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# **ANTI DEFECTION LAW – AN INTERROGATION BETWEEN POLITICAL STABILITY AND DEMOCRATIC PRINCIPLES**

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## **ABSTRACT**

For a country witnessing greatest instability in political sphere, the whole of its democracy finds hard to sustain. It was one such time existed in the history of Indian Politics. Shifting of political leaders from one party to other after being elected with the face of the original party was prevalent in the times of 1960s and 1970s. To curb the same the Anti Defection Law was enacted. Though the law has its success in drastically changing the defection records, it does has few implications. The objective of the research article is to acknowledge the intricacies with anti defection law grounds in India. The methodology used for this research is a Doctrinal Research with descriptive approach. The research is taken on the grounds of reality basis and from legal perspective with incorporation of case laws at significant points. The findings provide that the Anti Defection Law Paragraph 2(1)(b) stands between two ends of ideologies and perspectives. The possibility of having an amicable provision to uphold both the ends and the object of Anti defection is studied under this research paper. The two ends are Individual Member's freedom to give dissenting opinion, while the other end is the collective functioning of the members of the Parliament as whole. To arrive at better conclusion, the research has also included comparative analysis of Anti Defection Laws across borders. The paper arrives with the contemporary conclusion and futuristic suggestion in accordance with the political landscape of India.

## **1. INTRODUCTION:**

Anti Defection Law was introduced into the Constitution of India, 1950 by the virtue of 52<sup>nd</sup> Constitutional Amendment Act, 1985. The Anti Defection Law is the Tenth Schedule of the Constitution. Adding to the disqualification of the Membership from Parliament and State Legislature in Article 102 and 191 respectively, the Tenth Schedule also adds the grounds for

disqualification. The practice of shifting the political parties from one to the other after being elected by people was prevalent during the times of 1960s. This had not only led to internal political instability but also loss of interest among the people. It is this shifting of political leaders from one party to the other is called as Defection. The known slogan 'Aaya Ram Gaya Ram' could be never forgotten in the history of Indian Politics, which emerged from the incident of MLA Gaya Lal switching political parties thrice in one fortnight in the year of 1967.<sup>1</sup>

### 1.1 Anti Defection Law - A Perusal :

The 10th Schedule has 8 paragraphs in total. The 2nd paragraph deals with the 'Disqualification on the grounds of defection'

- If a member of a House voluntarily gives up his membership of his original political party.
- If the member of a House votes or abstains from voting against the direction issued by the political party to which he belongs, without obtaining prior permission of such political party provided that such voting or abstention has not been condoned by such political party within fifteen days from the date of such voting or abstention.
- If an elected member of a House who has been elected any political party shall be disqualified if he joins any political party after such election.
- 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 which he takes his seat.<sup>2</sup>

As provided under paragraph 6, all the decisions on questions as to disqualification on the ground of defection will be dealt by Speaker of the House only. It is at this juncture it is pertinent to note that the decision on disqualification of a member under Article 102 and 191 rests with the President and Governor respectively in consultation with Election Commission of India.

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<sup>1</sup> Ajay Sura, *Aya Ram Gaya Ram: How Gaya Lal set the tone for turncoat*, TIMES OF INDIA ( Oct 9, 2024) <https://timesofindia.indiatimes.com/india/aya-ram-gaya-ram-how-gaya-lal-set-the-tone-for-turncoats/articleshow/114059312.cms>

<sup>2</sup> Rajesh Kumar, Vandana Singh, *Anti Defection Law in India: Emerging Issues and Challenges*, ILI LAW REVIEW SUMMER ISSUE (2021) <https://ili.ac.in/pdf/10.pdf>

## 2. PROBLEM STATEMENT:

The problem statement discussed under this Research Article is the constitutional dynamics of one of the disqualification ground under the Anti Defection Law.

*'The member who has voted against the direction of the party whip or abstained voting against the direction of the party whip will be disqualified on the grounds of defection.'*

This research discusses two different approaches to this provision :

- Mere disapproval to the party whip direction shall not be amounting to defection all time. Such disapproval could also be an individual member's opinion in respect to the welfare of his constituency's people.
- While the other dimension could also be that, it is often impossible to distinct a genuine dissenting opinion from a defected dissenting opinion. Thus, this necessitates us to have such a ground of disqualification under Anti Defection Law.

### 2.1. Objective of the Research:

- To identify whether Individual Privilege precedes Collective Responsibility of a Member.
- To identify whether Individual Member's Opinion precedes Party's Objective.
- To have a comparative analysis of this particular anti defection law ground in other global countries.

