

## Judicial indiscipline: On Rajasthan political crisis

### Rajasthan HC has disregarded law laid down by SC while admitting plea by Pilot camp

The Rajasthan High Court's order, directing that status quo be maintained in the disqualification proceedings against 19 legislators and holding a legal challenge to the Rajasthan Assembly Speaker's notice under the anti-defection law to be maintainable, borders on judicial indiscipline. The order does not give any reason for admitting the petition and overruling objections to its admissibility, except for saying legal questions have arisen, including one on the validity of a sub-clause in the Tenth Schedule. It is as if the mere fact that some questions have arisen is enough to disregard the doctrine of precedent. There is a specific prohibition in a Constitution Bench verdict of the Supreme Court on courts intervening in disqualification matters at a stage prior to a presiding officer giving a ruling. Of the 13 questions the Division Bench has framed, purporting to arise from the Speaker C.P. Joshi's notices to 19 Congress members in the Sachin Pilot camp, the last one itself shows it cannot entertain the petition. The question is whether the Supreme Court's judgment in *Kihoto Hollohan* (1992) is a bar on the High Court examining the issues. It is illogical that the Bench holds that the petition is maintainable even while proposing to examine whether a Constitution Bench judgment binds it or not. In other words, a petition has been declared maintainable on the ground that the court proposes to examine its maintainability.

And the 1992 judgment, while upholding the validity of the Tenth Schedule to the Constitution, the anti-defection law, also declared that Para 2 — a part of which is now under challenge and is the ostensible reason for the High Court to entertain the petition — does not violate the freedom of speech, vote or conscience of elected members. Yet, the High Court is now venturing to find out whether Para 2(1)(a), which deals with disqualifying lawmakers who “voluntarily give up membership” of their party, has been examined by the apex court from the point of view of “intra-party democracy”. If at all the provision's validity is to be tested, it can only be done in a case arising out of it. When no decision has been rendered by the Speaker, it is beyond comprehension how the court entertained arguments on the issuance of the notice and on whether dissidents can be disqualified for questioning the party line. Para 2(1)(a) has been used by Speakers for years, and many such disqualification orders have been upheld by the Supreme Court, including as recently as November 2019 in a Karnataka case. Admitting a matter without explaining how the law laid down by the Supreme Court does not bind a High Court raises grave questions of judicial propriety. However, even as the political crisis plays out on the lawns of Raj Bhavan, the top court itself appears to be raising the question whether dissent within a party can attract disqualification proceedings. Whatever the circumstances, the SC should not condone improper and premature judicial intervention.

#### Meanings of Difficult words:

- ❖ **indiscipline** (noun) – disobedience, bad behaviour, misconduct.
- ❖ **disregard** (verb) – ignore, take no account of, pay no attention to; dismiss.
- ❖ **lay down** (phrasal verb) – formulate, stipulate, set down.
- ❖ **status quo** (noun) – the present situation, the current state, the existing state of affairs.
- ❖ **plea** (noun) – appeal, request, petition.
- ❖ **proceedings** (noun) – legal action, prosecution.
- ❖ **legislator** (noun) – a member of a legislature; lawmaker, representative.
- ❖ **border on** (verb) – be similar to, verge on, approximate to, come close to.
- ❖ **overrule** (verb) – cancel, reverse, rescind, repeal.

