GOVERNMENT'S PROPOSALS ON ANTI-DEFECITION BILL

The following are the proposals on the Legislation against defection's circulated by the Government.

1. **Amendment of the Constitution**

   Legislation to curb defections has to be by way of amendment of the Constitution.

2. **Penalty for defection**

   The penalty for defection should be disqualification resulting in loss of membership and vacation of seat.

3. **Presiding officers of Houses to be authorities for determining questions as to be disqualification on ground of defection**

   The question as to whether member of a House of Parliament or a State Legislature has become subject to the disqualification on the ground of defection shall be determined by the presiding officer of that House and his decision in the matter shall be final and no court or other authority shall have any jurisdiction in respect of any matter connected with such disqualification.

4. **Disqualification to cover all classes of members**

   Defection as a ground of disqualification should be provided for not only in the case of members elected as candidates set up by political parties but also in the case of Independents and nominated members.

5. **Circumstances in which a member elected as a candidate set up by a political party would become subject to the disqualification**
A member elected as a candidate set up by a political party shall be disqualified on the ground of defection

i) If he voluntarily relinquishes his membership of such party, or

ii) If he is expelled from such party.

This would be subject to exceptions mentioned below as to "splits" and "mergers".

6. Obligation of political parties to make provisions as to expulsion in their constitution/rules and regulations and to file copies thereof with presiding officers

In order that expulsion by a political party of a member of a House shall be valid and effective to disqualify such member on the ground of defection, the political party must have in its constitution or in rules or regulations adopted by it. Provided for the authority who may expel a member and the procedure which should be followed for making an order of expulsion. The political party or any representative of the political party should file a copy of such constitution/rules or regulations with the presiding officers of the House. In the event of any amendment in such constitution, rules or regulations, they should promptly intimate the presiding officers of the Houses of such amendments.

7. Political Party

The expression "Political Party" will not be defined. It will be understood in the context as a party setting up candidates. A political party which is yet to be registered by the Election Commission under the Election Symbols (Reservation and Allotment) Order would also qualify as a political party.

8. Circumstances in which an independent or nominated member would become subject to the disqualification
An independent or nominated member shall be disqualified on the ground of defection if he joins any political party after his election or nomination, as the case may be.

9. Exception on grounds of split or merger

Changes in affiliation to a party as a result of a split or merger shall not result in a disqualification of the member on ground of defection.

10. Circumstances of a split

For the purpose of the scheme, a split shall be deemed to have occurred in a party if not less than one third Members of the House belonging to that party or, where the strength of the Members of that party in such House is less than twenty, seven of those Members split from that party. In such an event, neither the Members so splitting nor the Members remaining shall be deemed to be disqualified on the ground of defection. After the split, each group will be deemed to be a separate party, will be deemed for the purpose of disqualification on ground of defection as having been elected as a candidate set up by such separate party.

11. Definition of merger

For the purpose of the scheme, a party shall be deemed to have merged with another party if not less than two-third of the Members of the House belonging to that party or, where the strength of the Member of that party in such House is less than twenty at least fourteen of those Members or here the total membership is less than fourteen, all such Members decide to merge with any other party. In such an event, neither the Members merging with the new party nor those remaining without such merger shall be deemed to be disqualified. The Members so
remaining will be deemed to be a separate party. After the merger, a Member of a House belonging to such new party or such separate party will be deemed for the purpose of disqualification on ground of defection as having been elected as a candidate set up by such new party or such separate party, as the case may be.

12. **Power of presiding officers to make rules with respect to matters connected with disqualification on ground of defection:**

The presiding officer of each House of Parliament/State Legislature will be empowered to make suitable rules as to the maintenance of records and registers regarding the party affiliation of the Members of the House and for calling for information in respect thereof and other matters connected therewith.

(Source: The Patriot, 20th, January, 1985)

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