CHAPTER-3

DISQUALIFICATION, SPLIT AND MERGER: A
STUDY OF SOME PROMINENT CASES IN INDIAN
PARLIAMENT

“As far as split is concerned, it has been contemplated in the bill that if
one-third of the people wants to go away from the party in the name of
split, then they shall not be disqualified. I am surprised to see that if
one member commit a theft, it is an offence, but if a number of
members together commit a theft, it is not an offence”319

1. Introduction

This chapter320 discusses the cases under the Tenth Schedule to the
Constitution that broadly fall under three categories, namely petitions seeking
disqualification of members321, claims of splits322 and mergers323. Para 8 of the Tenth
Schedule to the Constitution contains provisions regarding decisions on petitions. As
per the provisions of this para, the Chairman or Speaker shall by order in writing (a)
dismiss the petition, or (b) declare that the member in relation to whom the petition
has been made has become subject to disqualification under the Tenth Schedule324. If
the House is in Session, the Speaker makes an observation to this effect in the House.
As per the provisions of this para, every decision of the Presiding Officer on a petition
for disqualification is also required to be published in the Bulletin of the House and

319 Shri. B.K.Gadhi while participating in the discussion on the Constitution (52nd
Amendment) Bill. Lok Sabha debates, January 30, 1985, p. 89
320 The researcher has heavily relied on lok Sabha Debates, Lok Sabha Bulletin, RS
Debates, RS Bulletin, and Gazette of India etc. for arriving at the data to make this
research more analytical and effective. (Please see the Statements in this chapter). For
this the researcher owes to the library staff of union parliament.
321 Paragraph 2, The Tenth Schedule of the Constitution of India.
322 Paragraph 3, The Tenth Schedule of the Constitution of India. Omitted by The
323 Paragraph 4, The Tenth Schedule of the Constitution of India.
324 Rule 8 (1) The member of Lok Sabha (Disqualification on ground of Defection) Rules,
1985, see also. Rule 8 (1) The member of Rajya Sabha (Disqualification on ground of
Defection) Rules, 1985, see also.
notified in the official Gazette\textsuperscript{325}. As regards the claims for split and merger, there is no such requirement either in the Tenth Schedule or Rules made thereunder. Nevertheless, on a receipt of claim for split or merger, the same are submitted to the Speaker and action in accordance with the provisions in the Tenth Schedule is taken.

2. Cases in Lok Sabha

(i) Disqualification of Sh. K.P. Unni Krishan

In Loksabha the first petition of membership for disqualification was field by Sh. K.P. Unni Krishan on 06 April, 1987 against Sarvaishri Sudarshan Das and Sahiabrao Patil Daya Kar on ground of voluntarily giving up membership of respondents party. After considering the fact and circumstances of the case, speaker Dr. Bal Ram Jakhar decided in favour of the respondent and dismissed the petition on 09 Sep. 1987\textsuperscript{326}.

(ii) Disqualification of Shri Lalduhoma

The second case of disqualification of a member of Loksabha came up before the Speaker Dr. Bal Ram Jakhar on 21 July 1988, when a member, Shri Ram Pyare Panika, filed a petition before him under paragraph 6 of the Members of Loksabha (Disqualification on Ground of Defection) Rules, 1985 praying that Shri Lalduhoma, Congress (I) member from Mizoram, be declared to have become subject to disqualification in terms of the provisions of the Tenth Schedule to the Constitution. The petition was referred by the Speaker to the Committee of Privileges under rule 7(4) of the aforesaid rules to make a preliminary inquiry and submit the report to him. After the Committee of Privileges had submitted their report to the Speaker on 14 October 1988, he gave an opportunity to Shri Lalduhoma to present his case in person before him on 15 November 1988. Taking into account all the facts and circumstances of the case, report of the Committee and submission made by Shri Lalduhoma and in accordance with the provisions of the Tenth Schedule, the Speaker decided that Shri Lalduhoma had incurred disqualification in terms of Paragraph 2(1) (a) of the said Schedule for being a member of Loksabha by voluntarily giving up membership of

\textsuperscript{325} Rule 8 (3), The member of Lok Sabha (Disqualification on ground of Defection) Rules, 1985, see also. Rule 8 (3) The member of Rajya Sabha (Disqualification on ground of Defection) Rules, 1985.

\textsuperscript{326} Gazetteee of India Extra ordinary Part II dt. 11 September, 1987 and Lok Sabha Bulletin (11) dt. 10 September, 1987 Para 1857.
Congress (I), his original political party. Accordingly, Shri Laldumah SA ceased to be a member of Loksabha with immediate effect.

The Congress(S) Legislature Party in the eighth Lok Sabha initially consisted of four members viz. K.P. Unnikrishnan, Kishore Chandra S. Deo, Sudarshan Das and Sahabaraa Patil Dongeokar. Sharad Pawar, President of All India Congress(S) and A.G. Kulkami, a member of Rajya Sabha in their separate letters dated 30 November, 1986 informed the Speaker about the expulsion of K.P. Unnikrishnan and V. Kishore Chandra S. Deo from the primary membership of the Congress(S) Party. After receipt of the above communications, Sarat Chandra Sinha who claimed to have been elected as provisional President of Congress(S), forwarded to the Speaker a copy of the resolution adopted by the Congress Working Committee (S) on 29 November, 1986 suspending A.G. Kulkami and Suresh Kalmadi from the primary membership of the party and revoking the suspension of K.P. Unnikrishnan and V. Kishore Chandra S. Deo. The Speaker after considering the matter decided to treat K.P. Unnikrishnan and V. Kishore Chandra S. Deo as unattached in the House, as the communication regarding their expulsion was received first from A.G. Kulkarni and Sharad Pawar in their capacity as office bearers of the party. Unnikrishnan, however challenged the decision of the Speaker contending that the Speaker was not empowered to declare a member elected on a party symbol and who continues to be a member of that party, as unattached member.

(iii) Gokul Saikia Declared Unattached

In another case, Gokul Saikia, a member of the A.G.P. party (Asom Gana Parishad) was expelled from that party for complete disregard of the party discipline. The fact of expulsion was communicated to the Speaker by the Leader and Chief Whip of the AGP Legislature party. After hearing from Gokul Saikia, the Speaker declared him as an unattached member.

327 See Lok Sabha Debate dt. 24 Nov. 1988 cc. 149-50, Also See Lok Sabha Bulletin (11) dt. 24 November 1988, Para No. 2637. See also Annexure I.
328 Sharad Pawar and A.G. Kulkami had stated that the CWC(S) had in its meeting held on 29 November, 1986 decided unanimously to expel K.P. Unnikrishnan and V. Kishore Chandra S. Deo from the primary membership of the party.
329 Sarat Chandra Sinha had informed the Speaker that the CWC(S) had in its meeting held on 29 November, 1986 revoked the illegal and unconstitutional suspension of K.P. Unnikrishnan and V. Kishore Chandra S. Deo.
331 Ibid.
In the case of Akali Dal party, the Legislature party originally consisted of seven members. However, the strength of the party was reduced to five owing to the expulsion of Bhai Shaminder Singh and Mewa Singh Gill from the party. Intimation regarding their expulsion was given to the Speaker by Surjit Singh Bamala, President of the party and after hearing the expelled members, they were treated as unattached.

Thereafter, a split in the party was claimed and the split so claimed was recognized by the Speaker because three out of the remaining five members who had claimed split in the party satisfied the requirements of Para 3 of the 10th Schedule.

As a consequence of the split, two new Akali Dal legislature groups were recognized viz. Akali Dal (Badal) consisting of three members and Akali Dal (Barnala) consisting of two members\(^\text{332}\).

The main question that arose in this case was that of leadership of the Legislature party/group. Whether the Speaker should accept the advice tendered to him by the leader of the original political party or accept the contention of the dissenting members of the party/group provided they constituted a majority of the total number of members of the legislature party?

(iv) Opinion of the Attorney-General

In order to leave no scope for doubt, the Speaker referred some of these matters to the Attorney-General of India for opinion. The following were the questions raised and the opinions given thereon:

(a) Question I

Q.1- Whether it would not be desirable to lay down the definition of a political party and also to specify the conditions for recognition as such in the Anti-Defection Rules?

Para 1 (b) of the Tenth Schedule defines "legislature party" and Para 1 (c) of the said Schedule defines "original political party". The Constitution (Fifty-second Amendment) Act, 1985 which added the Tenth Schedule to the Constitution does not contemplate recognition of separate group as a political party as such. Para 3 of the said Schedule however, provided that disqualification on ground of defection will not apply in cases of splits provided that the group representing a faction which has arisen as a result of the split in the original political party consists of not less than one-third of the members of such legislature party and that from the time of the split this faction

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\(^{332}\) Gazette of India Extra Oridnary, Part II dt. 11 September 1987; and Lok Sabha Bulletin (11) dt. 10 September 1987, Paragraph No. 1857
will be deemed to be a "political party" for the purposes of Para 3. Thus it would be open for the Speaker to accord recognition to a group if the group satisfied the conditions for recognition. It would be advisable to define a political party and also to specify the conditions for recognition so as to put the position beyond doubt in the Rules regarding disqualification on ground of defection.\footnote{Received vide letter dt. 15 February 1988 from Shri K.C.D. Gangwani, Joint Secretary and Legal Advisor, Deptt. Of Legal Affairs, Ministry of Law and Justice, Govt. of India.}

(b) Question 2

Q. 2- Before the coming into force of the Fifty-second Amendment Act, 1985, and the rules framed there under, it was an established practice in Lok Sabha that if a member of a political party was expelled from his party; he was treated as unattached in the House. The Fifty-second Amendment Act and the rules framed there under do not provide for a situation where a member is expelled from his political party for his activities outside the House. The Act and the rules did not stipulate the existence of an unattached member. In such a situation whether the Speaker is empowered to declare a member who has been expelled from his party for his activities outside the House as unattached?

Direction 120 of the “Directions by the Speaker” provides that the Speaker may recognize an association of members as a Parliamentary party or group for the purpose of functioning in the House and his decision shall be final. Under Direction 121, an association of members who propose to form a Parliamentary party should have strength equal to the quorum fixed to constitute a sitting of the House. An association of members who propose to form a parliamentary group should have at least strength of 30 members. If the above requirement is not satisfied, the Speaker may declare such member(s) as unattached.

The position remains unchanged even after the Constitution (Fifty-second Amendment) Act, 1985 came into force. Neither the said Act nor the rules framed there under provide for the existence of an unattached member. So if member(s) elected to a legislature on a party ticket is/are expelled from that party for anti-party activities or otherwise and a communication to that effect has been received, it will have to be seen whether provisions of Para 3 of the Tenth Schedule are attracted, if only a claim to function as a separate group has been made. Para 3 provides that if a
member makes a claim that he and any other members of his legislature party constitute the group representing a faction which has arisen as a result of a split in his original party and such group consists of not less than one-third of the members of such legislature party, such members do not incur disqualification under Para 2. If such members meet the above requirement, *i.e.*, they constitute one-third of the strength of the original Legislature party, they will be treated as members belonging to a separate party. If the above requirement is not met, the Speaker has to see whether the provisions of Directions 120 and 121 are attracted. If not, the Speaker may treat them as unattached.334

(c) **Question 3**

Q.3- Whether in case of dispute regarding leadership of a legislature party/group the Speaker should accept the advice tendered to him by the leader of the original political party or accept the contention of the dissenting members of the party/group provided the latter constitute a majority of the total number of members of the concerned legislature party and, if so, whether the rules need some modification to take care of such a situation?

Under rule 2(f) of the Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985 "leader" in relation to a legislature party means a member of the party chosen by it as its leader and includes any other member of the party authorized by the party to act in the absence of the leader as, or to discharge the functions of the leader of the party for the purposes of the rules.

Once there is a dispute, the authority that has jurisdiction to resolve that dispute has to act in a quasi-judicial character complying with the norms of fair-play. In a democracy it is the rule of the majority. So if a dispute is raised regarding the leadership of a legislature party group, the Speaker has to afford an opportunity to the contestants to place the materials and evidence on which each side places reliance. The person elected as leader by the group which constitutes the majority of the total number of members of the concerned Legislature party should be the one who should be recognized as the leader of the party. If majority of the party supports the person who is already leader of the Parliamentary party and if they happen to command a majority no further question will arise. But if they do not command a majority of the Legislature party, the Speaker will have to decide on the facts of each case. In case of

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334 Ibid.
dispute regarding leadership, it is the voice of the majority of the concerned legislature party that will have to be accepted.

It is worthwhile considering amending the definition of the term "leader" in the rules to put the matter beyond doubt\(^{335}\).

**Question 4**

Q.4- Whether a member who is declared "unattached" by the Speaker consequent upon his expulsion from the original political party is free to form a new party or join another party without incurring disqualification?

The Tenth Schedule introduced by the Fifty-second Amendment Act provides for disqualification on ground of defection in Para 2. None of these provisions provides that upon expulsion from the original political party a member who is declared unattached incurs any disqualification notwithstanding the fact that he forms a new party or joins another party. However, on that ground alone an expelled member who forms a new party or joins another party cannot be held not to incur disqualification in terms of the Constitution (Fifty-second Amendment) Act.

It is true that an expelled member ceases to be a member of that party to which he belonged but that is for the purpose of party discipline. In the interest of democracy the matter should be approached from a broader perspective. A person belonging to a particular political party must owe allegiance to that party. He is bound by the discipline of that party. Not only there is a moral and political compulsion but so long as he belongs to that party, he has a duty to see that nothing he does prejudices in any manner the effective functioning of that party as a political party.

