

## Competitive Exams Essay: Parties, Parliament and the Law: A Real Conflict

For all its familiarity, a political party is a peculiar entity. Presiding officers recognize it by the number of elected members in a House. The Central Election Commission adjudicates when there is a dispute over the symbol by two groups. The courts have their own criteria for deciding the true claimant to the original nomenclature and assets in the event of a split. It may exist at one level, like the TMC, in the Lok Sabha, and not at all be officially recorded, in the Rajya Sabha.

Where you stand in Indian politics does not depend on where you sit in Parliament. Had Mr G. K. Moopanar become Prime minister in the wake of Mr H. D. Deve Gowda's exit, the United front coalition would have been led by a Congress party member of the Rajya Sabha. Ms Jayanthi Natarajan, Minister of state for civil aviation in the UF government, is also a member of the Congress in the Rajya Sabha records. The Tamil Maanila Congress, of which Mr Moopanar is the president and Ms Natarajan a member, has no official presence in the Rajya Sabha.

Political parties are not an organic whole and this could be the cause when the Election Commissioners is seeking stricter compliance with provisions, such as holding organizational elections, maintenance of proper accounts and filing tax returns. The suggestion by one of the Election Commissioners that parties should desist from issuing a whip in presidential elections, is yet another provision which may catch up with the conscience of political parties before they are prepared for this break with tradition. The cumulative result of having to meet more external requirements will chip away at the power of party bosses over members.

The situation is further complicated where parliament and courts do not accept each other's jurisdiction and the EC zealously guards its own domain. With the result, by the same set of laws, a party that is split in Parliament may be an undivided organizational body, and a split parliament party may be a unified legislature bloc. Theoretically, there could be as many as six versions of a split party if it is affected at these three levels. Parties are the result of their status being subject to different rules of recognition by different constitutional offices and by the judiciary. When the organizational wing of a party splits, the rival claimants seek to settle the matter in a court of law, or before the Election Commission which adjudicates on the symbol.

Under the anti-defection law, whether a party has split or not is decided by the Speaker. But the ruling in the Lok Sabha could be at variance with that delivered in a state assembly. And these two wings of the party, split or otherwise, get legally disconnected from the general body and its organs which have to turn to the courts and the EC. Elections to the assembly and Parliament

remain the ultimate test of vindicating the true claimant. And. Ironically, therein lie the root of the problem.

To remain in the election process requires the party to adhere to EC rules and guidelines. This burden is greater on the party than on the candidate contesting the poll. It is the party that has to maintain accounts of income and expenditure and file tax returns. It is the party that has to exert itself to hold organizational elections and go through the forms to keep its members eligible for elections. And when a member joins the elected elite the falls under the jurisdiction of the Speaker, and often the party needs him more than he needs the party which is the bigger force.

A group of MPs or MILAs can reduce their party to role and failing to achieve that, break away by inviting expulsion. Mr P. V. Narshima Rao; overcame the minority status of his party in Parliament by winning over small groups of MPs from other parties. Mr V. P Singh's government was kept on tenterhooks even before it fell by a group of MPs who were controlled by Congress strings. The anti-defection law institutionalized the primacy of legislators over the party organization, except for the minor distinction it makes between a defection and a split. All that it did was legitimize wholesale defection and put retail traders out of business. Regardless of a party's share of votes, en masse defection could nullify its very mandate.

It is a travesty of representative democracy when elected representatives can retain their parliamentary status even after being alienated from the party's popular base on which they were voted in. In this situation of declining party power, the whip remains one of the few means of restraining errant members. And parties resisting surrender of this slender rein on its elected members are understandable. The EC did well in not hastily adopting the suggestion for this presidential election.

It is not the relative merits of a party whip, against conscience vote which prevented the matter from being pursued any further. It was recognition of the fact that no master what a constitutional scheme may be, its workability depends upon the consent and cooperation of political parties, and not the clout of regulatory bodies like the Election Commission. Political forces have always taken the view that constitutionalism taken to the extreme can mitigate against the spirit of the statutes. By the same logic parliamentarism carried to excess in the name of democracy can kill both conscience and content.

In a party democracy there cannot be partyless parliamentarism to its worst sense, which is where politics would drift to if elected members were freed of primary commitment to their parent bodies. This cannot be checked by asking Speakers, courts and election commissioners to keep out of party terrain, because that is neither desirable nor possible. A practical way out is for political parties to take the initiative for evolving functional norms that meet the EC's terms for electoral purposes, do not clash with the jurisdiction of presiding officers, reduce areas of conflict between courts and legislatures and, strengthen their organizational hold on members regardless of their place in elected bodies.

Unless parties reform themselves, external regulations will continue to be viewed as the only option with the bureaucracy gaining in primacy over political forces. Had political parties functioned as they should with regular elections, proper bookkeeping and filing of tax returns there would be little room for external intervention to enforce these. Compliance with procedures would strengthen their credibility and moral authority to resist interference in areas of political management.

It would be in the interest of parties to begin addressing these issues now instead of waiting until they reach another flashpoint. On Article 356, parties have more or less arrived at a certain unanimity. In much the same manner, issues of party management need to be resolved so that recurrent conflicts involving the EC, courts, defections and splits are kept to the minimum. Parties which have to be disciplined by official fiats can hardly be effective in providing political leadership to the bureaucracy when in power.