

AS INTRODUCED IN THE RAJYA SABHA  
ON THE 24TH MARCH, 2017

**Bill No. LXX of 2016**

THE CONSTITUTION (AMENDMENT) BILL, 2016

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**BILL**

*further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2016.
- (2) It shall come into force at once.
- 5 2. In the Tenth Schedule to the Constitution,—
  - (i) after clause (b) sub-paragraph (1), of paragraph 2, the following clause shall be inserted, namely:—

Short title  
and com-  
mencement.

Amendment  
of Tenth  
Schedule.

"(c) if, he takes membership of any other political party or shares, joins, supports any party or political programme of party other than the party on whose ticket he was elected or announces in print or electronic or social media of his intention to join another party or donates money, directly or indirectly, to any political or party programmes other than the party on whose ticket he got elected. 5

(ii) in sub-paragraph (1) of paragraph 6, for the words "his decision shall be final", the words "he shall take decision on such question within a period of ninety days and if no decision is taken by the speaker or the Chairman, as the case may be, such member shall deemed to be disqualified."

## STATEMENT OF OBJECTS AND REASONS

There is no doubt that India is the world's largest democracy and has been surviving in spite of umpteen hiccups in the form of defections by individual Members or splinter groups to a party other than the original one on whose ticket he/they have got elected. To contain this and similar other problems and for smooth functioning of democracy, the Anti-Defection Law was enacted.

The provisions of the said law prevent a Member of parliament or a Member of State Legislature or the Legislative Council, as the case may be, from defecting to other party as individual or as group. But, the problem of defection did not stop here as there is a loophole in Para 6 of Tenth Schedule to the Constitution which gives unchallenging powers to the Speaker or the Chairman, as the case may be, with regard to disqualification on the grounds of defection.

Taking advantage of this 'unchallenging powers', the ruling party at time lure opposition party MLAs/MPs to join their party. This has happened in many States particularly in Telengana & A.P. Even after making complaint to the Speaker, no decision was taken since the Speaker or the Chairman, as the case may be, has been given unchallenging powers, they are keeping the issue under the carpet for months and, sometimes, years together.

To address this problem, it is proposed to amend the Tenth Schedule to the Constitution by giving Speaker or Chairman, as the case may be, three months time to take a decision on such MLA(s)/MP(s) and if, Speaker or Chairman fails to take any decision, such member is deemed to have been disqualified.

The Bill aims to achieve the above objective.

PALVAI GOVARDHAN REDDY

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

TENTH SCHEDULE

[Articles 102(2) and 191(2)]

2. **Disqualification on ground of defection.**—(1) Subject to the provisions of paragraphs 4 and 5, a member of a House belonging to any political party shall be disqualified for being a member of the House—

(a) if he has voluntarily given up his membership of such political party; or

(b) if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

*Explanation.*—For the purposes of this sub-paragraph,—

(a) an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member;

(b) a nominated member of a House shall,—

(i) where he is a member of any political party on the date of his nomination as such member, be deemed to belong to such political party;

(ii) in any other case, be deemed to belong to the political party of which he becomes, or, as the case may be, first becomes, a member before the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.

(2) An elected member of a House who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a member of the House if he joins any political party after such election.

(3) A nominated member of a House shall be disqualified for being a member of the House if he joins any political party after the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.

(4) Notwithstanding anything contained in the foregoing provisions of this paragraph, a person who, on the commencement of the Constitution (Fifty-second Amendment) Act, 1985, is a member of a House (whether elected or nominated as such) shall,—

(i) where he was a member of political party immediately before such commencement, be deemed, for the purposes of sub-paragraph (1) of this paragraph, to have been elected as a member of such House as a candidate set up by such political party;

(ii) in any other case, be deemed to be an elected member of the House who has been elected as such otherwise than as a candidate set up by any political party for the purposes of sub-paragraph (2) of this paragraph or, as the case may be, be deemed to be a nominated member of the House for the purposes of sub-paragraph (3) of this paragraph.

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**6. Decision on questions as to disqualification on ground of defection.**—(1) If any question arises as to whether a member of a House has become subject to disqualification under this Schedule, the question shall be referred for the decision of the Chairman or, as the case may be, the Speaker of such House and his decision shall be final:

Provided that where the question which has arisen is as to whether the Chairman or the Speaker of a House has become subject to such disqualification, the question shall be referred for the decision of such member of the House as the House may elect in this behalf and his decision shall be final.

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*(Shri Palvai Govardhan Reddy, M.P.)*