

Mains Master

The Speaker's court

Maharashtra Assembly Speaker's ruling on Shiv Sena factions and the implications for anti-defection law:

Ruling:

- Speaker Narwekar declared Shinde faction as the "real Shiv Sena" based on:
 - Majority of MLAs (37 out of 55) supporting Shinde.
 - Reliance on Shinde faction's version of party constitution submitted to Election Commission.
- No disqualification of MLAs from either faction due to:
 - Shinde faction not violating any whip (not served by Thackeray faction).
 - Technical flaws in disqualification petitions against Thackeray faction.

Concerns:

- Thackeray faction may challenge ruling in Supreme Court based on inconsistencies with Court's previous verdict:
 - Court declared Speaker's recognition of Shinde whip invalid.
 - Court deemed "original party" argument irrelevant for defection claims.
- **Bias:** The ruling raises concerns about political influence when defection disputes are decided by Speakers, not independent bodies.

Outlook:

- This ruling sets a precedent for determining "real party" in defection cases based on majority and election commission documents.
- Potential escalation to Supreme Court for a definitive interpretation of anti-defection law and Speaker's power in such disputes.
- Debate likely to continue on whether defection adjudication should remain with Speakers or be shifted to an independent authority to ensure greater impartiality.

Comprehensive Analysis:

Narwekar's ruling, while seemingly resolving the immediate disqualification petitions, opens up larger questions about the anti-defection law and its implementation. His reliance on "majority" and party documents adds a new dimension to the criteria for determining the "real party," but also fuels concerns about political bias in Speaker's rulings. The potential legal battle in Supreme Court and the ongoing debate on an independent authority underscore the need for a clearer and more impartial system for handling defection disputes.

The Indian Parliament, a promise spurned

Security Breach in Indian Parliament (December 2023):

• Incident Overview:

- In December 2023, a security breach unfolded in the Indian Parliament as two young men wielding gas canisters infiltrated the premises.
- Their intrusion led to chaos, with the individuals jumping onto the Lok Sabha floor, causing widespread pandemonium.
- The motives behind this breach remain unclear and are subjects of ongoing investigation.

• Aftermath and Political Fallout:

- The aftermath witnessed a tense standoff between the Opposition and the ruling party, ultimately resulting in the suspension of 146 members from various Opposition parties.
- The suspension of these members added fuel to an already heated political environment.

Historical Context of India's Parliamentary Government:

• Debates on Form of Government:

- During the formative years, there were significant debates around the choice of the government model for India.
- Four predominant stances emerged: presidential, Indian orthodoxy, Swarajist, and parliamentary.
- The parliamentary model triumphed, emphasizing the need for a decisive authority and collective executive responsiveness.

• Unique Arguments for Parliamentary System:

- Advocates for the parliamentary system presented distinct arguments, highlighting its suitability for India.

- They underscored its ability to provide a better political space for minorities and stressed the importance of debates and discussions for determining the common good.
- Additionally, the parliamentary system was seen as adept at accommodating doctrinal, ethnic, and cultural pluralisms.

Paradoxes of Parliamentary System:











- Need for Stable Support and Effective Opposition:
- The parliamentary system, while requiring stable support, paradoxically demands constant critical validation through effective opposition.
- The effectiveness of an opposition is seen as vital for ensuring accountability and representation of diverse voices.
- **Challenges Faced by Ruling Party:**
- The ruling party faces challenges in navigating the delicate balance between its dominance and the necessity of an effective opposition.
- Tensions arise from the inherent contradiction between party strength and the democratic need for robust opposing voices.

Recent Events and Parliamentary Conduct:

- **Security Breach Impact:**
- The breach in Parliament's security was not merely an isolated incident but a breach affecting the entire nation.
- In response, the Opposition rightfully demanded accountability and urged the parliamentary focus on this critical issue.
- **Leadership Response Critique:**
- Criticism was directed at the leadership for a perceived lack of necessary assurances and explanations following the security breach.
- The failure to address the concerns of the Opposition has resulted in the suspension of a significant number of members, raising questions about the appropriateness of this response.
- **Questioning Leadership Actions:**
- The leadership's lack of initiative in forming a security committee with Opposition involvement has raised concerns about a potential compromise of parliamentary dignity for executive alignment.
- Historical instances, such as Nehru's respectful parliamentary conduct, serve as a reference point for contrasting leadership approaches.

Overall Evaluation:

- **Balance Needed:**
- While acknowledging the imperfections of the Opposition, the onus is on the leadership to act as the voice of the nation.
- The suspension of a substantial portion of the Opposition is questioned in light of this responsibility, prompting a reevaluation of parliamentary conduct and the balance between ruling party dominance and effective opposition.