The provisions for disqualification have to be strictly construed. A member cannot voluntarily give up membership of his political party except under peril of incurring constitutional disqualification under Para 2(l) (a) of the Tenth Schedule. It may be possible to interpret the relevant provisions that an expelled member of a party, who does not incur disqualification because he did not voluntarily give up membership of his original political party though he suffers expulsion, cannot any more belong to the political party from which he was expelled. (So, unless he can bring himself within the scope of a split of the original political party which group consists of not less than one-third of the members of such legislature party, he cannot

\(^{335}\) Ibid.
belong to any other party). While he can, therefore, continue to be a member but is declared unattached, he cannot on the basis of the expulsion from the original political party form a new party or joins a new party without incurring disqualification. An elected member of a House who has been elected otherwise than as a candidate set up by any political party, i.e., who was elected as an independent candidate, will incur disqualification being a member of the House if he joins any political party after such an election. If so, an expelled member from a political party cannot stand on a better footing than an independent member. While he will not incur disqualification as he has not voluntarily given up his membership but has been expelled, he will nevertheless incur disqualification if when functioning as an unattached member he forms a new party or joins another party. However, it is not as if the contrary position cannot be argued at all\(^3\)\(^3\)\(^6\).

**(v) The Janata Dal Mergers/Split**

During the ninth Lok Sabha period, on 11 April, 1989, the Speaker informed the House that he had received a letter from Prof. Madhu Dandavate, M.P., on 10 March, stating *inter alia*, that "Janata Party in Parliament" and "Lok Dal Parliamentary Party" had decided to merge and form "Janata Dal in Parliament". Prof. Dandavate requested the Speaker that the Party be accorded recognition as a legislature party in Lok Sabha. The Speaker observed that after obtaining necessary information/confirmation from Mohd. Mahfooz Ali Khan and Prof. Madhu Dandavate, leaders of Lok Dal and Janata Dal Groups respectively in terms of the Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985, he was satisfied that the conditions of merger stipulated in the Tenth Schedule to the Constitution had been fully met. The Speaker, therefore, accorded recognition to the Janata Dal as a Legislature party in Lok Sabha for the purpose of the Tenth Schedule to the Constitution and the Rules framed thereunder\(^3\)\(^7\).

**(a) The first major group defection from Janata**

*The first major group defection from Janata:* When more than one-third members of the Janata Dal in Lok Sabha claimed a split and formation of Janata Dal (S) on 5 November, 1990, V.P. Singh quickly expelled 25 of those members including Chandra Shekhar. The Speaker, acting even more promptly, declared them "unattached" without giving them even an opportunity to explain their position. V.P.

\(^{336}\) Ibid
\(^{337}\) Lok Sabha Bulletin (1) dated 13 April, 1989
Singh claimed that the expulsions preceded the claim of party split and since the residual number (33) of the members of the breakaway group was thereby reduced to less than one-third, there was no valid split and the 33 members were liable to be disqualified under the Anti-Defection Law. Even though V.P. Singh lost convincingly on a vote of confidence, it was obvious that more members of his party had voted against him. He therefore sent another intimation to the Speaker that 30 members of his party who had so voted had violated the party Whip and as such attracted the provisions of the Anti-Defection Law, i.e., the Tenth Schedule of the Constitution and were liable to be disqualified from membership of the House. Ray sent show cause notices on 9 November, to all the 30 members to send their replies within a week. Unlike Ray, Dr. Shankar Dayal Sharma, the Chairman of the Rajya Sabha gave one month's time to members of the Rajya Sabha about whom similar intimation had been received from V.P. Singh. Ray also later granted three more weeks to the 30 members to send their replies and agreed to reconsider the question of the other 25 members declared as unattached.

Actually, members who had parted company with the original Janata Dal headed by V.P. Singh and elected their own leader, were no more amenable to V.P. Singh's jurisdiction. Also, the device of expelling and declaring a part of the breakaway faction as "unattached" could have the result of making the constitutional provision regarding a party split in effect nugatory and inoperative.

While these controversies continued, Chandra Shekhar who was sworn in as Prime Minister by the President on 10 November, was asked to prove his majority by 20 November.

A special session of Lok Sabha was accordingly summoned on 16 November. Chandra Shekhar won the confidence of the Flduse on a substantive motion, all the members of the ruling Janata Dal (S) were either those who had been expelled by V.P. Singh and declared "unattached" by Speaker Ray or those against whom show-cause notices for disqualification under the Anti-Defection Law had been issued by Speaker Ray in the exercise of his powers under the Anti-Defection Law. The Speaker's action covered all the members of the Council of Ministers headed by Chandra Shekhar.

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M.C. Bhandare, a senior Supreme Court advocate and Member of Parliament opined that there could not be a greater flouting of democratic norms. Once the party had split, no Whip of the original party was binding on the members who had left. Explaining the position he wrote: "On the expulsion of 25 the game of V.P. Singh seems to be to reduce 58 to 33 to make them less than 1/3rd of 115 and then disqualify them on the ground of disobeying the Whip. This is perverting the Anti-Defection Law equally, there is no justification in treating only 25 members as belonging to the unattached group...If on account of a split, the members go outside the Anti-Defection Law, they are not brought within it by expulsion of a few." The eminent jurist and constitutionalist and now Member of Parliament, Dr. L.M. Singhvi said:

"What is at stake in the present controversy is the neutrality of the Lok Sabha Secretariat, and indeed even the neutrality of the august office of the Speaker. It is necessary that the Speaker's neutrality is beyond reproach, and that this controversy is resolved within the precincts of the Parliament rather than in court-room battles."

(1) Petition in High Court

On 27 December, 1990, the Speaker informed the House that a notice was received from the Registrar, Delhi High Court, requiring him to arrange to show cause in connection with Civil Writ Petition No. 3871 of 1990. The Writ Petition, inter alia, sought to challenge the validity and constitutionality of paragraphs 6 and 7 of the Tenth Schedule to the Constitution (Fifty-second Amendment) Act, 1985. He pointed out that as per well-established practice and convention of the House, he had decided not to respond to the notice and had passed on the relevant papers to the Minister of Law and Justice for taking such action as he might deem fit to apprise the High Court of the correct constitutional position and the well-established conventions of the House.

On 8 January, 1991, the Speaker further informed the House that he had received on that day a letter from the Registrar, Delhi High Court, forwarding therewith a copy of an Order dated 8 January, 1991 passed by the Division Bench of Delhi High Court. The Division Bench had passed the following order on the arguments on stay application in Civil Writ Petition No. 3871 of 1990:

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"The arguments of the stay application are in progress. It would be in the fitness of the things that an order of status quo may be passed as the hearing of the arguments on the stay application is likely to take time.

Therefore, we order that all the petitions presented before respondent No. 2 under the Tenth Schedule of the Constitution shall not be proceeded with or pursued by the petitioners before the Speaker and we further order that status quo as it exists today shall be maintained by the parties."\(^{343}\)

On 9 January, 1991, the Speaker informed the House that he had discussed the matter with the Leaders of Parties and Groups earlier in the day and it was unanimously agreed that the orders of the High Court be ignored. Accordingly, the Speaker ignored the orders of the Delhi High Court.

On 11 January, 1991, the Speaker again informed the House that he had received on the same day another letter from the Registrar of Delhi High Court. The Full Bench had passed the orders that they were prima facie of the opinion that the Speaker had jurisdiction to decide the question of disqualification of Lok Sabha members under paragraph 6 of the Tenth Schedule and the rules framed thereunder on the petitions presented to him and accordingly, they had vacated the interim order passed by them on 8 January, 1991\(^{344}\).

(2) Speaker's Decision

The same day, Ray decided to give benefit of doubt to the ruling party and recognised the split as a one-time process which began and closed on 5 November. Janata Dal (S) was recognised as a political party with 54 members. The seven members who joined after the date of split were disqualified. The disqualified members included Basavraj Patil, Hamendra Singh Banera, Vidya Charan Shukla, Sarwar Hussain, Bhagey Gobardhan, Devananda Amar and Bengali Singh. Another member, Dr. Shakeelur Rehman was disqualified for being a member in terms of Para 2(1 )(a) of the Tenth Schedule. All these eight members—five of them Ministers—ceased to be members of Lok Sabha with immediate effect\(^{345}\).

Notwithstanding the operative part of the Ray ruling, the Speaker made the following observations in the course of the ruling:

\(^{343}\) Ibid.
\(^{344}\) Ibid.
"There is a widely held view including that of common man, and a view which I share in many respects, that the existing law on defection suffers from several lacunae in regard to substantive matters as well as procedures.\textsuperscript{346}

"The present goings on the country are indeed deeply disturbing and distressing and if the situation is allowed to drift, people will lose their faith in the very system.\textsuperscript{347}

"If our ambitions and greed for power overtake the national interest and the interests of the people, surely the future is dark.\textsuperscript{348}

During the Tenth Lok Sabha period (1991-96), there were as many as a dozen group defections or party break-ups in legislature parties - not all of them deserving the protection under the 'split' or 'merger' clauses. The Telugu Desam Party, the Jharkhand Mukti Morcha, the Shiv Sena, The Samajwadi Party, the Indian Union Muslim League, the Assam Ganatantra Parishad, the Janata Dal and Janata Dal(A) were all reduced in strength because of successive defections. The greatest beneficiary in the entire process was the Congress(I)\textsuperscript{349} and the worst loser the Janata Dal. By protecting the defectors in the name of splits or mergers, the Anti-Defection Law could be said to have been a source of stability for the Congress Government which graduated from a minority to a majority Government. According to a study, every time that the Rao Government faced a no-confidence motion, there were additions to its strength through defections. In March 1992 it was the group of 6 from TDP which defected and finally merged with the Congress(I)\textsuperscript{350}. The July 1992 no-confidence motion led to the defection of the 20-member Ajit Singh group and the July 1993 motion nabbed the famous "seven saviours" again from Janata\textsuperscript{351}.

It was alleged that the splits and defections were secured through outright heavy cash inducements, offer of ministries and the like. The matter was raised on the floor of the House as a question of breach of privilege and also came up before the Supreme Court [discussed later in this chapter under 'Notice of Privilege']\textsuperscript{352}.

\textsuperscript{346} Ibid.
\textsuperscript{347} Ibid.
\textsuperscript{348} Ibid.
\textsuperscript{349} Ibid.
\textsuperscript{352} Supra Note 10, p. 70.
(b) The second major group defection from Janata Dal

In December 1991, Ajit Singh and 3 other members of Janata Dal were expelled from the party on the ground of anti-party activities. In July 1992, Rammath Sonker Shastri and 3 other members were also expelled on being absent at the time of voting on the motion of no-confidence against the government. On 7 August, 1992, 20 members of Janata Dal led by Ajit Singh including 8 expelled members of the party, requested the Speaker to permit them to sit separately from other members of Janata Dal Parliamentary Party. On 12 August, 1992, the Speaker in his order said, for the purpose of functioning in the House, for the interim period, until the matter was finally disposed of, the 20 members who had signed a common request in his chamber on 7 August were permitted to be seated separately from other members of Janata Dal Parliamentary Party.

While Speaker Shivraj Patil was holding open hearing in the case of twenty Janata Dal members under the Anti-Defection Law, the Chief Election Commissioner, in a swift move, recognised the Janata Dal faction headed by Ajit Singh as a national party under the title of Janata Dal (A). The other faction headed by Bommai was recognised as Janata Dal (B). Separate symbols were assigned to both. This put an end to any doubts in regard to the split in the Janata Dal. However, it needed to be clearly understood that the recognition by the CEC was only for the political parties and for the purpose of elections and allocation of symbols. It had nothing to do directly with the recognition of Legislature parties which was the sole preserve and prerogative of the Presiding Officers.

After over nine months, on 1 June, 1993 the Speaker delivered his decision under the Anti-Defection Law in the case of the second major split in the Janata Dal. He held court, personally examined the pleadings, took evidence, heard the advocates argue for long hours and practically conducted judicial proceedings for some months. However, from the very beginning, Patil was a reluctant judge. He repeatedly offered to the parties involved that points of law could better be referred to the Supreme Court for interpretation. His pleas were not accepted and he was left with no option but to discharge his responsibility to take a decision under the Anti-Defection Law according to his best lights.

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353 Gazette of India Extraordinary, Part II dt. 1 June, 1993
The 117-page decision—it was neither a ruling nor a judgment—covered an application filed by 20 Janata Dal members led by Ajit Singh seeking separate seating on 7 August, 1992 and 14 petitions filed only thereafter by Janata Dal under the leadership of V.P. Singh seeking disqualification of the defecting members. The verdict had to be viewed in the light of the constraints and considerations within which Speaker Patil had to operate, (i) He was not expected to pronounce a verdict on the moral aspects of the matter or to take into account the stories about the goings-on outside the portals of Parliament to induce members to change or not to change sides, (ii) Even though himself member of a political party, as the Speaker and as the presiding deity over the quasi-judicial proceedings, Patil had to rise above all political and party bias and act judiciously and impartially, (iii) He had to decide strictly legally and on the basis of the Anti-Defection Law in the Tenth Schedule of the Constitution even though he was conscious of the many defects in the law as it stood, (iv) Patil was only too well aware of the die turn that justice should not only be done but it should also seem to be done. He therefore tried hard to present a verdict which was even politically balanced Predictably, this left both the parties involved partly dissatisfied\textsuperscript{354}.

The hard facts were that when the Janata Dal out side split in February 1922, the Ajit Singh faction had only four or so members of the Lok Sabha with him. It took him some six months and much else to gather 20 \textit{i.e.}, the requisite one-third number of members. But, rightly, Speaker Patil was not concerned with all this. He came in the picture only when the 20 members wrote to him and appeared before him in a group. He allowed them to sit in the House separately. Fourteen petitions for their disqualification followed\textsuperscript{355}.

The law favoured Ajit Singh. Therefore, despite the ill-advised stands taken and the many difficulties created by himself, Ajit Singh was saved the rigours of disqualification on the ground of having voluntarily given up the membership of his political party. V P. Singh also had all the reasons to feel content and satiated for having had his pound of flesh in the shape of the disqualification of Ram Sunder Das, a former Chief Minister of Uttar Pradesh and three others.

