
HORSE TRADING: AN ATTACK ON THE INDIAN DEMOCRACY

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ABSTRACT

The term horse trading came into use around the 1820s. Horse traders in 19th century England used to overprice their horses to urge the value so they may get the horse to induce a better price of these horses, and by the particular buyer, the actual disabilities would be difficult to detect. The term horse-trading has become synonymous with unethical trading.

According to Macmillan English Dictionary- Horse trading is difficult and sometimes dishonest discussions between people who are trying to reach an agreement. These are within the political paradigm influenced by long negotiations to bargain to steer uses. It is often employed in legislative bodies in democratic institutions. When MPs and MLAs join other parties for the purpose of cross-voting the party, Covetousness to depart or change party without assigning reason, or in lieu thereof, greed, money leaves the party or changes party for profit.

In India with the introduction of the 10th Schedule of the Indian Constitution in 1985 by the 52nd amendment, the change of party of the elected MLAs and MPs was restrained.

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What is Anti-Defection Law?

The 10th Schedule was added to the Constitution in 1985 through the 52nd amendment to the Constitution.

Through this, the change of party of MLAs and MPs was restrained, and it was told that in case of defection, their membership may be terminated:

1. If an MLA himself leaves the membership of his party.
2. If an elected MLA goes against the party line.
3. If an MLA doesn't vote despite the legislator.
4. If any MLA violates his party's guidelines within the assembly

The Speaker of the assembly under the powers vested within the Tenth Schedule of the Constitution can take a choice when will the anti-defection law acquire force.

If an MLA or MP himself leaves the membership of his party.

1. If an elected MLA or MP goes against the party line.
2. If a member doesn't vote despite the whip.
3. If a member violates the instructions of the party within the House.
4. After becoming an MLA or MP, quitting party membership on his own, whip or
5. Violation of party directive comes under anti-defection law.

Some big cases of defection

1. April 1967: Chaudhary Charan Singh defected to the primary in Uttar Pradesh and Formed a non-Congress government.
2. 2016: Fall of Congress government in Arunachal Pradesh thanks to defection of 43 MLAs.
3. 2017: Fall of Congress government in Manipur thanks to defection.
4. 2019: UPA government fell thanks to the defection of 17 MLAs in Karnataka
5. 2020: Jyotiraditya Scindia Group MLAs from Congress in MP.

6. 2020: Around 18 of Sachin Pilot Group from Congress in Rajasthan MLAs tried to revolt and topple the ruling Congress government.

Analysis of horse trading and political crisis in Rajasthan

The Rajasthan Chief Minister Ashok Gehlot realized in July 2020 that some MLAs of his party were bought by the opposition party and a conspiracy is being hatched to bring down the government by bringing the government into minority. Then a case was filed in SOG under the relevant sections and after that the SOG issued notices for questioning, after which Deputy Chief Minister Sachin Pilot and about 18 to 20 MLAs of the group, including some cabinet ministers of the government were found revolting. The Minister in the government and BJP leader from Rajasthan and Union Minister Gajendra Singh Shekhawat It was alleged that he had helped the Sachin Pilot faction through a broker and tried to do horse-trading, in this regard, horse-trading of MLAs regarding Gajendra Singh Shekhawat and senior MLA Bhanwarlal of Pilot faction Some audios of the conversation between Sharma also went viral, SOG gave a statement in this regard. A Dalal was also arrested who led the pilot faction to Union Minister Gajendra Singh. Two FIRs have been registered in this whole episode and Sachin Pilot was Removed from the post of Deputy Chief Minister and Cabinet Minister and State Congress President. After that, there was a political upheaval in Rajasthan for about 2 to 3 months. During this, Chief Minister Ashok Gehlot also put the rest of his MLA first. Congress party kept in prison in Jaipur and later in Jaisalmer. After intervention in this matter between the Pilot faction and the Gehlot government reconciliation was established and political crisis came due to horse trending in Rajasthan carried away. Thus, the Rajasthan Chief Minister, Ashok Gehlot managed to escape.

Kadar Nath Singh Vs Bihar (1962 AIR 955) Appears to be non-conversational with the law of inducement by the SC bench. Said that 'treason' is an offence against the state, of objectionable action & quotation bring the Government into contempt or hatred , or to create disaffection against it should have an effect. Actual violence or incitement to violence Use Section (124A) of the Indian Penal Code - Any written or spoken. words, etc., which in view of subjugating them to the government by violent means which are necessarily included in the word 'revolution', made punishable by the section in question. But section (124A) IPC has been taken to indicate that their reforms by the Government or strong expressed with a view to reform through law. The use of words will not come within the clause. Similarly, the comments,

though strongly worded, of the actions of the government expressing disapproval, without exciting the feelings that violence tend to cause public disorder by the acts of There will be no punishment, it was clarified.

