



## SC on Maharashtra Governor's Call for Floor Test

**For Prelims:** [SC](#), [Governor](#), [Floor Test](#), 10<sup>th</sup> Schedule the Constitution, [Anti-Defection Law](#), [Whip](#).

**For Mains:** Governor's Power to call for Floor Test.

### Why in News?

Recently, the [Supreme Court \(SC\)](#) has held that the decision of the (former) [Governor of Maharashtra to call for a Floor Test](#), asking the then Chief Minister to prove his majority in the house, **was not justified**. However, the SC cannot restore his government as **he did not face the floor test**.

### What is a Floor Test?

- It is a term **used for the test of the majority**. If there are doubts against the Chief Minister (CM) of a State, **he/she can be asked to prove the majority** in the House.
  - In the case of a coalition government, the **CM may be asked to move a vote of confidence** and win a majority.
- In the absence of a clear majority, when there is **more than an individual's stake to form the government**, the Governor may **call for a special session to see who has the majority** to form the government.
  - Some legislators may be absent or choose not to vote. The numbers are **then considered based only on those MLAs who were present to vote**.

### What is the Background?

- In 2022, the Uddhav Thackeray-led government was toppled and **replaced by another government**, comprising a faction of the Shiv Sena. The leader of the breakaway Sena faction, Eknath Shinde, became the new Chief Minister of Maharashtra.
- Thereafter, petitions were filed by the Thackeray group challenging the then Maharashtra **Governor's decision to call for a trust vote** before his resignation.

### What is the SC's Ruling?

- **On Floor Test:**
  - The floor test **should not be used to solve problems within a political party** and that party disagreements should be resolved **according to the party's constitution or other methods**.
- **Appointing a Whip:**
  - **The Speaker must only recognize the Whip** duly authorised by the political party with reference to the provisions of the party constitution. The appointment of both the whip and the leader of the party in the **House should only be done by the political party**

**and not the legislature party.**

- In parliamentary parlance, a whip may refer to both a written order to members of a party in the House to abide by a certain direction, and to **a designated official of the party who is authorised to issue such a direction.**
  - The concept of the whip was **inherited from colonial British rule.**

▪ **Disqualification on the Ground of Defection:**

- The Speaker is the **authority to adjudicate petitions for disqualification** under the **10<sup>th</sup> Schedule of the Constitution.**
- The Court cannot ordinarily adjudicate petitions for disqualification under the 10th Schedule.
  - Notices were issued by the then Deputy Speaker of the Maharashtra Assembly, against 40 rebel MLAs under the 10th Schedule which deals with disqualification on the grounds of **Defection.**

## What is the 10th Schedule of the Constitution?

- **Anti Defection Law:** The 10th schedule of the Indian Constitution, also known as the "**Anti-Defection Law,**" was added by the **52<sup>nd</sup> Amendment Act of 1985.**
  - It lays down the **provisions related to the disqualification of members of Parliament (MPs)** and state legislatures on the grounds of defection.
  - It seeks to promote **political stability and discipline among political parties** by preventing elected members from changing parties after they have been elected.
- **Disqualification:** According to it, a member of Parliament or a state legislature is **disqualified if he/she voluntarily gives up the membership of the political party** on whose ticket he/she was elected, or if he/she votes or abstains from voting in the House against the directives of the political party.
  - However, a member is not disqualified if **he/she leaves the party due to a merger of two or more political parties** or if the party itself merges with another party.
  - As per the 52<sup>nd</sup> amendment, a 'defection' by 1/3<sup>rd</sup> of the elected members of a political party was considered a 'merger'.
    - But the **91<sup>st</sup> Constitutional Amendment Act, 2003**, changed this and now at least **2/3<sup>rd</sup> of the members of a party must be in Favour of a "merger"** for it to have validity in the eyes of the law.

## What are the Powers with the Governor to Call a Floor Test?

- **About:**
  - **Article 174 of the Constitution** authorizes the Governor to **summon, dissolve and prorogue** the state legislative assembly.
  - **According to Article 175(2),** the Governor can summon the House and call for a floor test to **prove whether the government** has the numbers.
    - However, the Governor **can exercise the above only as per Article 163** of the Constitution which says that the **Governor acts on the aid and advice of the Council of Ministers** headed by the Chief Minister (when the assembly is not in session).
    - However, when the House is in session, it is the **Speaker of the Assembly who can call for a floor test.**
- **Governor's Discretionary Power:**
  - According to **Article 163 (1),** there will be a group of Ministers, led by the Chief Minister, who will assist and **advise the Governor in carrying out his functions.** However, the Governor **will have the final say in any matters where he is required to exercise his discretion** as per the constitution.
    - The Constitution makes it clear that if **any question arises whether a matter falls within the governor's discretion or not, the decision of the governor is final** and the validity of anything done by him cannot be called in question on the ground that he ought or ought not to have acted in his discretion.

- The Governor can exercise his discretionary power under **Article 174**, when the chief minister has **lost the support of the House and his strength is debatable**.
- Generally, when doubts are cast on the chief minister that he has lost the majority, the opposition and the **Governor would rally for a floor test**.

### What are Previous Rulings on the Governor's Floor Test Call?

- **Nabam Rebia and Bamang Felix vs Deputy Speaker case (2016)**: The SC said that the power to summon the House is **not solely vested in the Governor and should be exercised with aid and advice of the Council of Ministers** and not at his own.
- **Shivraj Singh Chouhan & Ors vs Speaker (2020)**: The SC upheld the powers of the **Speaker to call for a floor test if there is a prima facie view** that the government has lost its majority.

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