## 3. REVIEW OF LITERATURE:

Anti Defection Law as a legislation to combat political instability, corruption in India has been studies.<sup>3</sup> The wide phrase used in paragraph 2 of the Anti Defection Law has been studied and interpreted in terms of American and English parliamentary principles.<sup>4</sup> Adoption of Anti Defection Law in various parliamentary democracies have been studied in order to know the changing dynamics across borders and political platforms.<sup>5</sup> The Anti Defection law as a whole

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<sup>3</sup> P Sachdeva, 'Combating Political corruption: A Critique of Anti Defection Legislation', JSTOR, Volume 50, No. 2 (April - June 1989)

<https://www.jstor.org/stable/41855903>

<sup>4</sup> Karthik Khanna, Dhanvi Shah, 'Anti Defection Law: A Death Knell for Parliamentary Dissent?' 5 NUJS L. Rev. 103 (2012)

[https://heinonline.org/hol/cgi-bin/get\\_pdf.cgi?handle=hein.journals/nujslr5&section=11](https://heinonline.org/hol/cgi-bin/get_pdf.cgi?handle=hein.journals/nujslr5&section=11)

<sup>5</sup> Csaba Nikolenyi, 'The Adoption of Anti Defection Laws in Parliamentary Democracies', Election Law Journal (Mar 4, 2016)

<https://www.liebertpub.com/doi/abs/10.1089/elj.2015.0345>

been evaluated with its previous functioning and efficacy.<sup>6</sup> Anti defection law as a law against freedom of speech and expression has also been researched.<sup>7</sup> As such several studies have been done in the area of Anti Defection Law in different perspectives.

### **3.1 Research Gap:**

The concern of dissent opinion under the grounds of Anti Defection Law has also been studied in previous research works by research scholars, yet this research article focuses on different dimension with respect to parliamentary democracy and political stability.

## **4. DEMOCRACY - THE BASIC FEATURE OF THE CONSTITUTION OF INDIA SURVIVES WITH RIGHT TO GIVE DISSENTING OPINION:**

It is voice of each individual which sustains the true meaning of democracy in any country. The right to give opinion includes both assenting and dissenting. The voice of dissent cannot be suppressed in a democracy. While the very concept of disqualification of members itself is to uphold the parliamentary democracy, the defection ground on voting against party direction stands against the fundamental democratic principles.

### **4.1. Deliberative Democracy - Decision by Discussion:**

In a deliberative democracy, the aspirations of the people are met by discourse in democratic institutions. The foremost among these institutions are Parliament and the State Legislatures. The object of the Constitution to give life and meaning to the aspirations of the people is carried out by its representatives through legislative business, deliberations, and dialogue.<sup>8</sup> The Members of Parliament and State Legislatures must be free to express their views on the floor of the House to cast their votes without any fear of the consequences. While Article 19(1)(a) of the Constitution recognises the individual right to the freedom of speech and expression, Article 105(2) institutionalises that right by recognising the importance of the Members of the Legislature to have the freedom in expressing themselves and in casting their votes in ballots without fear of reprisal or consequences.<sup>9</sup>

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<sup>6</sup>Darsan Guruvayurappan, *'Rethinking Defection: An Analysis of Anti Defection Law in India'*, Parliamentary Affairs, Vol 76, Issue 2 (Apr 2023)

<https://academic.oup.com/pa/article-abstract/76/2/443/6409917>

<sup>7</sup> G Chaudhary, Priyanka Sonowal, *'An Critical Appraisal of Anti Defection Laws in India and Conflict with Freedom of Speech and Expression'*, Indian Journal of Law and Legal Research, Vol. 5 Issue 1(2023)

[https://heinonline.org/hol/cgi-bin/get\\_pdf.cgi?handle=hein.journals/injllw10&section=58](https://heinonline.org/hol/cgi-bin/get_pdf.cgi?handle=hein.journals/injllw10&section=58)

<sup>8</sup> Jennifer L.Eagen, *Deliberative democracy*, Britannica (Mar 12, 2013)

<https://www.britannica.com/topic/deliberative-democracy/additional-info#history>

<sup>9</sup> Sita Soren v. Union of India, 2023 SC 1217

#### **4.2. Representative Democracy - Elected are the voice of Electors:**

In a representative democracy, citizens confer the responsibility of making and executing laws to the elected government, to take decisions on their behalf. The freedom of elected legislators to discuss and debate matters of the moment on the floor of the House is a key component of a democracy in the Parliamentary form of government. The ability of legislators to perform their functions in an environment where their freedom is protected without being overawed by coercion or fear is the true constitutional protection. As citizens, legislators have a fundamental right to the freedom of speech and expressing. In addition to that, the Constitution secures the freedom to speak and debate in the legislatures both of the Union and States.<sup>10</sup>