-  **Supreme Court Inquiry:** The Supreme Court questions the government on GEAC's consideration of TEC reports for transgenic mustard DMH-11, emphasizing transparency in handling dissenting notes in TEC reports.
-  **Attorney General's Defense:** The Attorney General defends GEAC as a statutory body with a transparent, science-based framework for GM crop assessments, emphasizing strengthened regulations and conditional approval for GM mustard as examples.
-  **Justice Nagarathna's Emphasis:** Justice Nagarathna emphasizes the importance of transparency in handling dissenting notes in TEC reports, highlighting the need for rigorous risk analysis and thorough evaluation even in conditional approvals.
-  **Development:** DMH-11 is a hybrid mustard variant developed at the Centre for Genetic Manipulation of Crop Plants, University of Delhi, led by Deepak Pental, former Vice-Chancellor of the University.
-  **Genetic Manipulation Approach:** DMH-11 results from crossing Varuna and Early Heera-2, involving genes from soil bacteria (barnase and barstar) to address mustard's self-pollination challenge.
-  **DMH-11 Characteristics:** Notable traits include improved yield and fertility, with the genetic manipulation turning off self-pollination for controlled crossings and restoring it for seed production.
-  **Transgenic Nature:** Classified as a transgenic crop due to the incorporation of foreign genes, representing advancements in biotechnology for more controlled mustard plant traits.
-  **Significance of "11":** Refers to the number of generations for desirable traits to manifest, with barnase inducing temporary sterility in Varuna and barstar allowing seed production in Heera.
-  **Legal and Regulatory Scrutiny:** The approval process and environmental release of DMH-11 have faced legal challenges and discussions, with supervised cultivation approved and potential commercial availability expected after thorough evaluations.
-  **Controversies Surrounding GM Mustard:**
- Debate centers around the use of foreign genes, particularly the bar gene providing herbicide tolerance, with concerns about insufficient evaluation of GM mustard as a herbicide-tolerant crop and potential risks.
- Activists raise concerns about the impact of GM mustard on bees and the environment, dissuading bees from pollination and leading to potential environmental consequences.
- Activist groups, supported by Swadeshi Jagran Manch, consistently oppose GM crops, citing broader concerns.





Future of GM Mustard:


- GEAC previously cleared GM mustard in 2017, but legal challenges, including a Supreme Court case, stalled progress, similar to the uncertainties faced by Bt Brinjal, an earlier transgenic crop.
- The current status allows supervised cultivation by ICAR, with commercial availability expected after further evaluations.


RBI Governor says IBC needs course correction


 The Insolvency and Bankruptcy Code (IBC) was enacted in 2016 to consolidate and amend existing laws concerning reorganization and insolvency resolution for corporate persons, partnership firms, and individuals in a time-bound manner.

 Key objectives of the IBC are to promote entrepreneurship, availability of credit, and balance the interests of all stakeholders, including creditors and debtors.

 Establishment of the **Insolvency and Bankruptcy Board of India (IBBI)** to oversee the insolvency resolution process and regulate insolvency professionals, insolvency professional agencies, and information utilities.

 Creation of adjudicating authorities, including the **National Company Law Tribunal (NCLT)** for corporate insolvency and the **Debt Recovery Tribunal (DRT)** for individual and partnership insolvency cases.

 Provision for the **Insolvency Resolution Process (IRP)** and the Liquidation Process, providing a time-bound mechanism for resolving insolvency and bankruptcy cases.

 Introduction of the concept of insolvency professionals who play a crucial role in managing the affairs of the debtor during the insolvency resolution process.

Laws before IBC

SARFAESI Act, 2002:

- Introduced measures for asset reconstruction and securitization, empowering banks to take possession of collateral in case of default.
- Provided a legal framework for faster recovery of non-performing assets (NPAs).

RDDB Act 1993 (Recovery of Debts Due to Banks and Financial Institutions Act, 1993):

- Established Debt Recovery Tribunals (DRTs) for speedy resolution of debt-related cases.
- Aimed at expediting the recovery process for banks and financial institutions.

SICA 1985 (Sick Industrial Companies (Special Provisions) Act, 1985):

- Aimed at rehabilitating sick companies to prevent liquidation.
- Provided for the formation of the Board for Industrial and Financial Reconstruction (BIFR).

Winding up Regime under the Companies Act, 1956:

- Provided a legal framework for winding up companies that were unable to meet financial obligations.
- Facilitated the closure of non-viable businesses.

Companies Act, 2013 (Brief Period):

- Introduced provisions for corporate restructuring and resolution.
- Laid the groundwork for a more modern legal framework for corporate governance.

Challenges

Limited Data Accessibility:

- Historical laws lack structured data comparable to IBC, making comprehensive evaluation difficult.

Emphasis on Recovery Over Resolution:

- Predecessor laws prioritized debt recovery rather than a holistic resolution of insolvency cases.

Protracted Legal Proceedings:

- Delays in legal proceedings, ranging from years to decades, hindered timely debt recovery and resolution.

South Africa asks ICJ to order Israel to end Gaza strikes

Establishment and Location:

- The International Court of Justice (ICJ) was established in June 1945 by the Charter of the United Nations and is located at the Peace Palace in The Hague, Netherlands.
- It is the only principal organ of the United Nations not located in New York, USA.

Role and Function:

- The Court settles legal disputes submitted by States in accordance with international law and provides advisory opinions on legal questions referred by authorized UN organs and specialized agencies.

Composition and Languages:

- The Court is composed of 15 judges elected for nine-year terms by the UN General Assembly and the Security Council.
- Its official languages are English and French.



Judge Dalveer BHANDARI

India

Member of the Court since 27 April 2012, re-elected as from 6 February 2018

• Biography

USIDFC, NIIIF to set up \$1b fund to finance green projects

Establishment and Nature:

- Founded by the Government of India, NIIIF is the country's inaugural sovereign wealth fund, focusing on infrastructure investments including Greenfield and Brownfield Projects.

Inception and Approval:

- The concept of NIIIF was introduced in the Union Budget 2015-2016 by former Finance Minister, Arun Jaitley, and received approval from the Department of Economic Affairs in August 2015.

Objectives and Regulatory Status:

- NIIIF operates as a sovereign wealth fund registered with the Securities and Exchange Board of India (SEBI) and is categorized as a Category II Alternate Investment Fund (AIF) under SEBI Regulations, 2012.
- Its primary objective is to provide long-term capital for infrastructure-related projects and it is registered with SEBI, reflecting adherence to regulatory guidelines.