Did Pilot say anything against the Gehlot government, which was considered sufficient to incite violence due to public disorder in the State May go? Section 124A against the pilot and his flock to the SOG It would be difficult to pass muster during the judicial inquiry into the allegations of Then by Chief Whip Mahesh Joshi before the Speaker of Rajasthan Legislative Assembly There was a proposal to file a petition and a member of the Rajasthan Legislative Assembly Under this, a demand was made to disqualify 18 MLAs . bring down the government or intent to blame any other party. On the contrary, the rebels said That he has no intention of leaving Congress. However, to respond to the disqualification petition in the 1989 Rules The minimum notice period to be given to an MLA is seven days, Rajasthan The Speaker gave only three to Pilot and the group of MLAs to reply . days, with a caveat that the proceedings will continue earlier—if they answer failed to deliver. Will the complaint against the Chief Minister or the party be resolved? What could be grounds for disqualification?

Rajasthan HC to decide whether to vote on the actions of Pilot & Company or be barred from voting, so that the affected political party major policy and program requiring their disqualification, as that is to be done by the Chairman .

Signed by Kavita Srivastava (President) and Anant Bhatnagar (Secretary General)In a statement, PUCL has highlighted the issue and its setback has expressed and shared that, FIR No. 047/2020, dated 10th July, 2020, FIR 048/2020, dated 17/07/2020 and FIR No. 049/2020, "Special Police Station (SOG), District ATS and Section 120(b) of conspiracy and 124(a), suit in SOG, Jaipur. were registered under this law.

These arguments given during the hearing Senior advocate Harish Salve, representing the petitioner during the hearing Said that violating the whip outside the house is not in the 10th schedule Comes. While arguing on behalf of Congress, senior advocate Abhishek Manu Singhvi Said that the court cannot interfere with the notice issued by the speaker.Is He said that the petition challenging the notice was thoughtless. He could have raised his issue before the speaker .Speaker of the Legislative Assembly year in view of the political upheaval in any state

Can take recourse to the anti-defection law passed in 1985. Under this law, the House The Chairman may cancel the membership if the following conditions arise.

Various committees constituted related to horse trending

Dinesh Goswami Committee

The Dinesh Goswami Committee, formed in the year 1990 regarding electoral reforms, had said that the party-Election Commission's decision to disqualify representatives under changed law Advice to be taken by the President/Governor. Nominated by the House concerned

The members shall be disqualified if at any time they also join political parties.

Law Commission's 170th Report:

In the year 1999, the Law Commission in its 170th report had said that before the elections, two or more In the anti-defection provisions, if more than the parties contest the elections in the alliance.

That alliance should be considered as one party. Whip to political parties It should be issued only when the stability of the government is threatened. side of the party of disqualification in the event of non-voting or non-voting of any party Order.

Election commission vote

In this regard, the Election Commission believes that its own role should be comprehensive. Therefore, on the binding advice of the Commission under the Tenth Schedule Decision making arrangements should be made by the President/Governor. Kihoto Holohan vs Zachilu The Supreme Court in the 1993 Kihoto Holohan vs. Zachilhu case Giving the verdict, it was said that the decision of the Speaker will not be final. Judicial review of the Speaker of the Legislative Assembly can be done. the court considered that the provisions of the Tenth Schedule for the members elected in the Parliament and the State Legislatures Do not violate democratic rights. Along with this, Article 105 of the Constitution and 194 does not violate the freedom of expression in any way.

Conclusion

Anti-defection law is a historic step in the moral politics of India. This law has changed the politics of 'Aaya Ram, Gaya Ram' in the country and has played an important role in its end. Although for the past few years, the existence of this law has been challenged many times in politics. At present, the situation is that the political party itself takes an important decision within the party are not discussing democratically and various important issues related to the party Decisions are being taken by only a few people at the top. It is necessary that various The recommendations made by the committees be considered seriously and If necessary, they should be improved and implemented. Amending the anti-defection law and disqualification for its violation The term should be made 6 years or more, so that the leaders regarding the lawAnti-defection law in the parliamentary system, discipline and can play a very important role in ensuring good governance. Still, It needs to be refined so that the world's largest democracy can also be proved practice.

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