#### **4.3. Freedom of speech and expression - The cornerstone of Democracy:**

Free speech within Parliament is crucial for democratic governance. 'Vote' means a voluntary expression of the will of the individual who votes and that formal expression of the will is protected by the provisions of Article 19(1)(a) of the Constitution; the right to dissent which is guaranteed under the Constitution and that right shouldn't be whittled down by the provisions of the anti defection law of 1985. It was also held in the case of Raja Ram Pal v. Hon'ble Speaker, Lok Sabha and Ors<sup>11</sup>, where the Supreme Court held that the freedom of speech and expression of the members of Parliament is an essential attribute of parliamentary democracy and cannot be curtailed by the anti-defection law. The was also observed in the case of Kuldip Nayar v. Union of India<sup>12</sup> and Amarinder Singh v. Punjab Vidhan Sabha.<sup>13</sup>

### **5. PROHIBITION OF HONEST AND FREE DESSENT – A THREAT TO DEMOCRATIC PRINCIPLES:**

The Para 2(b) of the 10<sup>th</sup> schedule which says that if a person votes or abstain from vote against the parties direction, it amounts to disqualification of membership in the house under the 10<sup>th</sup> schedule is a threat to the Democratic Principles. In a democratic set up, the actions of an elected representative of the people, who merely seeks to voice his disagreement with certain policies/decisions taken by the rest of members of a party, could not amount to acting against the interest of the party, rather there is very less probability of indulging in activities which is prejudicial to the continuance of the Government. They must be having the right to dissent

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<sup>10</sup> Daisy Jain, *Representative Democracy*, IPLEADERS (July 14, 2022) <https://blog.ipleaders.in/representative-democracy/>

<sup>11</sup> Raja Ram Pal v. Hon'ble Speaker, Lok Sabha and Ors., (2007) 3 SCC 184

<sup>12</sup> Kuldip Nayar v. Union of India, (2006) 7 SCC 1

<sup>13</sup> Amrinder Singh v. Punjab Vidhan Sabha, (2010) 6 SCC 113

against the Party Whip in matters of Bill and agitate the grievances of the people of their constituencies and this right also flows from the provisions of Article 19(1)(a) of the Constitution of India ensuring that their individual right is also secured.<sup>14</sup>

In the case, of G. Viswanathan Vs. T.N. Legislative Assembly<sup>15</sup> the SC held that, if a properly and duly elected member is deprived of his membership of the House without voluntarily resigning from the party, merely on the whims and fancies of the leadership of his party, it would have dangerous consequences, the same was also upheld in the case of Amar Singh Vs. Union of India.<sup>16</sup> In State of Kerala v. K Ajith<sup>17</sup> held that a member of the legislature, the opposition included, has a right to protest on the floor of the legislature.

## 6. REPORT OF ELECTORAL REFORM:

The report of the committee on electoral reforms popularly known as the Dinesh Goswami Report, 1990 had recommended that the Anti-Defection law in the Tenth Schedule should be changed with respect to the following aspects:-

*"Disqualification provisions should be made specifically limited to cases of (a) voluntarily giving up of membership of a political party by an elected member and (b) voting or abstention from voting by a member contrary to his party direction or whip only in respect of a motion of vote of confidence or a motion amounting to no-confidence or money bill or motion of vote of thanks to the President's address."*<sup>18</sup>

In this context, even the Law Commission recommended, *"So far as the issuance of the whip is concerned, it is not governed by any law. Neither the Rules framed under the Tenth Schedule nor the Rules of Procedure and Conduct of Business in the Lok Sabha/Council of States provide for or regulate the issuance of whip. It is undoubtedly desirable that whip is issued only when the voting in the House affects the continuance of the government and not on each and every occasion. Such a course would safeguard both the party discipline and the freedom of speech and expression of the members"*.<sup>19</sup>

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<sup>14</sup> Author, *The Privileges of Members of Parliament*, DRISTI IAS (Aug 10, 2022)

<https://www.drishtias.com/daily-updates/daily-news-analysis/the-privileges-of-members-of-parliament>

<sup>15</sup> G. Vishwanath v.T.N. Legislative Assembly, (1996) 2 SCC 353

<sup>16</sup> Amar Singh v. Union of India, (2011) 1 SCC 210

<sup>17</sup> State of Kerala v. K. Ajith, (2021) 17 SCC 318

<sup>18</sup> Dinesh Goswami Report on Electoral Reforms, Legislative Department, (Feb 22, 2023)

<sup>19</sup> Law Commission of India, "170th Report on Reform of the Electoral Laws" (May, 1999)

## 7. COMPARATIVE ANALYSIS OF ANTI DEFECTION LAW IN GLOBAL NATIONS:

### 7.1. Singapore:

The member of the house shall be disqualified if he ceases to be a member of, or is expelled or resigns from, the political party for which he stood in the election.<sup>20</sup>

### 7.2. Belize:

Tenure of Office of Members (1) Every member of the House of Representatives shall vacate his seat in the House at the next dissolution of the National Assembly after his election. (2) A member of the House of Representatives shall also vacate his seat in the House— (e) if, having been a candidate of a political party and elected to the House of Representatives as a candidate of that political party, he resigns from that political party or crosses the floor.<sup>21</sup> In the US, Canada, and Australia, there is no restraint on legislators switching sides.

