

BALANCE AND TILT: ON KARNATAKA POLITICAL CRISIS

Relevant for: Indian Polity | Topic: Parliament - structure, functioning, conduct of business, powers & privileges and issues arising out of these

The [Supreme Court's interim order stating that the 15 dissident Karnataka legislators](#) cannot be compelled to attend the House, means they are not bound by any whip relating to the trust vote moved by Chief Minister H.D. Kumaraswamy. This gives the numerical advantage in the House to the BJP-led Opposition. Without the support of the 15 lawmakers, the ruling coalition will be reduced to a minority. The other limb of the order permits the Speaker to decide on the resignation of these MLAs in a time-frame he considers appropriate. Although the court says there was an imperative necessity “to maintain the constitutional balance”, the order tilts the odds in favour of the Opposition in the vote. It amounts to holding that provisions of the anti-defection law, under which parties can issue whips to their members to vote in a particular way, will not be applicable to the 15 MLAs. The order raises the concern whether it does not constitute a perilous precedent for granting *ad hoc* judicial exceptions from constitutional provisions on defection and set the tone for future judicial intervention to suspend the operation of any whip in respect of a few. Alternatively, the court, which is understandably reluctant to intervene in the Speaker's power ahead of his decisions, could have refrained from making any orders about the legislators' presence during the trust vote, and made it clear that any action against them arising out of their absence or manner of voting would be subject to judicial review.

Making sense of Karnataka's politics

To be fair to the Supreme Court, it is being burdened with the task of unravelling political knots created by amoral strategems. In this case, the “political thicket” into which the court has been dragged has its origins in manoeuvres to reduce the combined strength of the Janata Dal(S) and the Congress. In a bid to thwart tactical resignations, the government and the Speaker adopted the counter-strategy of not immediately accepting them, but initiating or pursuing disqualification proceedings. One of the questions in the litigation is whether it is resignation or disqualification that should get priority. The objective of disqualifying the MLAs rather than allowing them to quit will not save the government, but it will prevent them from taking oath as ministers in an alternative Cabinet. Though the court's order recognises the Speaker's authority to rule whether the resignations are genuine, and fixes no time-frame, it is a Pyrrhic victory; for, their continuance as members puts them under no obligation to vote for the government in view of the allowance given to stay away during the vote. The dissident MLAs risk nothing other than their seats, certainly not the opportunity to join the Cabinet of a successor-government. When the court takes up the substantive questions of law for adjudication, it should squarely address the new-found interplay between issues of resignation and disqualification, lest it become a perennial source of political controversy.

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