Looked at strictly in terms of the law, these four could also have avoided the axe. They had only themselves to blame for having advanced flimsy and frivolous

\textsuperscript{354} Supra Note 10
\textsuperscript{355} Ibid.
alis to deny facts. Instead, they should have accepted the facts and argued on points of law which, if properly interpreted, could be seen to be going in their favour. Once the 20 members were recognised as a separate group consisting of the required one-third number, it was the Ajit Singh faction of the Janata Dal, i.e., the Janata Dal(A) that had to be automatically deemed as the original political party for all of them from the time of the split i.e., from February 1992. That being so, none of the members whose claim to belong to the said group had been accepted could later be disqualified on the ground of having violated the Whip in July 1992. Para 3 of the Tenth Schedule makes the position very clear.

Despite all the difference of opinion and criticism it generated, the verdict cleared a great deal of the existing confusion in the field of the Anti-Defection Law and decided some very crucial issues.

One, the constitutional status of being elected to the House as belonging to a particular party cannot be taken away from a Member by the Party. The device of expulsion cannot be used to defeat the protections extended by the Constitution. Expulsion by the party cannot deprive a Member of his membership of his Legislature Party for the simple reason that party constitutions cannot override the Constitution of India and cannot legitimise taking away the rights accruing to members from constitutional provisions and by virtue of their being elected by the people. Even in terms of sheer common sense, when it was not open to a member to voluntarily resign from his party without losing his seat, how could the party be allowed to remove him? It would have been as preposterous as a law that allowed murder as legal but outlawed suicide\textsuperscript{356}.

Two, after the Anti-Defection Law, every member of the House who is not elected as an independent or nominated belongs to the party on the ticket of which he is elected. Neither he nor any one else—not his party nor even the Speaker—can change his party affiliation during the entire term of office except in case of 'split' or 'merger'. The terms 'expulsion' and 'unattached' do not figure in the 10th Schedule and have no relevance. The Constitution does, not recognize any category of unattached or expelled members. The devices of 'expulsion' and 'unattached' declaration were being used for circumventing the Anti-Defection Law. If dissidents or suspected or potential

\textsuperscript{356} Ibid.
members of a group likely to break away continue to be expelled by the party leadership, the constitutional provision of 'split' could be completely nullified.\(^{357}\)

Three, under the Anti-Defection Law and Rules framed thereunder, there is no automatic or instantaneous disqualification of a defecting member. In fact, no notice of defection is taken by the Speaker unless he receives a petition in that regard. And, nothing happens to the Member concerned until the Speaker decides the petition. There is no provision in the law for retrospective application! Any disqualification can, therefore take effect only from the date of the order.\(^{358}\)

Four, under the Anti-Defection Law, the Speaker is concerned with the activities of members in Parliament. He is not concerned with and has no jurisdiction over party matters outside.

Lastly, although not said in so many words, it is made abundantly clear that the earlier decision regarding the split as one-time affair was faulty. It has inevitably to be a process which includes breaking of the political party outside “into factions and thereafter rising of groups in the legislature party representing the different factions. The entire process is bound to take time. Split in a national Party, for instance, cannot be like a guillotine falling at a precise point of time and dividing the party outside as also its membership inside various Legislatures in India suddenly and in one goes at a particular moment. In the present case, the whole process took nearly ten months.\(^{359}\)

In his decision, the Lok Sabha Speaker gave expression to his views on several aspects of vital concern to the nation. The Anti-Defection Law' has crucial implications for democracy and Parliamentary polity in India. If unprincipled defections are allowed to go unchecked, the entire system would lose its legitimacy or would become dysfunctional. On the other hand, the present law, as it stands, was drafted in haste and is defective and full of lacunae. It does not define crucial terms like 'political party', 'split', 'merger', etc. Also, it does not provide for various situations that may arise and call for remedy under the law. It is "not happily worded" and has "some weak points and defects". It needs to be extensively reviewed and reformed. Several provisions require refining and retuning to become more effective.

\(^{357}\) Ibid.
\(^{358}\) Ibid.
\(^{359}\) Ibid.
The Speaker suggested appointment of an experts' Committee for the purpose of examining the matter in depth and making recommendations for reform.

It is worth studying whether the Anti-Defection Law has served the purpose for which it was enacted and, if so, whether the purpose of stability with accountability, for example, cannot be served better by giving a second look to our entire Constitution and the political system. It may merit attention whether some amendments in the Constitution separating, for example, the question of executive stability or continuity from the phenomenon of changing legislative majority, may not make the Anti-Defection Law redundant.

It is important that those who wax eloquent about the basic purpose of the Anti-Defection Law and its objectives of preventing unprincipled acts of defection should not forget that it was intended as much to prevent individual acts of defection as to protect sizable group defections which may qualify, under the 'split' or 'merger' provisions. We cannot emphasise one to the exclusion of the other.

One of the most serious defects in the Anti-Defection Law is that it is unfair to the presiding officers who are unnecessarily involved in matters of political controversy, constitutional interpretation and legal adjudication\(^\text{360}\). The law casts on the presiding officers the tremendous responsibility of deciding questions of disqualification of members on ground of defection. Inasmuch as every member of the Lok Sabha represents some 10 lakhs or more of the people of India, a petition seeking his disqualification cannot be treated casually or lightly. It has to be examined with a sense of great responsibility\(^\text{361}\).

According to the judgment of the Supreme Court\(^\text{362}\), the Speaker, under the Anti-Defection Law, functions only as a quasi-judicial tribunal and his decisions are subject to judicial review. Speaker Patil suggested that by a suitable constitutional amendment, finality of Speaker's decision ought to be restored. In the alternative, since Speakers in India are, after all, party members, they should not be burdened with the job of pronouncing on the membership of their fellow members. Whatever they decide, motives may be imputed to them. It would, therefore, be better if cases of disqualification on ground of defection, etc., are decided by one or two judges of the Supreme Court/High Court and the Speakers relieved of this responsibility under the

\(^{360}\) Suvendu Kumar Pati, Redefining the Role of Speaker under the Anti-Defection Law, p. 1986.


\(^{362}\) Kihoto Hollohon Vs Zachichu Sothers, AIR, SC 412.
Tenth Schedule. While this was being suggested by this writer for years, the presiding officers appeared most reluctant to give up the power bestowed on them by the Tenth Schedule. It was for the first time that a Presiding Officer, and that too the Speaker of the Lok Sabha himself, openly advocated the idea.

Insofar as activities of members inside the Legislature are closely related to their political parties outside, for a proper working of the Anti-Defection Law, it would be necessary to regulate by law the functioning of political parties to make their behaviour somewhat predictable. There is an urgent need for a law providing for inner party democracy, regular elections, registration and deregistration of political parties, and revealing the sources of their funds, their expenditure and duly audited accounts. Perhaps, the number of parties would also need to be restricted and regulated by law.

The most important privilege of members of Parliament is that of freedom of speech and vote inside the Houses and committees of Parliament. The Anti-Defection Law seriously curtails this privilege inasmuch as members have to vote strictly on party lines and in complete obedience to party Whips. Any violation of the Whip entails disqualification from membership. Speaker Patil felt that members thus are denied even the ordinary freedom of vote which is available to every citizen outside the legislature. This is also a matter which needs to be looked into. Perhaps, a remedy may be found by stability of the Government. While Whips may be issued in such cases, voting in all other matters should be free and should not adversely affect the stability of the Government or the rights of members.

In 1993, one of the four MPs—Ghulam Mohammad Khan— disqualified by Speaker Patil on 1 June\textsuperscript{363} moved the Delhi High Court for quashing the Speaker's order. On 2 July, the court granted interim stay on the enforcement of Speaker's orders in respect of Khan and three other members\textsuperscript{364}.

(c) **Third major group defection from Janata Dal**

On 28 July, 1993 the 20-member Janata Dal (A) in Lok Sabha was further broken up with seven of its members asking Speaker Patil for recognition as a separate group. The seven included Ram Lakhan Singh Yadav, Ghulam Mohammad Khan, Ram Saran Yadav, Roshan Lai, Govind Chandra Munda, Anadi Charan Das and Abhaya Pratap Singh. These seven defined the Janata Dal (A) Whip and voted

\textsuperscript{363} Gazette of India Extra Ordinary, Part II dated 1 June, 1993.
\textsuperscript{364} Ram Sunder Aas, Govind Chandranaidu, Ram Badan.
against the opposition motion expressing no-confidence in the Congress Government. There was considerable confusion in regard to the vote of Munda who was alleged to have initially abstained from voting on the no-confidence motion but was later pressurized by some Ministers and others in the lobby to change his vote to one against the motion by using the correction slip given to him by another member.

According to one of the members, Anadi Charan Das, when the 20 members originally parted company with the Janata Dal to form Janata Dal (A), the understanding throughout was that they would join the Congress. But since Ajit Singh appeared to be indecisive, the seven decided to form a separate group to support the Rao Government.

One of the seven defecting members very candidly admitted on 30 July, 1993 that the group of seven would consider merging with the Congress if its members were offered ministerial berths.

On, 2 August, 1993 all the seven members of the group with Ram Lakhan Singh Yadav at the head formally joined the Congress raising the strength of the Congress party in Lok Sabha to 257-still short of an absolute majority by 10 in a House of 533. It was to be considered a merger for purposes of the Anti-defection law. Ajit Singh described the ruling party's decision to admit the seven defectors as "mischievous" and "patently illegal". He said the Prime Minister had "sullied his image by managing a majority in Parliament by hook or crook". Even within the Congress, there was considerable resentment on the decision. Arjun Singh asked his party not to appear even remotely to make a "mockery" of the anti-defection law and become its beneficiary. On the other hand, the Prime Minister himself was reported to have described Ram Lakhan Singh Yadav as the 'saviour' of his Government. Commenting on remarks by Arjun Singh, Rajesh Pilot was said to have retorted that but for the seven saviours neither he nor Arjun Singh could have remained ministers.

Morality and ethics apart, the question to be determined legally was whether these seven 'saviours' were defectors deserving of disqualification under the Tenth Schedule of the Constitution or they could be saved by the plea of party split?

The facts of the case were (a) that Janata Dal (A) comprised of 20 members, four of its members stood disqualified as defectors by the order of the Speaker, the

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365 Far From Romping Home, Outlook, March, 20, 1996.
366 Supra 31.
order of disqualification was, however, stayed by the Supreme Court pending its
decision in the matter; (b) Janata Dal (A) decided to support the no-confidence motion
against the Rao Government and a three line Whip was issued to all its 20 members to
support the motion; (c) the voting on the crucial motion showed that seven of the
Janata Dal (A) members—including some of those who had been disqualified by the
Speaker earlier—had disobeyed the directive of their party and voted against the
motion—there was some dispute about one of the seven members having been
influenced to change his vote in the lobby, etc.; (d) Janata Dal (A) was reported to
have called for the explanation of the members for disobeying the party Whip but no
response was received; (e) Janata Dal (A) filed petitions before the Speaker seeking
disqualification of members for voting in the House contrary to the party directives;
(f) while the Supreme Court and the Speaker were seized of the matters involved and
had still to start the necessary proceedings and take their decisions, all the seven
defectors were honourably admitted to the Congress party and one of them rewarded
with minstership.

It was quite clear that (i) there was no split in the political party i.e., in Janata
Dal (A) before the voting on the no-confidence motion; (ii) when there was no split,
no separate factions could have arisen; (iii) there could be no group—and there was
no group—in the Janata Dal (A) Parliamentary Party claiming to belong to a faction
of the Janata Dal (A) arising from the split in the Party at the time of voting on the
no-confidence motion, all the 20 were members of Janata Dal (A) Parliamentary Party
and as such bound by its directives; (v) the voting by the seven (or six) members
against the directives of their party was a crystal clear case of defection under
paragraph 2 of the Tenth Schedule and there seemed under the law no escape for them
from incurring disqualification from membership. It was claimed that an hour or so
before the voting, the seven members had informed the Speaker in his chamber about
their decision. But, obviously even if they did so, their decision could not be
construed as a split in the Janata Dal (A) outside. It was clearly a case of seven
members of the legislature party deciding to break with the party to vote against its
Whip entirely unrelated to any 'split' in the political party outside.

Ever since the enactment of the Anti-Defection Law the case of these seven
members was the clearest, the most blatant and entirely indefensible case of its
violation. If they could not be disqualified, the minimum that should have been done
was to repeal the Anti-Defection Law in the Tenth Schedule of the Constitution and to
stop decrying unprincipled defections and use of money power etc. in our political life.

It seems the petitions remained pending till these became infructuous or got withdrawn because the honourable petitioners themselves also defected to the Congress in another group defection and claimed protection of the merger clause. Finally, the Speaker's decision which came nearly 2 years after the petition, exonerated all the defectors under the merger clause.  

**Fourth major group defection from Janata Dal**

As the year 1993 was coming to a close, on 30 December, 1993, 10 of the 13 Janata Dal (A) MPs led by Ajit Singh defected to the Congress raising the strength of the Congress Party to 267 (including the Speaker) in an effective House of 528 with 16 vacancies. Thus, the Congress acquired a majority. The members who finally made it possible were: Ajit Singh, Satpal Singh Yadav, Feurya Narain Yadav, Harpal Panwar, Rajnath Sonkar Shastri, Arjun Yadav, Ram Nihore Rai, Ram Badan, Shiv Sharan Verma and Ram Avadh. With more than two-third members joining in the move, it was described as a merger for purposes of the Anti-defection law.

**Fifth major group defection from Janata Dal**

On 21 June, 1994, the Janata Dal (B) underwent a major split with 14 of its 39 members in Lok Sabha raising the banner of revolt against the leadership—particularly of the Ram Vilas Paswan- Sharad Yadav-Laloo Prasad Yadav troika. This was the fifth break-up in the Janata Dal family. The rebels who formed a separate group included prominent names like those of George Fernandes, Nitish Kumar, Rabi Ray, Chandrakant Yadav, Shahabuddin, Hari Kishore Singh, Yunnus Singh, Abdul Ghafoor and others. Ten of them were from Bihar, three from Uttar Pradesh and one from Orissa. The group claimed to be the real Janata Dal. George Fernandes felt that upstartism and coterieism in the Janata Dal were the ultimate causes for the split. "The upstarts overreached themselves and in the process they destroyed the party".