- ❖ **Anti-defection law** (noun) – The 10th Schedule to the Constitution, popularly referred to as the ‘Anti-Defection Law,’ was inserted by the 52nd Amendment in 1985. The grounds of disqualification are specified in Paragraph 2 of the 10th Schedule. A member would incur a disqualification under paragraph 2 (1) (a) when he “voluntarily gives up his membership of a party” and under 2 (1) (b) when he/she votes (or abstains from voting) contrary to the directive issued by the party.
- ❖ **objection** (noun) – opposition, disapproval, disagreement.
- ❖ **admissibility** (noun) – the quality of being acceptable/valid.
- ❖ **sub-clause** (noun) – a section of a clause in a law.
- ❖ **doctrine of precedent** (phrase) – the legal decisions made by judges in higher courts are remained as a precedent, so the decisions made by lower or equal courts in future are needed to be followed the earlier decision made in the higher courts. The doctrine of precedent is clearly incorporated in India by Article 141 of the Constitution of India, 1950. Article 141 provides that the decisions of the Supreme Court are binding on all courts within the territory of India.
- ❖ **doctrine** (noun) – order, command, rule, decree, directive.
- ❖ **precedent** (noun) – model, exemplar, example, previous example/instance, prior instance.
- ❖ **prohibition** (noun) – restriction, banning, prohibiting, forbidding.
- ❖ **presiding officer** (noun) – The Speaker (of the Legislative Assembly).
- ❖ **purport** (verb) – claim, seem, appear.
- ❖ **entertain** (verb) – consider, take into consideration, give attention to.
- ❖ **bar** (noun) – ban, prohibition, restriction.
- ❖ **hold** (verb) – give (a verdict/judgement).
- ❖ **bind** (verb) – require, compel, constrain, obligate, put under an obligation.
- ❖ **ground** (noun) – reason, factor, basis.
- ❖ **uphold** (verb) – confirm, endorse/approve, vindicate/validate.
- ❖ **ostensible** (adjective) – apparent, seeming, alleged, purported.
- ❖ **conscience** (noun) – moral sense, inner voice, sense of right and wrong.
- ❖ **venture** (verb) – dare to do something.
- ❖ **voluntarily** (adverb) – of one’s own free will, of one’s own choice, volitionally.
- ❖ **give up** (phrasal verb) – resign, leave, stand down, step down; renounce, forgo, abandon.
- ❖ **intra-** (prefix) – within.
- ❖ **provision** (noun) – term, clause, requirement/condition.
- ❖ **arise out** (verb) – result, occur, stem (from).
- ❖ **render** (verb) – make, cause to be, cause to become.
- ❖ **comprehension** (noun) – understanding, apprehension, interpretation.
- ❖ **beyond comprehension** (phrase) – not possible to imagine.
- ❖ **issuance** (noun) – an act of issuing/providing something.
- ❖ **dissident** (noun) – objector, protester, disputant.
- ❖ **grave** (adjective) – crucial, critical, serious.
- ❖ **propriety** (noun) – conformity, morality, correctness/good manners.
- ❖ **play out** (phrasal verb) – happen, occur, take place.
- ❖ **dissent** (noun) – disagreement, disapproval, opposition.
- ❖ **circumstance** (noun) – situation, conditions, state of affairs.
- ❖ **condone** (verb) – approve, sanction, justify, vindicate, endorse.
- ❖ **premature** (adjective) – untimely, early, too soon/too early; ill-timed, hasty.
- ❖ **intervention** (noun) – involvement, interference.

# Arms and the women: On gender barrier in Indian Army

## After a long battle, women officers overcome the gender barrier in the Indian Army

A glass ceiling was shattered on Thursday when the Ministry of Defence issued a formal letter granting permanent commission to women officers in the Indian Army. The uphill battle to break a gender stereotype and provide equal opportunities for women in the Army had to be fought right up to the highest level, in the Supreme Court. Even so, the MoD's Government Sanction Letter specifying the grant of permanent commission to Short Service Commission (SSC) women officers in all the 10 streams in which they presently serve is a cause for celebration. It will go a long way in ending a prejudice associated with the Army. True, the fight was far from easy. It was long and protracted, as the government initially glossed over a Delhi High Court ruling in the litigants' favour 10 years ago. Then in the Supreme Court, just what the litigants were up against became clear from the views of the government. A written note to the Court pointed at "physiological limitations" of women officers, saying that these were great challenges for women officers to meet the exigencies of service. In February, the Supreme Court read the government the riot act, asking it to abide by its own policy on granting permanent commission to women in the SSC and giving them command postings in all services other than combat.

The misogyny was called out in a 54-page judgment. The Supreme Court noted that women officers of the Indian Army had brought laurels to the force. "The time has come for a realisation that women officers in the Army are not adjuncts to a male dominated establishment whose presence must be 'tolerated' within narrow confines," it said. The Army is often seen as the preserve of men, but enough women have fought heroic battles to bust that myth, from Rani of Jhansi in the past to Squadron Leader Minty Agarwal of the Indian Air Force, who last year "was part of the team that guided Wing Commander Abhinandan Varthaman during the Balakot airstrike carried out by the IAF". The irony is that of the 40,825 officers serving in the Army, a mere 1,653 are women, as the top court noted. The overall percentage of women at all levels of the armed forces needs to be increased. To usher in a change in a regressive mindset, which mirrors society, a lot more must be done on gender sensitisation. Elsewhere in the world, in countries such as the United States and Israel, women are allowed in active combat. Here, the Supreme Court had to forcefully nudge the government to make women's role in the Army more inclusive. A gender barrier may have fallen, but the war against inequity is far from over.