On 28 June the break-away group elected George Fernandes as the leader of their "real" Janata Dal even as Bommai said that all the 14 rebel MPs stood expelled from the Janata Dal (B). Chandrakant Yadav and Syed Shahabuddin were elected as the Leader and Deputy Leader of the new Parliamentary party. The fifth Janata Dal break-up was thus made complete and irreversible. The new Janata Dal was given the

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367 The Tribune 31 December 1993.
368 http://www.wikipedia.org
name Janata Dal (G). On 18 July, 1994, Janata Dal (G) was recognised by the Lok Sabha Speaker as a separate group in the House and assigned a block of 14 seats.\footnote{Gazettee of India, Extra ordinary, Part II dt. 20 July 1994}

(f) **Sixth major group defection**

On 5 July, 1997, Janata Dal suffered another split when Laloo Prasad Yadav, announced the formation of a new party the Rashtriya Janata Dal (RJD), of which he was subsequently elected the President. Yadav took with him 16 (JD) members of the Lok Sabha and 8 members of the Rajya Sabha and requested recognition.

(g) **Minor Janata Dal Splits/Mergers**

On 7 July, 1992, N.J. Rathava addressed a letter to the Speaker informing him of the merger of Janata Dal(G) with the Congress. Rathava was a lone member in Lok Sabha representing Janata Dal(G) Party at the time of constitution of the Tenth Lok Sabha. He requested that he be treated as a member of the Congress. HMPA in his letter dated 13 July, 1992 confirmed Rathava's joining Congress and requested that the member may be allotted seat in LS alongwith members of the Congress. After examining the matter, Rathava was allotted a seat in the Congress block of seats in LS.\footnote{By order of speaker Shri Shivraj Patil Dated 1992.}

On 29 September, 1992, Uday Pratap Singh, Chhotey Singh Yadav, and Ram Sagar, belonging to Janata Party in their joint letter dated 29 September, 1992, addressed to Speaker claimed a split in Janata Party. It was requested that they be allotted separate seats in Lok Sabha and their group be recognised as 'Samajwadi Party' with Ram Sagar as their leader. Janata Party had initially a strength of 5 members in Lok Sabha. After considering the comments received from Chandra Shekhar, leader of Janata Party in Lok Sabha and after a personal hearing by the Speaker to the concerned members held on 22'October, 1992, it was decided to seat the said 3 members separately as requested by them. Accordingly the members were seated separately w.e.f. 26 October, 1992. Subsequently on filing of relevant documents as required under the Disqualification Rules, 1985 by members, their request to recognise their group as 'Samajwadi Party' was acceded to by Speaker w.e.f. 9 January, 1993.

On 14 August, 1996, Kashmiri leader Mufti Mohammed Sayeed returned to the Congress party. He had quit the Janata Dal following differences with the party leadership on its Jammu and Kashmir policy.\footnote{Times of India, 15 Aug. 1996}
On 20 January, 1998, the Minister of Textiles R.L. Jalappa of Janata Dal gave his resignation. He decided to leave JD and join Congress(I)\(^{372}\).

On 6 January, 2001, it was announced that all the 12 members of Janata Dal (Samata) in Lok Sabha had merged into Samata Party formalising the split in Janata Dal (U) Parliamentary Party. The 12 MPs had parted ways with JD(U) which had a total membership of 22 MPs in Lok Sabha and formed JD (Samata).

(vi) Other Party Splits: Defections to the Congress

(a) Shiv Sena

On 30 January, 1992, Ashokrao Deshmukh and Vilasrao Gundewar, belonging to Shiv Sena Party in their letter dated 30 January, 1992, addressed to Speaker said that they had decided to depart from Shiv Sena and form a new group Shiv Sena (B) in Lok Sabha. They requested the Speaker to allot separate seats to them. Shiv Sena Party had a strength of 4 members at the time of constitution of the Tenth Lok Sabha. A copy of this letter was sent by the Speaker to Moreshwar Save, Leader of Shiv Sena Group in Lok Sabha for his comments. Both the said members and Save were given personal hearing by the Speaker in the matter on 25 February, 1992. After considering written and oral submissions made by both, it was decided to allot separate seats to Ashokrao Deshmukh and Vilasrao Gundewar in Lok Sabha. Separate seats were accordingly allotted to them on 28 February, 1992\(^{373}\). Subsequently on receipt of a request on 4 March, 1992 Shiv Sena (B) was recognised by the Speaker as a separate party and members were informed in writing about it on 5 March, 1992. By a letter on 6 March, 1992 they announced the merger of their group with the Congress. HMPA also vide his letter dated 6 March, 1992 told the Speaker about two Shiv Sena (B) members joining the Congress and requested him that these two members be allotted seats in LS alongwith members of the Congress. The Speaker on 11 March, 1992 recognised the merger and allotted seats to these two leaders alongwith other Congress members\(^{374}\).

(b) Telugu Desam

The 13-member Telugu Desam Legislature Party split on 10 March, 1992. Vijayakumar Raju, Leader of Telugu Desam Group in LS claimed that Telugu Desam Party had split \textit{w.e.f.} 10 March, 1992, at a meeting of several hundred members of

\(^{372}\) Times of India 21 January.
\(^{373}\) Lok Sabha Debate dated 28 February 1992, Split way group allowed by Speaker on 4 March, 1991.
\(^{374}\) G.C. Malhotra, Anti Defection Law in India and the Commonwealth 2004, p. 672.
Telugu Desam Party, including 7 members belonging to Telugu Desam Group in LS. It was requested by Raju that the Legislative Party, of which he was duly elected leader may be recognised by the Speaker and allotted separate seats. The Speaker on 12 March, 1992 recognised Vijayakumar Raju as Leader of the splitaway group of Telugu Desam. Vijaykumar Raju informed the Speaker that their faction of Telugu Desam would be known as Telugu Desam (V). The Speaker recognised the faction and, as requested allotted separate seats to its members\(^{375}\).

On 20 August, 1992, Vijaykumar Raju informed the Speaker that their Telugu Desam (V) had decided to merge with the Congress Parliamentary Party and requested that their merger may be agreed to and seats be allotted to them alongwith members of Congress. HMPA also intimated in writing \textit{vide} his letter dated 24 August, 1992, that all the members of LS belonging to Telugu Desam (V) had joined Congress(I) party in Parliament. The Speaker on 27 August, 1992, recognised the merger and allotted seats to these members alongwith Congress\(^{376}\).

(c) **Nagaland People's Party (P)**

On 20 April, 1992, a letter dated 6 April, 1992, was received from Tiameran, President of Nagaland People's Council (Progressive) [NPC (P)] addressed to Speaker, intimating that consequent upon split in Nagaland People's Council (NPC) a separate party \textit{viz.} NPC (P) came into being. He also stated that Imchalemha had become member of NPC (P). On the same day a letter dated 9 April, 1992, was received from Imchalemha confirming the same. Imchalemha was a lone member in LS from Nagaland representing Nagaland People's Council (NPC) party at the time of constitution of the Tenth Lok Sabha. The split was recognised and Imchalemha was recognised as the member of NCP(P). After examining the matter, party affiliation of Imchalemha was changed from NPC(P) to NCP(P) in the records of the party position in Lok Sabha. Subsequently Imchalemha in his letter dated 29 July, 1992, addressed to the Speaker informed him about his joining the Congress. On getting confirmation from HMPA [also Chief Whip of the Congress] and examining the matter, Imchalemha was allotted a seat in the Congress block of seats in Lok Sabha.

(d) **Jharkhand Mukti Morcha**

On 29 July, 1992, Shailendra Mahto and Whip of Jharkhand Mukti Morcha (JMM) in Lok Sabha gave two petitions under the Tenth Schedule to the Constitution

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\(^{376}\) Supra Note 10.
for disqualification of Krishna Marandi and Rajkishore Mahto, MPs belonging to JMM. On examination of petitions, it was found that annexures in case of both petitions, were not signed and verified by petitioners as required under rule 6(7) of Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985. Petitioner was, therefore, asked verbally as well as in writing to remove deficiency in petitions. Subsequently, on 14 October, 1992, when petitioner on being contacted informed that he was not interested in pursuing the petitions, he was requested to intimate the same in writing. On 23 October, 1992, the Speaker directed that petitions would stand dismissed if documents in annexures to petitions are not signed and verified as per provisions contained in Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985, on expiry of first week of ensuing session (5S, 10LS). Since no response was received from petitioner even after stipulated time, as per Speaker's orders both petitions stood dismissed on 2 December, 1992. Petitioner was informed, on 3 December, 1992, in writing that the Speaker in exercise of his powers under rule 7(2) of Disqualification Rules, dismissed petitions given by him.\(^{377}\)

\[(e) \text{ Notice of Privilege}\]

Four notices of a question of privilege regarding the alleged payment of large sums of money to some members of the Jharkhand Mukti Morcha (JMM) in the Lok Sabha for voting against the Motion of No-confidence in the Council of Ministers in July 1993 were received from Sarvashri Jaswant Singh, Indrajit Gupta, Arjun Singh and Jagmeet Singh Brar, all members. The notices dated 27 February, 1996, received from Jaswant Singh and Indrajit Gupta, respectively, were against the Prime Minister. The notice dated 27 February, 1996, given by Arjun Singfi and Jagmeet Singh Brar was against the Prime Minister and Sarvashri Bhubi Soren, Suraj Mandal, Simon Marandi and Shailendra Mahto, all members belonging to the JMM in the Lok Sabha (who were said to be the beneficiaries of the alleged pay-offs).\(^{378}\)

All the said four notices, in support of the contention made therein, relied upon a Press statement issued by the Shailendra Mahto, a member. The statement, a copy which was enclosed by Jaswant Singh with his notice, stated that a meeting of the said four members of the JMM in the Lok Sabha was held with the Prime Minister in the presence of Buta Singh, a member, two days before the voting on the Motion of No-confidence on 28 July, 1993. On the basis of an agreement allegedly reached at the

\(^{377}\) Lok Sabha Bulletin (11) dt. 3-12-1992.

\(^{378}\) Supra Note 10, p. 79.
said meeting, the members had voted against the Motion of No-confidence and large sums of money were subsequently paid into various bank accounts of the said members.

The main contention of the members in their notices was that the Prime Minister was in contempt of the House by allegedly offering inducements to the said four members of the JMM and by trying to influence them in their parliamentary conduct. Arjun Singh further contended that the Prime Minister had aided and abetted the conduct of the said members, Arjun Singh and Jagmeet Singh Brar also contended that those members had committed a breach of privilege and contempt of the House by accepting the "improper gratification in matter of voting".

Copies of all the four notices were forwarded to the Prime Minister for his comments. Copies of the notice of Arjun Singh and Jagmeet Singh Brar were also forwarded to the said four members of the JMM for their comments in the matter.

The Prime Minister’s comments on the notices of Jaswant Singh were received on 28 February, 1996. In his comments, the Prime Minister, *inter alia* stated as follows:

"The news item appearing in a section of Press and the press release by Shailendra Mahto, MP are baseless and false. Neither any payments of money were made or arranged to be paid by me to any member of Parliament, nor was any member of Parliament influenced through improper means in his parliamentary conduct, nor was any member of Parliament offered any inducements, fee or reward on the occasion of the Motion of No-confidence moves against the Council of Minister in July, 1993.

It is also to submit further that no attempt whatsoever has been made to prevent the will of the house and never was there any question of violation of the oath of office under the Constitution.

I 'would therefore submit to the Hon'ble Speaker that no breach of privilege has been committed".

The same day, comments of the Prime Minister on the notice of Indrajit Gupta were also received. In his comments, the Prime Minister stated *inter alia* as follows:

"The allegations in the published statement of Shailendra Mahto are false and baseless and hence denied. In view of this, the question of denigration of Parliament does not arise."
I would, therefore, submit to the Hon’ble Speaker that no breach of privilege has been committed".

The comments of the Prime Minister -on the notices of Arjun Singh and Jagmeet Singh Brar were received on 6 March, 1996. The Prime Minister, in his comments, stated inter alia as under:

"The allegation that I have aided and abetted the alleged conduct of the MPs mentioned in the aforesaid notice is false and baseless and hence, denied.

I would therefore submit to the Hon’ble Speaker that no breach of privilege or contempt of the House has been committed".

Buta Singh, member, also addressed a letter to the Speaker, Lok Sabha in which he denied the allegations, stating inter alia:

"that I totally deny the consideration of any financial dealing. At no state any money was offered or given to anybody either by me or through me".

He also made a personal explanation in this regard during the debate in the House on 28 February, 1996.

Suraj Mandal, member, while speaking in the House on 28 February, 1996 during the discussion on Motion under Rule 184 regarding the Government's failure to answer charges relating to the 'hawala' case and illegal pay-offs to some members of Parliament, also categorically denied the allegations.

On 29 February, 1996, Shailendra Mahto, member, during his personal explanation in the House, denied the allegation in respect of acceptance of improper gratification by him for not voting in favour of the No-Confidence Motion against the Council of Ministers on 28 July, 1993.

On 11 March, 1996, Arjun Singh raised the matter in the House with the permission of the Speaker, Lok Sabha, Shivraj V. Patil. After a prolonged discussion, during which members of all parties expressed their views, the Speaker disallowing Arjun Singh's notice of question of privilege observed as follows:

"...The matter is before the Court which may take a proper decision on the basis of evidence that may be produced before it. Three years back some allegations were voiced about the illegal payments. At that time itself, the House could have been asked to look into it. On the basis of other kinds of inducements, the matter could have been asked to be looked into by the House. In view of these facts and the available evidence, I find it very difficult to give the consent".
In *P.V. Narasimha Rao v. The State*\(^{379}\), it was argued that under Article 105(2) of the Constitution, every member of Parliament was immune from "any proceedings in any court in respect of anything said or any vote given by him in Parliament" and since the alleged act of bribery was in respect of a vote given in Parliament, it was protected under the privilege law in Article 105. The Supreme Court held that the bribe givers who were members of Parliament could not claim immunity under Article 105 but the bribe-takers, also members of Parliament, could claim such immunity if they had actually spoken or voted in the House in the manner-indicated by the bribe-givers.

As observed by the National Commission to Review the Working of the Constitution\(^{380}\), this interpretation of the immunity of members ran counter to all notices of justice, fair play and good conduct expected from members of Parliament. Freedom of speech inside the -Mouse cannot be used by them to solicit or to accept bribes, which is an offence under the criminal law of the country. It needs to be clarified that protection against legal action under Article 105 does not extend to corrupt acts.

(f) **M.P. Vikas Party**

On 5 November, 1996, the former Union Minister, Madhavrao Scindia rejoined the Congress Party. The Congress President Sitaram Kesri on 5 November, 1996, announced that Scindia had merged his Madhya Pradesh Vikas Party with the Congress.

(g) **Congress(I)**

On 11 December, 1996, at a general body meeting, decision of unconditional merger with the Congress was taken by the All India Indira Congress (Tiwari).

(h) **AIADMK**

On 26 May, 1997, a split in AIADMK parliamentary party was formalised when 7 MPs owing allegiance to rebel leader Thirunavukarasu met Rajya Sabha Chairman K.R. Narayanan and sought recognition as a separate group. The group led by V. Rajan Chellappa claimed that they represented the original AIADMK and they should be granted recognition as such. However, the Chairman told them that it was

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\(^{379}\) AIR 1998 SC 2120

\(^{380}\) Under Chairmanship of Justice M.N. Venkatachaliah Report Submitted to the Govt. of India in March, 2002.
for the Election Commission to adjudicate on the dispute as to who represented the real AIADMK.

(i) **Congress(l)**

On 26 December, 1997, four MPs including Suresh Kalmadi were reported to have resigned from the Congress Party. The others who resigned were: Anadi Charan Sahu, Mohan S. Delkar, and Gopal Tandel.

(j) **N.C.P.**

On 27 May, 1999, Sharad Pawar along with Tariq Anwar and P.A. Sangma floated a new Party—the Nationalist Congress Party. Pawar was elected President and Sangma and Anwar General Secretaries of the newly formed party. The move came after the expulsion of the three members on 20 May, 1999, from the primary membership of the party for six years. The members had questioned the suitability of Sonia Gandhi for Prime Ministership due to her foreign origin.

(k) **RJD**

The RJD split in Lok Sabha on 28 April, 2001, with three of its members seeking recognition as a separate group shortly after dissident leader Ranjan Prasad Yadav and Lok Sabha member Nagmani were expelled by the party at its national executive meeting in Patna. Nagmani, Anwarul Haq and Sukhdeo Paswan met Lok Sabha Speaker GMC Balayogi informing him of the split and the formation of the separate group RJD (Democratic) and sought recognition for it. The three MPs were accompanied by Ranjan Prasad Yadav and Kum Kum Rai both Rajya Sabha members.

(vii) **Disqualification of Mohd. Shahid Akhlaque**

A petition was filed by Rajesh Verma of the Bahujan Samaj Party against Mohd. Shahid Akhlaque on the ground that he had incurred disqualification under para 2(l)(a) of the Tenth Schedule. The main contention of the petitioner was that in a public meeting held on 16 December, 2006, at Nav Chandi Maidan, Meerut, the respondent, publicly and voluntarily gave up the membership of the Bahujan Samaj Party and joined the Samajwadi Party in presence of Mulayam Singh Yadav, who was then the Chief Minister of Uttar Pradesh and the national president of the Samajwadi Party. There were news reports and photographs dated 17 December, 2006 establishing the same. The respondent also made a statement to the effect that Smt.

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381 Claim of Split allowed by Speaker (Sh. G.M.C. Balayogi) on 28 Aug. 2001
Mayawati had given a statement against the Muslim community and therefore he had decided to give up the membership of the Bahujan Samaj Party. Also, the electronic media had covered the said meeting on 16 December, 2006, and CDs as well as press clippings were produced in the course of the hearing. Despite the CD showing clippings of the meeting dated 16 December, 2006 being played at the personal hearing dated 10 December, 2007, the respondent did not dispute its correctness. The Speaker in his order dated 27 January, 2008 took into consideration the various pronouncements by the Supreme Court and various provisions of the Tenth Schedule and held that in the given factual matrix, he had no hesitation in holding that the respondent had incurred disqualification under paragraph 2(l)(a) of the Tenth Schedule by reason of events which took place on 16 December, 2006.382

(viii) Disqualification of Ramakant Yadav and Bhalchandra Yadav

A petition was filed by Rajesh Yadav against Ramakant Yadav on the ground that the latter had incurred disqualification under para 2(l)(a) of the Tenth Schedule. It was the contention of the petitioner that despite being elected on the ticket of the Bahujan Samaj Party from Azamgarh Constituency of Uttar Pradesh, the respondent had voluntarily given up the BSP membership and joined the Samajwadi Party on 15 November, 2006. The petitioner contended that in a meeting held on 15 November, 2006 at the State party office at Lucknow, in the presence of the General Secretary of the Samajwadi party and various other senior leaders, the respondent along with another member of Parliament, Bhalchandra Yadav, voluntarily gave up the membership of the Bahujan Samaj Party and joined the Samajwadi Party. In the course of the hearing, photocopies of new items to that effect from various newspapers were produced.

Furthermore, in a press conference on 15 November, 2006, the respondent criticized the national president of the Bahujan Samaj Party and voluntarily gave up the membership of the Bahujan Samaj Party. This event was also widely covered by the electronic media. The respondent in the course of his submissions stated that he had won the elections on the ticket of the Bahujan Samaj Party and even on the date of hearing continued to be a member of the Bahujan Samaj Party and had not joined any other party. He further stated that he had faith in the Bahujan Samaj Party and had always followed the directions of Smt. Mayavati. He also denied the press reports of

382 Gazettee of India, Extraordinary, Part II, dated 17 December 2006. See also Subhash C. Kashyap, Anti-Defection law and parliamentary privileges, 2011 p. 83
having joined the Samajwadi Party. The Speaker by an order dated 27 January, 2008 held that in the facts and circumstances of the case, the respondent had voluntarily given up the membership of the Bahujan Samaj Party on 15 November, 2006 and hence incurred the disqualification from the house under para 2(l)(a) of the Tenth Schedule. On the same date; the Speaker passed a similar order, disqualifying Bhalchandra Yadav from continuing as a member of the 14 Lok Sabha.\footnote{Gazettee of India Extra ordinary, Part II dt. 15 Nov. 2006. See also Lok Sabha Bulletin (11) dt. 16 Nov. 2006.}

(ix) **Disqualification of Kuldeep Singh**

A petition\footnote{Dated 25 January 2008.} was filed by Avtar Singh Bhadana against Kuldeep Singh praying for a declaration that the respondent was disqualified from continuing as a member of the Lok Sabha from the Bhiwani Constituency of the State of Haryana on account of his having voluntarily given up the membership of the Indian National Congress. It was contended by the petitioner that the respondent had dissented and bitterly criticized the Congress government in Haryana and the All India Congress Committee, that the respondent's acts and conduct through public postures, meetings and press conferences were against the Indian National Congress, that the respondent had formed a new political party called the Haryana Janhit Congress and had registered the same with the Election Commission on 8 November, 2007, that various political meetings and rallies, including the Janhit rally on 2 December 2007 and subsequent press releases, were all evidence of continued defiance by the respondent of his parent political party, namely the Indian National Congress and that the respondent had led a delegation of the Haryana Janhit Congress and met the Governor of Haryana and had submitted a memorandum on the official letter head of the respondent in which a demand was made for dismissal of the Congress government in Havana.

The Speaker by his order of 10 September, 2008 after considering various pronouncements of the Supreme Court and fact\footnote{Gazettee of India Extra Ordinary Part II dated 10 September 2008.} and circumstances of the instant case, held that the respondent had incurred the disqualification under para 2(l)(a) of the Tenth Schedule.\footnote{Dated 25 January 2008.}

(x) **Disqualification of Jai Prakash**

A petition was filed by Prof. Ram Gopal Yadav of the Samajwadi Parliamentary Party against Jai Prakash praying that the respondent be disqualified.
from being a member of the Lok Sabha under para 2(l) (b) of the Tenth Schedule on the ground that he exercised his vote in violation of the Party Whip issued to him by the Chief Whip.

Party during the motion for vote of confidence moved by the Prime Minister, Lok Sabha on 21 July, 2008. It was contended by the Petitioner a three line Whip was issued to the respondent for voting in favour of the motion of confidence in the Council of Ministers moved by the Prime Minister The respondent however voted against the motion of confidence violating the Party Whip.

The Speaker by his order of 11 September, 2008 held that the respondent had incurred disqualification under para 2(l)(b) of the Tenth Schedule by reason of his casting vote on 22 July, 2008 against the motion of confidence moved by the Prime Minister.\(^{386}\)

(xi) **Disqualification of Prof. S.P. Singh Baghel**

A petition\(^{387}\) was filed by Prof. Ram Gopal Yadav of the Samajwadi Parliamentary Party against Prof. S.P. Singh Baghel on the ground that the respondent had incurred disqualification from being a member of the Lok Sabha under para 2(l)(b) of the Tenth Schedule on account of exercising his vote in violation of the Party Whip issued to him by the Chief Whip of the Samajwadi Party during the motion for vote of confidence moved by the Prime Minister in the Lok Sabha on 21 July, 2008. It was contended by the petitioner that despite a three line Whip issued to the respondent for voting in favour of the said motion of confidence, he went on to vote against it, thereby violating the party Whip.

In an order dated 12 September, 2008, the Speaker held that the respondent had incurred disqualification under para 2(l)(b) of the Tenth Schedule by reason of his casting vote against the motion of confidence moved by the Prime Minister.\(^{388}\)

(xii) **Disqualification of Ram Swaroop Prasad**

A petition\(^{389}\) was filed by Prabhunath Singh of the Janta Dal (United) against Ram Swaroop Prasad praying for his disqualification under the Tenth Schedule under para 2(l)(b) for having violated the Party Whip. It was contended by the petitioner that a whip had been issued to the respondent by the Chief Whip of the Janata Dal


\(^{387}\) Dated 28 July 2008

\(^{388}\) Gazettee of India Extra ordinary Part II dated 13 Sept. 2008

\(^{389}\) Dated 23 July 2008
(United) to cast his vote against the motion of confidence which was discussed in the House on 21 and 22 July, 2008. The respondent, however, voted in favour of the motion of confidence, thereby violating the Party Whip p'd direction. The respondent contended that there was no whip as alleged and he was free to vote in favour of vote of confidence in the absence of such a whip. The Speaker in his order dated 3 October, 2008, rejected the contention of the respondent and held that the respondent had incurred disqualification under para 2(1)(b) of the Tenth Schedule by reason of his voting against the Party Whip\textsuperscript{390}.

(xiii) Disqualification of Dr. H.T. SangTiana

A petition\textsuperscript{391} was filed by Santosh Gangwar, the Chief Whip of the Bharatiya Janata Party (BJP) against Dr. H.T: Sangliana on the ground that the respondent had incurred disqualification from being a member of the Lok Sabha under para 2(1)(b) of the Tenth Schedule on account of his exercising his vote in violation of the Party Whip issued to him by the Chief Whip of the Bharatiya Janata Party (BJP) during the motion for vote of confidence moved by the Prime Minister in the Lok Sabha on 21 July, 2008.

In an order dated 3 October 2008, the speaker held that the respondent had incurred disqualification under Para (2) (b) of the Tenth Schedule by season of his casting vote against the motion of confidence moved by Prime Minister\textsuperscript{392}.


A petition was filed on 23 July 2008 by Santosh Gangwar, the Chief Whip of Bharatiya Janta Party against Sh.Chander Bhan on ground that the respondent had incurred disqualification from being a member of the Lok Sabha under para 2 (1) a of the Tenth Schedule which was allowed by Speaker on 5 December 2008 and the Respondent had incurred disqualification under para 2 (1) a the Tenth Schedule.

(xv) Disqualification of Sh. Harihar Swain (2008)

On 10 December 2008 Speaker disqualified Harihar Swain on ground that he had incurred disqualification for being a member of the Lok Sabha under para 2(1) b of the Tenth Schedule on petition filed by Sh.Bhartruhar Mehtab dated 25 July 2008\textsuperscript{393}.

\textsuperscript{390} Gazette of India Extra Ordinary Dated 3 October 2008.
\textsuperscript{391} Dated 23 July 2008
\textsuperscript{392} Gazette of India Extra Ordinary, Part II dated 3 Oct., 2008.
\textsuperscript{393} Gazette of India Extraordinary, part II ,dated 10 December2008.
(xvi) Disqualification of Dr. M. Jagnath (2008)

A petition was filed by K. Yerranaidu on 28 July 2008 against Dr. M. Jagnath on ground that the letter had incurred disqualification under para 2(1)(a) of the Tenth Schedule. The Speaker on 15 December 2008 after considering circumstances of the case held that the Respondent had incurred the disqualification under para 2(1) a of the Tenth schedule 394.

(xvii) Disqualification of Abu Ayas Mondal (2009)

On 1 January 2009 Speaker disqualified Dr. P. P. Koya on a petition filed by Rajiv Nandan Singh dated 7 August 2008 against Dr. P. P. Koya on ground that the letter had incurred disqualification under para 2 of the Tenth Schedule 395.

Till December 2011 the last member of the Lok Sabha who was disqualified under the The Tenth Schedule of the Constitution was Abu Ayas Mondal, who was disqualified by the Speaker on 27 April 2009 on petition filed by Basudeb Acharya dated 13 March 2009 on the ground that the Respondent had incurred disqualification from being a member of the Lok Sabha under para 2(1) a of the Tenth Schedule 396.

3. Cases in Rajya Sabha

(i) Disqualification of Mufti Mohmad Sahid

In Rajya Sabha the first case of disqualification was of Mufti Mohmad Sahid on the petition of Shri V. Narayanaswamy. The petitioner sought disqualification of Shri Mufti Mohmad Sayeed on 28-04-1989 on the ground of voluntarily giving up membership of original party i.e. Congress(I) under para 2(1)a of the Tenth Schedule of the Indian Constitution. The petition was allowed by the Chairman Dr. Shankar Dayal Sharma on 27-08-1989 and thus disqualified Shri Mufti from Rajya Sabha 397.