### Meanings of Difficult words:

- ❖ **overcome** (verb) – prevail over, triumph over, succeed in dealing with (a problem/difficulty).
- ❖ **glass ceiling** (noun) – an unfair barrier which stops women and minorities to reach top position/rank irrespective of their qualifications and achievements.
- ❖ **shatter** (verb) – smash/break; destroy, demolish, overturn.
- ❖ **uphill** (adjective) – arduous, difficult, hard/tough, taxing, demanding.
- ❖ **even so** (phrase) – anyway, however, in spite of that.
- ❖ **gender/sex stereotype** (noun) – unfair beliefs about how males and females should look/act/behave. For example, women are supposed to be sensitive, emotional and childish, and men are supposed to be tough and powerful. Another example is that girls should wear pink and play with dolls only and boys should wear blue and play with cars only.
- ❖ **sanction** (noun) – permission, approval, consent (official).

- ❖ **grant** (noun) – allocation, allotment, awarding.
- ❖ **stream** (noun) – branch, group, trade, track (as a field of study based on ability).
- ❖ **cause for celebration** (phrase) – a reason to celebrate.
- ❖ **go a long way** (phrase) – achieve great success.
- ❖ **prejudice** (noun) – discrimination, partiality, intolerance, bigotry.
- ❖ **far from** (phrase) – not, not at all, nowhere near.
- ❖ **protracted** (adjective) – prolonged, extended, lengthened/lengthy; lingering.
- ❖ **gloss over** (verb) – conceal, cover up, hide.
- ❖ **in one's favour** (phrase) – to one's benefit/advantage.
- ❖ **litigant** (noun) – a person who is involved in a legal case; litigator, petitioner, complainant.
- ❖ **up against** (phrase) – confronted with, face up, tackle/deal with.
- ❖ **exigency** (noun) – (urgent) need, demand, urgency.
- ❖ **read someone the Riot Act** (phrase) – reprimand, rebuke, criticize someone severely.
- ❖ **abide by** (verb) – conform to, adhere to, comply with.
- ❖ **combat** (noun) – battle, fighting, war.
- ❖ **misogyny** (noun) – prejudice, dislike, hatred (of women).
- ❖ **call out** (phrasal verb) – say, announce, inform (something loudly).
- ❖ **laurels** (noun) – honours, awards, rewards, tributes, praise.
- ❖ **realisation** (noun) – understanding, comprehension, recognition.
- ❖ **adjunct** (noun) – associate, assistant, subordinate.
- ❖ **establishment** (noun) – organization, bureau, agency.
- ❖ **tolerate** (verb) – accept, agree, allow/permit, approve (opposite/conflicting opinions/ideas).
- ❖ **narrow** (adjective) – restricted, limited.
- ❖ **confine** (noun) – borders, limits, edges.
- ❖ **preserve** (noun) – domain, area, field, sphere (of activity); territory, department.
- ❖ **bust** (verb) – shatter, smash, break.
- ❖ **myth** (noun) – (false) belief, idea, notion.
- ❖ **squadron** (noun) – an (air force) unit consisting a number of military aircrafts (2 or more) and their personnel deployed on a surveillance duty to protect a country's skies; unit, contingent, regiment.
- ❖ **carry out** (phrasal verb) – conduct, perform, execute.
- ❖ **irony** (noun) – paradox, incongruity, peculiarity; contradiction, a strange/funny situation where things are happening the other way around (than expected).
- ❖ **usher in** (verb) – start, begin, initiate, introduce.
- ❖ **regressive** (adjective) – retrograde, retrogressive, unprogressive/negative.
- ❖ **mirror** (verb) – reflect, imitate, copy.
- ❖ **gender sensitisation** (noun) – it refers to the modification of behaviour by raising awareness of gender equality concerns. Gender sensitization theories claim that modification of the behavior of teachers and parents (etc.) towards children can have a causal effect on gender equality. Gender sensitizing “is about changing behavior and instilling empathy into the views that we hold about our own and the other gender.
- ❖ **nudge** (verb) – prompt, encourage, stimulate, inspire.
- ❖ **inclusive** (adjective) – all-inclusive, comprehensive.
- ❖ **inequity** (noun) – unfairness, partiality, favouritism, bias, prejudice, discrimination.