(ii) Disqualification of Shri Satyapal Malik

The year 1989 saw another disqualification this time that of Shri Satyapal Malik. On 27-07-1989, Shri Pawan Kumar Bansal filed an petition for the disqualification of Shri Satya Pal Malik on the same ground on which the first disqualification from Rajya Sabha was sought and granted. The then Chairman of Rajya Sabha Dr. Shankar Dayal Sharma disqualified the

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396 Gazetteer of India Extraordinary, part II dated 27 April 2009. see also Lok Sabha Bulletin dated 28 April 2009.

respondent on 14-09-1989 in accordance with Para 2(1)a of the Tenth Schedule\textsuperscript{398}.

(iii) Disqualification of Jai Narain Prasad

It took almost another 19 years to witness disqualification of a member from Rajya Sabha after that of Shri Satya Pal Malik in 1989. A petition was filed by Smt. Sushma Swaraj against Jai Narain Prasad praying for a declaration that the respondent was disqualified from continuing as a member of Rajya Sabha on account of his voluntarily given up membership of original party. After considering various facts and circumstances of the instant case, the Chairman by his order on March 26, 2008 disqualified the respondent under para 2(1)a of the Tenth Schedule\textsuperscript{399}.

(iv) Disqualification of Shri Isam Singh

The same year Shri Veer Singh filed a petition against Shri Isam Singh for disqualification from Rajya Sabha on the ground of his voluntarily given up membership of original party. The Chairman found the facts of the petition to be true and substantial and therefore disqualified the respondent from Rajya Sabha by an order on 04-07-2008\textsuperscript{400}.

4. TABLES

(I) Cases of Disqualification in Lok Sabha\textsuperscript{401}

<table>
<thead>
<tr>
<th>S No.</th>
<th>Lok Sabha (year)</th>
<th>Date when petition given</th>
<th>Name(s) of Petitioner(s)</th>
<th>Name(s) of Respondent(s)</th>
<th>Grounds</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eighth Lok Sabha</td>
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</tr>
<tr>
<td>1.</td>
<td>1987</td>
<td>6.4.1987</td>
<td>Sh. K.P. Unnikrishnan</td>
<td>Sarvashri Surdarshan Das &amp; Sahabroo Patil Dongarkar</td>
<td>Voluntarily giving up membership of member’s Party (Congress (S))</td>
<td>Dismissed by Speaker (Dr. Bai Ram Jakhar) vide decision dated 9.9.1987</td>
</tr>
</tbody>
</table>


\textsuperscript{399} Gazette of India Extraordinary, part II, dated 26 March 2008.

\textsuperscript{400} Gazette of India Extraordinary, part II dated 4 July 2008. See also Lok Sabha Bulletin dated 4 July 2008.

\textsuperscript{401} Based on Gazette of India and Lok Sabha Bulletin and lok Sabha Debates
<table>
<thead>
<tr>
<th>S No.</th>
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</tr>
</thead>
<tbody>
<tr>
<td>4.</td>
<td>1990-91</td>
<td>(a) 7.11.1990</td>
<td>Sb. S. S. Bhartiya Sb. Satya Pal Malik other members</td>
<td>Smt. Usha Sinha and 29 the time of (This includes Shri Basavraj Patil)</td>
<td>Violation of Party whip at voting on Confidence Motion in V.P. Singh’s Govt. on 7.11.1990</td>
<td>Speaker (Shri Rabi Ray) vide his decision dated 11.01.1991 disqualified Sarvasiri Basavraj Patil, (along with 7 other members petitions against whom were given by Shri Sukdeo Pawar).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) 8.11.1990</td>
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<td></td>
<td></td>
<td>(c) 23.11.1990</td>
<td>Sh. Sukdeo Paswan (7 separate petitions)</td>
<td>Sarvashri Hemendra Singh Banera Shukla, Sarwar Hussain, Bhapey Gobardhan Vidyacharan, Devenanda Amat, Manwendra Singh. Bengali Singh</td>
<td></td>
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<td></td>
<td></td>
<td>(d) 14.12.90</td>
<td>Sh. Devendra Prasad Yadav</td>
<td>Dr. Shakeelur Rehman</td>
<td>Voluntarily giving up membership of member’s Party (Janata Dal)</td>
<td>Speaker dismissed remaining 29 petitions. Speaker vide his decision dated 11.01.1991 disqualified Sarvashri Hemendra Singh Banera. Vidyacharan Shukla, Sarwar Hussain, Bhapey Gobardhan, Devenanda Amat and Dr. Bengali Singh (and Shri Basavraj Patil). The petition against Shri Manwendra Singh was dismissed. Dr. Shakeelur Rehman was disqualified from membership of Lok Sabha in terms of Para 2(b)(a) of Tenth Schedule.</td>
</tr>
<tr>
<td>5.</td>
<td>1991</td>
<td>2.1.1991</td>
<td>Sh. R. Muttiah</td>
<td>Dr. K. Kalimuthu</td>
<td>Voluntarily giving up membership of member’s Party</td>
<td>Rendered infructuous due to dissolution of 9 Lok Sabha on 13.3.1991</td>
</tr>
</tbody>
</table>

Tenth Lok Sabha
<table>
<thead>
<tr>
<th>S No.</th>
<th>Lok Sabha (year)</th>
<th>Date when petition given</th>
<th>Name(s) of Petitioner(s)</th>
<th>Name(s) of Respondent(s)</th>
<th>Grounds</th>
<th>Decision</th>
</tr>
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<tbody>
<tr>
<td>6.</td>
<td>1992-93</td>
<td>(a) 11.8.1992</td>
<td>Sh. Vishwanath Pratap Singh (4 separate petitions)</td>
<td>Sarvashri Ram Sundar Das tiC. Munda G.M. Khan Rambadan</td>
<td>Violation of Party whip at the time of voting on No-confidence motion on 17.7.1992</td>
<td>Allowed vide Speaker (Sh. Shivraj V. Patil’s) decision dated 1.6.1993. Respondents disqualified. Stayed by Delhi High Court vide their order dt. 27.1993. Case was pending in the Court till dissolution of 10th Lok Sabha. Consequently members continued as members of 10th Lok Sabha for its entire duration.</td>
</tr>
<tr>
<td>8.</td>
<td>1993</td>
<td>26.8.1993</td>
<td>Shri Ajit Singh (Composite petition)</td>
<td>Sarvashri Ramlakhan Singh Yadav Ram Sharan Yadav Abhay Pratap Singh Roshan Lal Gulam Mohd.Khan Anadi Charan Das Govinda Chanda Munda.</td>
<td>(a) Violation of Party Whip at the time of voting on No-Confidence Motion against Shri P.V. Narasimha Rao Govt. on 28.7.1993 (with regard to 6 members excluding Shri Munda) (b) Voluntarily giving up membership of member’s party Janata Dal (A (against all seven members)</td>
<td>Dismissed by Speaker (Sh. Shivraj V. Patil) vide his decision dt. 3.1.1996</td>
</tr>
</tbody>
</table>

Eleventh Lok Sabha
- No Cases -

Twelfth Lok Sabha
<p>| 9.    | 1999            | 15.4.1999               | Sh. Omak Apang | Sh. Wangcha Rajkumar | Abstaining from voting | Dismissed by Speaker (Sh. |</p>
<table>
<thead>
<tr>
<th>S No.</th>
<th>Lok Sabha (year)</th>
<th>Date when petition given</th>
<th>Name(s) of Petitioner(s)</th>
<th>Name(s) of Respondent(s)</th>
<th>Grounds</th>
<th>Decision</th>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Sh. K. Yerramnaidu</td>
<td>Sh. S. Vijayarama Raju</td>
<td>on Resolution with regard to proclamation of President’s Rule in Bihar.</td>
<td>G.M.C. (nayogi) on 29.4.1999 on ground of non-compliance of provisions of Anti-Defection Rules.</td>
</tr>
</tbody>
</table>

**Thirteenth Sabha**

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<tbody>
<tr>
<td>13.</td>
<td>2002-2004</td>
<td>30.4.2002</td>
<td>Km. Mamata Banerjee</td>
<td>Sh. Ajit Kumar Panja</td>
<td>Voting against Party directive at the time of voting on POTO Bill, 2002 during joint sitting of both Houses held on 26.3.2002</td>
<td>Petitioner subsequence intimated that she did not wish to press her petition. While matter was pending consideration or Speaker, 13th Lok Sabha was dissolved on 6.2.2004. Petition stood lapsed.</td>
</tr>
<tr>
<td>S No.</td>
<td>Lok Sabha (year)</td>
<td>Date when petition given</td>
<td>Name(s) of Petitioner(s)</td>
<td>Name(s) of Respondent(s)</td>
<td>Grounds</td>
<td>Decision</td>
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**Fourteenth Lok Sabha**

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<tr>
<td>25.</td>
<td>2008</td>
<td>25.7.2008</td>
<td>Vinod Kumar</td>
<td>A. Narpanda</td>
<td>Violation of Party whip</td>
<td>Petition Dismissed on 23-10-2008</td>
</tr>
<tr>
<td>27.</td>
<td>2008</td>
<td>25.7.2008</td>
<td>Bhartalhi Mehtab</td>
<td>Harihar Swain</td>
<td>Violation of Party whip</td>
<td>Respondent Disqualified on</td>
</tr>
<tr>
<td>S No.</td>
<td>Lok Sabha (year)</td>
<td>Date when petition given</td>
<td>Name(s) of Petitioner(s)</td>
<td>Name(s) of Respondent(s)</td>
<td>Grounds</td>
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<tr>
<td>35.</td>
<td>2008-09</td>
<td>13.03.2009</td>
<td>Basudib Acharya</td>
<td>Abu Ayas Mondal</td>
<td>Voluntarily giving up membership of members Party</td>
<td>Petition Dismissed on 09-01-2009</td>
</tr>
</tbody>
</table>

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## Table 2 - Cases of Split in Lok Sabha

<table>
<thead>
<tr>
<th>SL.No.</th>
<th>Lok Sabha (Year)</th>
<th>Date when claim for split made</th>
<th>Party from which split claimed</th>
<th>SL.No.</th>
<th>Lok Sabha (Year)</th>
<th>Date when claim for split made</th>
<th>Party from which split claimed</th>
<th>Decision</th>
<th>Remarks, if any.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>1986-87</td>
<td>November 1986</td>
<td>Shrimanti Akali Dal Singh Atwal, Charanjit Singh Walia &amp; Tarlochan Singh Tur, MPs</td>
<td>1.</td>
<td>1988</td>
<td>March 1988</td>
<td>AIADMK</td>
<td>Allowed by Speaker (Dr. Bal Ram Jakhar) on 28.4.1988</td>
<td>As a result of split, Shrimanti Akali Dal ceased to exist in Lok Sabha and hence the claim by Akali Dal (Badal) &amp; Akali Dal (Barnala) is not entertained.</td>
</tr>
<tr>
<td>2.</td>
<td>1988</td>
<td>AIADMK</td>
<td>Sh. P. Kolambolkar &amp; three other members</td>
<td>2.</td>
<td>1988</td>
<td>AIADMK</td>
<td>AIADMK-I &amp; AIADMK-II</td>
<td>Allowed by Speaker (Sh. Radhakrishna) on 16.1.1999</td>
<td>As a result of split, AIADMK-I &amp; AIADMK-II ceased to exist in Lok Sabha. Consequently, AIADMK-I &amp; AIADMK-II were merged to form AIADMK.</td>
</tr>
<tr>
<td>3.</td>
<td>1990-91</td>
<td>6.11.1990</td>
<td>Janata Dal</td>
<td>3.</td>
<td>1990-91</td>
<td>6.11.1990</td>
<td>Janata Dal</td>
<td>Allowed by Speaker (Sh. Raji Ray) on 4.3.1992</td>
<td>Petitions for disqualification were filed against members claiming (9th Lok Sabha) in his decision dt. 14.1.99: (a) recognized split away group viz. Janata Dal; (b) disqualified members. (For details see Chapter IV)</td>
</tr>
</tbody>
</table>

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Sources: Lok Sabha Bulletin and Lok Sabha Debates. Provision of split was omitted by the Constitution (Ninty-first Amendment) Act, 2003

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<table>
<thead>
<tr>
<th>SL.No.</th>
<th>Lok Sabha (Year)</th>
<th>Date when claim for split made</th>
<th>Party from which split claimed</th>
<th>Claim made by</th>
<th>Nature of claim /request made</th>
<th>Name of breakaway /splitaway group</th>
<th>Decision</th>
<th>Remarks, if any.</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.</td>
<td>1992-93</td>
<td>7.8.1992</td>
<td>Janata Dal</td>
<td>Sarvashri Ramnaldia Yadav, Ajit Singh and 18 other members</td>
<td>Split in Janata Dal &amp; request for recognition to splitaway Group and separate seating to its members.</td>
<td>Janata Dal</td>
<td>Allowed by Speaker (Shri Shivraj V.Patil) on 1.6.1993</td>
<td>Petitions for disqualification filed against members claiming split. Speaker (Shri Shivraj V. Patil) in his decision dt. 1.6.93 (a) recognized splitaway group viz. Janata Dal (A) comprising of Sh. Ajit Singh &amp; 15 other members (b) disqualified four members. (For details see Chapter IV)</td>
</tr>
<tr>
<td>8.</td>
<td>1994</td>
<td>21.6.1994</td>
<td>Janata Dal</td>
<td>Sb. Md. Yamas Salem &amp; 13 other members</td>
<td>Split in Janata Dal and request for separate seating and other facilities to function as a political party in the House</td>
<td>Samajwadi Party</td>
<td>Allowed by Speaker (Sh. Shivraj V. Patil) on 20.7.1994</td>
<td>14 members of splitaway group allotted separate seats in Lok Sabha w.e.f. 20.7.1994. Consequent upon recognition of group of 14 members by Electronic Commission as Samajwadi Party, it was decided to treat this splitaway group in Lok Sabha as Samajwadi Party</td>
</tr>
</tbody>
</table>

Eleventh Lok Sabha

<table>
<thead>
<tr>
<th>SL No.</th>
<th>Lok Sabha (Year)</th>
<th>Date when claim for split made</th>
<th>Party from which split claimed</th>
<th>Claim made by</th>
<th>Nature of claim / request made</th>
<th>Name of breakaway / splitaway group</th>
<th>Decision</th>
<th>Remarks, if any.</th>
</tr>
</thead>
</table>

**Twelfth Lok Sabha**

<table>
<thead>
<tr>
<th>SL No.</th>
<th>Lok Sabha (Year)</th>
<th>Date when claim for split made</th>
<th>Party from which split claimed</th>
<th>Claim made by</th>
<th>Nature of claim / request made</th>
<th>Name of breakaway / splitaway group</th>
<th>Decision</th>
<th>Remarks, if any.</th>
</tr>
</thead>
<tbody>
<tr>
<td>11.</td>
<td>1999</td>
<td>12.1.1999</td>
<td>Arunachal Congress</td>
<td>Sh. Wangda Rajkumar, MP</td>
<td>Split in Arunachal Congress and request for accord of recognition to split away group</td>
<td>Arunachal Congress (M)</td>
<td>Allowed by Speaker (Sh. G.M.C. Bajrangi) on 31.3.1999</td>
<td>Subsequently, Sh. Omak Apang, MP gave petition for disqualification against Sh. Wangda Rajkumar. Since annexures to petition were not signed and verified as required under Anti-Defection Rules, Speaker (Shri M.C. Bajrangi) dismissed the petition under Rule 7(2) of the Anti-Defection Rules.</td>
</tr>
<tr>
<td>12</td>
<td>1999</td>
<td>17.4.1999</td>
<td>National Conference</td>
<td>Prof. Sajiddin Soz, MP</td>
<td>Split in National Conference and recognition to split away group viz. National Conference (S)</td>
<td></td>
<td>Comments were called for other two members of National Conference, in the meantime, Sh. Satya Pal Jha, MP filed a petition for disqualification against Prof. Soz. Before receipt of comments of other members of National Conference on claim for split and process of Sh. Jha's petition, 12th Lok Sabha was dissolved. Hence, both matters lapsed.</td>
<td></td>
</tr>
</tbody>
</table>

**Thirteenth Lok Sabha**

<table>
<thead>
<tr>
<th>SL No.</th>
<th>Lok Sabha (Year)</th>
<th>Date when claim for split made</th>
<th>Party from which split claimed</th>
<th>Claim made by</th>
<th>Nature of claim / request made</th>
<th>Name of breakaway / splitaway group</th>
<th>Decision</th>
<th>Remarks, if any.</th>
</tr>
</thead>
<tbody>
<tr>
<td>13.</td>
<td>2000</td>
<td>21.1.2000</td>
<td>Janata Dal (United) (First)</td>
<td>Sh. George Fernandes and ten other members,</td>
<td>Intimation re. decision by members not to proceed with JD(U) and to break away from the</td>
<td>Janata Dal (Samata)</td>
<td>Allowed by Speaker (Shri G.M.C. Bajrangi) on 23.7.2000</td>
<td>Subsequently, Sh. George Fernandes and 10 other merger with members of Janata Dal (Samata) take their joint letter</td>
</tr>
<tr>
<td>S.No.</td>
<td>Lok Sabha (Year)</td>
<td>Date when claim for split made</td>
<td>Party from which split claimed</td>
<td>Claim made by</td>
<td>Nature of claim/request made</td>
<td>Name of breakaway/splitaway group</td>
<td>Decision</td>
<td>Remarks, if any.</td>
</tr>
<tr>
<td>-------</td>
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</tr>
<tr>
<td>14.</td>
<td>2000</td>
<td>24.11.2000</td>
<td>Janata Dal (United) (Second)</td>
<td>Sh. Ram Villar Paswan and three other members</td>
<td>Split in Janata Dal (U) and request for recognition to split away group and separate seating for its members.</td>
<td>Lok Jan Shakti Party</td>
<td>Allowed by Speaker (Sh. G.M.C. Balayogi) on 15.12.2000</td>
<td>Consequently Rashtriya Janata Dal had a strength of 4 and Rashtriya Janata Dal (Democratic) had strength of</td>
</tr>
<tr>
<td>16.</td>
<td>2001</td>
<td>5.7.2001</td>
<td>Kerala Cong (M)</td>
<td>Shri P.C. Thomas (one)</td>
<td>Party</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SL.No.</td>
<td>Lok Sabha (Year)</td>
<td>Date when claim for split made</td>
<td>Party from which split claimed</td>
<td>Claim made by</td>
<td>Nature of claim /request made</td>
<td>Name of breakaway/split away group</td>
<td>Decision</td>
<td>Remarks, if any.</td>
</tr>
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</tr>
<tr>
<td>17.</td>
<td>2002</td>
<td>22.3.2002</td>
<td>Rashtriya Lok Dal</td>
<td>Shri Amr Ali Amin Khan, MP</td>
<td>Intimation about decision to breakaway from Rashtriya Janata Dal and formation of Lok Dal (Secular)</td>
<td>Lok Dal Secular</td>
<td>Allowed by Speaker (Shri Manohar Joshi) on 25.7.2002</td>
<td></td>
</tr>
<tr>
<td>22.</td>
<td>2003-2004</td>
<td>22.12.2003</td>
<td>Rashtriya Janata Dal (Democratic) (Second)</td>
<td>Sh. Nagmani, MP</td>
<td>Split in Rashtriya Janata Dal (Democratic) and formation of Shoshit Kranti Dal</td>
<td>Shoshit Kranti Dal</td>
<td>Allowed by Speaker (Shri Manohar Joshi) on 22.12.2003</td>
<td>Consequently Rashtriya Janata Dal (Democratic) and Shoshit Kranti Dal had a strength of 1 each in Lok Sabha.</td>
</tr>
</tbody>
</table>
### Table - 3

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Lok Sabha (year)</th>
<th>Date when claim for merger made</th>
<th>Claim of merger made by</th>
<th>Name of Party with which merger sought</th>
<th>Decision</th>
<th>Remarks, if any</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eighth Lok Sabha</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.</td>
<td>1986-87</td>
<td>8.12.1986</td>
<td>Sarvashri Sudarshan Das and Sahabtrao Patil Dangaoankar, MPs of Congress (S) Legislature Party consisting of 4 members in the House</td>
<td>Congress (1)</td>
<td>Allowed by Speaker (Dr. Bal Ram Jakhar) on 6.4.1987</td>
<td>Consequent upon expulsion of two members viz. Sars’ashri K.P. Unnikrishnan and V. Kishore Chandra S. Deo, Speaker decided to treat them as unattached members in Lok Sabha. Consequently strength of Congress (S) in Lok Sabha was reduced to 2. Petitions under the Tenth Schedule w given by Sh. K.P. Unnikrishnan against two claimants of merger. The same were disallowed by Speaker vide his decision dated 9.9.1987.</td>
</tr>
<tr>
<td>2.</td>
<td>1989</td>
<td>10.3.1989</td>
<td>Prof Madhu Dandavate, MP and Leader of Janata Party intimated about merger of Janata Party and Lok Dal</td>
<td>Janata Dal</td>
<td>Allowed by Speaker (Dr. Bal Ram Jakhar) on 11.4.1989</td>
<td>In this case two legislature parties viz. Janata Party and Lok Dal merged to form a new party viz. The Indian Scenario Janata Dal. This intimation was given to Speaker, Lok Sabha by Prof. Madhu Dandavate. On comments being sought, Shri Mohd. Mahfouz Ali Khan, MP and Leader, Lok Dal confirmed the merger. The sole exception was Shri Sved Shahabuddin, M.P. belonging to Janata Party who decided not to join Janata Dal. Speaker made announcement with regard to formation of Janata Dal in Lok Sabha on 11.4.1989. Prof. Dandavate, Leader of newly formed Janata Dal, was intimated in writing the same day.</td>
</tr>
<tr>
<td>Tenth Lok Sabha</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>1992</td>
<td>6.3.1992</td>
<td>Sarvashri, Ashokrao Deshmukh and Vilasrao of Shiv Sena (B) consisting of two members in the House</td>
<td>Congress (1)</td>
<td>Allowed by Speaker (Shri Shivraj V. Patil) on 11.3.1992</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>1992</td>
<td>20.8.1992</td>
<td>Shri Bh. Vijaya Kumar Raju, MP and six other members of Telugu Desam (V) consisting of</td>
<td>Congress (1)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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403 Sources: Lok Sabha Bulletin and Lok Sabha Debates
<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Lok Sabha (year)</th>
<th>Date when claim for merger made</th>
<th>Claim of merger made by</th>
<th>Name of Party with which merger sought</th>
<th>Decision</th>
<th>Remarks, if any</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.</td>
<td>1993</td>
<td>30.12.1993</td>
<td>Shri Ajit Singh and 9 other members of Janata Dal (A) consisting of 20 members in the House</td>
<td>Congress (1)</td>
<td>Allowed by Speaker (Shri Shivraj V. Patil) on 30.12.1993</td>
<td>Consequent upon split in Janata Dal. Janata Dal. (A) with a strength of 20 members with Sh. Ajit Singh as its leader came into existence in Lok Sabha on 28.7.1993. 7 members of JD (A) claimed split in JD (A). All these 7 members were seated separately in Lok Sabha for functional purposes on 29.9.1993. Thereafter petitions were given against all the 7 members who claimed split. While the petitions were pending consideration of the Speaker, 10 out of remaining 13 members of JD (A) [Ajit Singh and nine other members of JD(A)] claimed merger with INC. SI Ajit Singh did not pursue his petitions.</td>
</tr>
<tr>
<td>6.</td>
<td>1992</td>
<td>29.7.1992</td>
<td>Shri Imchalemba lone member of Nagaland People's Council (Progressive) in the House</td>
<td>Congress (1)</td>
<td>Allowed by Speaker (Shri Shivraj V. Patil) on 29.4.1992</td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>1992</td>
<td>10.7.1992</td>
<td>Shri N.J. Rathava, lone member of Janata Dal (G) in the House</td>
<td>Congress (1)</td>
<td>Allowed by Speaker (Shri Shivraj V. Patil) on 13.7.1992</td>
<td></td>
</tr>
<tr>
<td>8.</td>
<td>1993</td>
<td>26.11.1993</td>
<td>Shri Jangbir Singh, lone member of Haryana Vikas Party in House</td>
<td>Congress (1)</td>
<td>Allowed by Speaker (Shri Shivraj V. Patil)</td>
<td></td>
</tr>
</tbody>
</table>

**Eleventh Lok Sabha**

<p>| 10.    | 1996            | 17.12.1996                      | Shri S. Bangarappa, lone member | INC | Allowed by Speaker (Shri PA. |</p>
<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Lok Sabha (year)</th>
<th>Date when claim for merger made</th>
<th>Claim of merger made by</th>
<th>Name of Party with which merger sought</th>
<th>Decision</th>
<th>Remarks, if any</th>
</tr>
</thead>
<tbody>
<tr>
<td>11.</td>
<td>1998</td>
<td>24.2.1997</td>
<td>of Karnataka Congress Party on 19.12.1996</td>
<td>INC</td>
<td>Not permitted by Speaker</td>
<td>AHC (T) had strength of 4 members in Lok Sabha. Shri Narayan Dutt Tiwari, another member of AHC (T) may be allocated seats in Cong(I) bloc of seats. Similar request was subsequently made by Sh. Tilak Raj Singh. On examination of matter, a view was taken that claimed merger was not sustainable under provisions of para 4 of Tenth Schedule. Hence, members requested for allocation of separate seats in INC bloc of seats was not acceded to. Members were however allotted seats in bloc adjacent to INC bloc of seats.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Twelfth Lok Sabha

- No Cases

Thirteenth Lok Sabha

<table>
<thead>
<tr>
<th>12.</th>
<th>2002</th>
<th>1.2.2002</th>
<th>Shri Thirunavukkarasar, lone member of MGR ADMK in the House.</th>
<th>BJP</th>
<th>Allowed by Deputy Speaker (Shri P.M. Sayeed) on 14.3.2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>13.</td>
<td>2002</td>
<td>18.11.2002</td>
<td>Shri Th. Chaoba Singh, lone member of Manipur State Congress Party in the House.</td>
<td>BJP</td>
<td>Allowed by Speaker (Shri Manohar Joshi) on 29.11.2002</td>
</tr>
</tbody>
</table>
(iv) Cases of nominated members joining political party in Lok Sabha\(^{404}\)

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Lok Sabha (year)</th>
<th>Name of nominated member</th>
<th>Date when intimation of joining the party received</th>
<th>Name of Party joined</th>
<th>Decision</th>
<th>Remarks, if any</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>1998</td>
<td>Dr. (Smt.) Beatrix D’Souza</td>
<td>31.3.1998</td>
<td>Samata Party</td>
<td>After taking into account the legal position, Dr. (Smt.) Beatrix D’Souza was treated as a member of Samata Party w.e.f. 9.6.1998 with the approval of Speaker (Sh. G.M.C. Balayogi).</td>
<td>Shri George Fernandes, MP and Leader of Samata Party in Lok Sabha vide his letter dated 4.6.1998 intimated that Dr. (Smt.) Beatrix D’Souza had been accepted as a member of Samata Party.</td>
</tr>
<tr>
<td>2.</td>
<td>1999</td>
<td>Dr. (Smt.) Beatrix D’Souza</td>
<td>29.11.1999</td>
<td>Janata Dal (United)</td>
<td>After taking account the legal position, Dr. (Smt.) Beatrix D’Souza was treated as a member of Janata Dal (United) w.e.f 16.12.1999 with the approval of Speaker (Sh. G.M.C. Balayogi)</td>
<td>Shri George Fernandes, MP and Leader of Janata Dal (United) who was addressed in the matter, vide his letter dated 6.12.1999 confirmed Dr. (Smt.) Beatrix</td>
</tr>
<tr>
<td>3.</td>
<td>1999</td>
<td>Shri Denzil B. Atkinson</td>
<td>29.11.1999</td>
<td>BJP</td>
<td>After taking account the legal position, Shri Denzil B. Atkinson was treated as a member of BJP w.e.f. 21.12.1999 with the approval of Speaker (Sh. G.M.C. Balayogi)</td>
<td>Minister of Parliamentary Affairs vide his letter dated 17.12.1999 who was addressed in the matter, confirmed admission of Shri Atkinson to BJP w.e.f. 29.11.1999.</td>
</tr>
<tr>
<td>4.</td>
<td>2004</td>
<td>Smt. Ingrid Mcleod</td>
<td>8.12.2004</td>
<td>INC</td>
<td>After taking into account the legal position, Smt. Ingrid Mcleod was treated as a member of INC w.e.f 8.12.2004 with the approval of Speaker (Shri Somnath Chatterjee).</td>
<td>Shri Pranab Mukherjee, MP and Leader of INC in Lok Sabha and Minister of Parliamentary Affairs vide their letters dated 13 &amp; 14 December, 2004 confirmed admission of Smt. Mcleod of INC in Lok Sabha.</td>
</tr>
<tr>
<td>5.</td>
<td>2004</td>
<td>Shri Francis Fanthome</td>
<td>9.12.2004</td>
<td>INC</td>
<td>After taking into account the legal position, Shri Francis Fanthome was treated as a member of INC w.e.f 912.2004 with the approval of Speaker (Shri Somnath Chatterjee).</td>
<td>Shri Pranab Mukherjee, MP and Leader of INC in Lok Sabha and Minister of Parliamentary Affairs vide their letters dated 13 &amp; 14 December, 2004 confirmed admission of Shri Francis Fanthome of INC in Lok Sabha.</td>
</tr>
</tbody>
</table>

\(^{404}\) Source: Lok Sabha Bulletin and Lok Sabha Debates
## Cases of Disqualification in Rajya Sabha[^405]

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Year</th>
<th>Date when Petition given</th>
<th>Name(s) of Petitioner(s) claimed</th>
<th>Name(s) of Respondent(s)</th>
<th>Ground /request made</th>
<th>Decision</th>
<th>Remarks, if any</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>1989</td>
<td>28.4.1989</td>
<td>Shri V. Narayana swamy</td>
<td>Shri Mufti Mohammad Sayeed</td>
<td>Voluntarily giving up membership of original party, i.e. Congress (I)</td>
<td>Allowed by Chairman (Dr, Shanker Dayal Sharmila) Respondent disqualified.</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>1989</td>
<td>27.7.1989</td>
<td>Shri Pawan Kumar Bansal</td>
<td>Shri Satya Pal Malik</td>
<td>Voluntarily giving up membership of original party, i.e. Congress (I)</td>
<td>(Dr Shanker Dayal Sharma) on 14.9.1989 Respondent disqualified.</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>2008</td>
<td>26.03.2008</td>
<td>Sushma Swaraj</td>
<td>J.N. Prasad</td>
<td>Voluntarily giving up membership of original party, i.e. Congress (I)</td>
<td>Respondent Disqualified 26-03-2008</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>2008</td>
<td>04.07.2008</td>
<td>Veer Singh</td>
<td>Isam Singh</td>
<td>Voluntarily giving up membership of original party, i.e. Congress (I)</td>
<td>Respondent Disqualified 04-07-2008</td>
<td></td>
</tr>
</tbody>
</table>

## Case of Split in Rajya Sabha[^406]

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Year</th>
<th>Date when claim for split made</th>
<th>Party from which split claimed</th>
<th>Claim made by</th>
<th>Nature of /request made</th>
<th>Name of Breakaway/ splitaway group</th>
<th>Decision</th>
<th>Remarks, if any</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>1988</td>
<td>24.2.1988</td>
<td>AIADMK</td>
<td>Shri G. Swaminathan</td>
<td>Split in AIADMK</td>
<td>AIADMK-HI Chairman (Shri Shanker Dayal Sharma)</td>
<td>Allowed by</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>1990</td>
<td>9.11.1990</td>
<td>Janata Dal</td>
<td>Shri Yashwant Sinha and fourteen other members</td>
<td>Split in Janata Dal</td>
<td>Janata Dal (Socialist)</td>
<td>Allowed by Chairman (Dr Shanker Dayal Sharma)</td>
<td></td>
</tr>
</tbody>
</table>

[^405]: Sources: Gazette of India, Extraordinary and RS Bulletin and RS Debates

[^406]: Sources: RS Bulletin and RS Debates

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<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Year</th>
<th>Date when claim for split made</th>
<th>Party from which split claimed</th>
<th>Claim made by</th>
<th>Nature of request made</th>
<th>Name of Breakaway/splitaway group</th>
<th>Decision</th>
<th>Remarks, if any.</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.</td>
<td>1997</td>
<td>5.7.1997</td>
<td>Janata Dal</td>
<td>Saravashtri Som Pal, Ram Deo Bhandari, Nagasri, Jagadambi Mandal, Naresh Yadav, Prem Chand Gupta, Ranjan rasad Yadav and And Kumar</td>
<td>Split in Janata Dal</td>
<td>Rashtriya Janata Dal</td>
<td>Allowed by Deputy Chairperson Dr. (Slt.) Najma Heptulla on 128 1997</td>
<td></td>
</tr>
<tr>
<td>Sl. No.</td>
<td>Year</td>
<td>Party seeking merger</td>
<td>Date when claim for merger made</td>
<td>Claim made by</td>
<td>Nature of request made</td>
<td>Name of Party merged with</td>
<td>Decision</td>
<td>Remarks, if any.</td>
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</tr>
<tr>
<td>2.</td>
<td>1988</td>
<td>Janata Dal (G)</td>
<td>5.4.1988 &amp; 10.4.1988</td>
<td>Shri K. Gopalani</td>
<td>Lok Dal (A)</td>
<td>Allowed by Chairman (Dr Shanka Dayal Sharma)</td>
<td>Consequent upon merger of Janata (G) with Lok Dal (A), Lok Dal (A) merged with Janata Party</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>1989</td>
<td>Janata Party and Lok Dal</td>
<td>15.3.1989</td>
<td>Sarvashri Gurupada swamy and Virendra Verma</td>
<td>Janata Dal</td>
<td>Allowed by Chairman (Dr Shanka Dayal Sharma) on 11.4.1989</td>
<td>Two separate political parties viz. Janata Party and Lok Dal merged to form a new party by the name of the Janata Dal. Except Dr. (Smt.) Sarojini Mahihi and Shri Subrarna niam Swamy of the Janata Party and Shri Ram Awadesh Singh and Shri Shamim Hashmi of the Lok Dal, all other members of both the parties joined anata Dal.</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>1990</td>
<td>AIADMK-I</td>
<td>9.4.1990</td>
<td>Shri M. Vincent</td>
<td>AIADMK-II</td>
<td>Allowed by Chairman (Dr Shanka Dayal Sharma)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>1991</td>
<td>Kerala Congress</td>
<td>19.2.1991</td>
<td>Shri Thomas Kuthiravattom</td>
<td>Janata Dal(S)</td>
<td>Allowed by Chairman (Dr Shanka Dayal Sharma) on 4.3.1991</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>1992</td>
<td>Shiv Sena (Chhagan)</td>
<td>22.2.1992</td>
<td>Kumari Chaudrika</td>
<td>Congress (I)</td>
<td>Allowed by Chairman (Dr</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(vii) Cases of Merger in Rajya Sabha

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Sources: RS Bulletin and RS Debates

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<table>
<thead>
<tr>
<th>Sl.No.</th>
<th>Year</th>
<th>Party seeking merger</th>
<th>Date when claim for merger made</th>
<th>Claim made by</th>
<th>Name of Party merged with</th>
<th>Decision</th>
<th>Remarks, if any,</th>
</tr>
</thead>
<tbody>
<tr>
<td>12.</td>
<td>1999</td>
<td>Maharashtra Vikas Aghadi</td>
<td>29.7.1999</td>
<td>Shri Suresh Kalmadi</td>
<td>Indian National Congress</td>
<td>Allowed by Chairman (Shri Krishna Kant) on 3.8.1999.</td>
<td></td>
</tr>
</tbody>
</table>
(viii) Cases of nominated members joining political party in Rajya Sabha\(^{408}\)

<table>
<thead>
<tr>
<th>Sl No.</th>
<th>Year</th>
<th>Name of nominated member</th>
<th>Date when intimation of joining another party received</th>
<th>Name of Party joined</th>
<th>Decision</th>
<th>Remarks, if any</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>1989</td>
<td>Shri Mohammad Yunus</td>
<td>20.7.1989</td>
<td>INC</td>
<td>Shri Yunus was treated as a member of INC Party w.e.f 25.7.1989</td>
<td>Took oath on 18.7.1989</td>
</tr>
<tr>
<td>2.</td>
<td>1994</td>
<td>Dr. M. Aram</td>
<td>7.2.1994</td>
<td>INC</td>
<td>Dr. Aram was treated as member of INC Party w.e.f 16.12.1994</td>
<td>Took oath on 27.8.1993</td>
</tr>
<tr>
<td>3.</td>
<td>2004</td>
<td>Shri Dara Singh</td>
<td>5.2.2004</td>
<td>BJP</td>
<td>Treated as member of BJP w.e.f 10.2.2004</td>
<td>Took oath on 18.9.2003</td>
</tr>
<tr>
<td>4.</td>
<td>2004</td>
<td>Dr. Narayan Singh Marak</td>
<td>5.2.2004</td>
<td>BJP</td>
<td>Treated as member of BJP w.e.f 10.2.2004</td>
<td>Took oath on 2.12.2003</td>
</tr>
<tr>
<td>6.</td>
<td>2010</td>
<td>Mani Shankar Ayar</td>
<td>2010</td>
<td>Indian National Congress</td>
<td>Treated as member of INC</td>
<td>2010</td>
</tr>
<tr>
<td>7.</td>
<td>2010</td>
<td>Ram Dyal Munda</td>
<td>22.4.2010</td>
<td>Indian National Congress</td>
<td>Treated as member of INC</td>
<td>22.4.2010</td>
</tr>
<tr>
<td>8.</td>
<td>2010</td>
<td>Bhal Chandra Magekar</td>
<td>20.9.2010</td>
<td>Indian National Congress</td>
<td>Treated as member of INC</td>
<td>20.09.2010</td>
</tr>
</tbody>
</table>

**Review**

The cases under the Tenth Schedule to the Constitution that broadly fall under three categories, namely petitions seeking disqualification of members, claims of splits and mergers In Lok Sabha the first petition of membership for disqualification was field by Sh. K.P. Unni Krishan on 06-04-1987 against Sarvaishri Sudarshan Das and Sahiabroo Patil Daya Kar on ground of voluntarily giving up membership of respondents party. After considering the fact and circumstances of the case, speaker Dr. Bal Ram Jakhar decided in favour of the respondent and dismissed the petitioner on 09-09-1987. *The first major group defection from Janata:* When more than one-third members of the Janata Dal in Lok Sabha claimed a split and formation of Janata

\(^{408}\) Sources: RS Bulletin and RS Debates
Dal (S) on 5 November, 1990, V.P. Singh quickly expelled 25 of those members including Chandra Shekhar. On 27 December, 1990, the Speaker informed the House that a notice was received from the Registrar, Delhi High Court, requiring him to arrange to show cause in connection with Civil Writ Petition No. 3871 of 1990. The Writ Petition, inter alia, sought to challenge the validity and constitutionality of paragraphs 6 and 7 of the Tenth Schedule to the Constitution (Fifty-second Amendment) Act, 1985. The same day, Ray decided to give benefit of doubt to the ruling party and recognised the split as a one-time process which began and closed on 5 November. Janata Dal (S) was recognised as a political party with 54 members. The seven members who joined after the date of split were disqualified. In December 1991, Ajit Singh and 3 other members of Janata Dal were expelled from the party on the ground of anti-party activities. In July 1992, Ramnath Sonker Shastri and 3 other members were also expelled on being absent at the time of voting on the motion of no-confidence against the government. According to the judgment of the Supreme Court\(^{409}\), the Speaker, under the Anti-Defection Law, functions only as a quasi-judicial tribunal and his decisions are subject to judicial review. took almost another 19 years to witness disqualification of a member from Rajya Sabha after that of Shri Satya Pal Malik in 1989. A petition was filed by Smt. Sushma Swaraj against Jai Narain Prasad praying for a declaration that the respondent was disqualified from continuing as a member of Rajya Sabha on account of his voluntarily given up membership of original party. After considering various facts and circumstances of the instant case, the Chairman by his order on March 26,2008 disqualified the respondent under para 2(1)a of the Tenth Schedule.

In Lok Sabha 26 petitions out of total 58 petitions were allowed by Speaker under paragraph 2 of the Tenth Schedule of Indian constitution. 25 petitions were dismissed and 7 rendered infructuous .Thus 26 members of Lok Sabha disqualified under Anti-defection law. In last Sh. Abu Ayes Mondal was disqualified on a petition field by sh. Basudeb Acharya in 2009.

In Rajya Sabha all four petitions were allowed by Chairman under paragraph 2 of Tenth Schedule . In result four MPs, i.e. Sh. Mufti Mohamad Sayeed, Satya Pal Malik, Jai Naryain Prasad and Isam Singh were disqualified. Before enforcement of the Constitution ( 91\(^{st}\) Amendment ) Act, 2003,total 22 cases were filed before

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\(^{409}\) Kihoto Hollohon Vs Zachichu AIR, SC 412.
speaker, Lok Sabha, out of which 20 were allowed and 2 were lapsed due to dissolution of Lok Sabha. In Rajya Sabha all 10 claims were allowed by Chairman under paragraph 3 of the Tenth Schedule.

In Lok Sabha 12 out of total 13 claims of merger were allowed by speaker in Rajya Sabha all 14 claims of merger were allowed by Chairman under paragraph 4 of the tenth schedule.