### 7.3 Canada:

The Place of a Senator shall become vacant in any of the following Cases: (1) If for Two consecutive Sessions of the Parliament he fails to give his Attendance in the Senate; (2) If he takes an Oath or makes a Declaration or Acknowledgment of Allegiance, Obedience, or Adherence to a Foreign Power, or does an Act whereby he becomes a Subject or Citizen, or entitled to the Rights or Privileges of a Subject or Citizen, of a Foreign Power; (3) If he is adjudged Bankrupt or Insolvent, or applies for the Benefit of any Law relating to Insolvent Debtors, or becomes a public Defaulter; (4) If he is attainted of Treason or convicted of Felony or of any infamous Crime; 5) If he ceases to be qualified in respect of Property or of Residence; provided, that a Senator shall not be deemed to have ceased to be qualified in respect of Residence by reason only of his residing at the Seat of the Government of Canada while holding an Office under that Government requiring his Presence there.<sup>22</sup>

### 7.4 Australia :

Any person who: (i) is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; or (ii) is attainted of treason, or has been convicted and is under

<sup>20</sup> Article 46(2)(b) of the Constitution of Republic of Singapore, 1965

<sup>21</sup> Article 59 of the Constitution of Belize, 1981

<sup>22</sup> Article 31 of the Consolidation of the Constitution Acts of Canada, 1867 to 1982.

sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer; or (iii) is an undischarged bankrupt or insolvent; or (iv) holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth: or (v) has any direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons; shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.<sup>23</sup>

### **7.5 United Kingdom:**

In UK, if an individual MP or MLA defies the whip, they continue to retain their membership of the legislature (although the party may take disciplinary action against them). Parties may issue directions or exert pressure if a member goes against the party line. However, legislators are not disqualified for defying the directives of their party.

Therefore from the above comparative study it can be concluded that among 40 countries having anti-defection law, only six countries have a law that mandates legislators to vote according to party diktat. The remaining countries only disqualify legislators if they are found to resign from their party or be expelled from it. Six countries that disqualify legislators who defy the party whip are India, Pakistan, Bangladesh, Guyana, Sierra Leone and Zimbabwe.<sup>24</sup>

## **8. CONSEQUENCE OF RECOGNIZING THE HONEST DISSENT - INDIAN POLITICAL CONTEXT:**

If the honest dissent of the member of parliament representing a political party is recognized, then it might create instability with democracy and intra political party stability.

- As of now, no definition of dissent is defined. It may be noted that, what is honest dissent to one person may not be honest dissent to others.
- It can also be observed that, the dissent arise out of the personal belief, the member of the parliament belief that it is not good. Therefore inside the parliament only “shared belief” should prevail over the “personal belief”. The privilege of freedom of speech

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<sup>23</sup> Article 44 of the Australian Constitution, 1901.

<sup>24</sup> Kenneth Janda, 'Laws Against Switching, Defecting, or Floor-Crossing in National Parliaments', Party Law in Modern Europe (Aug 2009)  
<https://share.google/MHLCKaUONpjkae354>

enjoyed by Members of Parliament is in truth the privilege of their constituents. It is secured to members not for their personal benefit, but to enable them to discharge the functions of their office without fear of prosecutions civil or criminal.<sup>25</sup>

- Once returned to the House of people the Member's party expects him to be loyal. This is not entirely unfair or improper, for it is the price of the party's label which secured his election.
- The one such consequence of recognizing the honest dissent will be procedural lag. If recognized it will lead to misusing of the provisions making the objective of the provision to be deviated. A member of the parliament may color his opinion as honest opinion for pecuniary interest. Veiling in name of honest opinion a person may work in favor of the opposite party and still continue to argue that it is honest according to their conscience and belief. As there are no parameters to determine which is honest and which is dishonest it becomes difficult to access the true screen and may lead to play with the provision.

## **9. COLLECTIVE RESPONSIBILITY PRECEDES INDIVIDUAL**

### **PRIVILEGE:**

Freedom of Speech under Article 105 is a Privilege to a Member of Parliament as a form of Parliamentary Privilege for which he is subjected to enjoy within the Parliament and its related proceedings. Parliamentary Privilege is the sum of the peculiar rights enjoyed by each House collectively as a constituent part of Parliament. It is these privileges that enables the Parliament to discharge its duties and functions effectively. When Freedom of Speech and expression prevails to be a fundamental right, the purpose of providing it as a privilege to the Parliament is to ensure that at no point of time the Parliamentary proceedings must lack in its undisturbed operation. When the privilege provided itself amounts to disturbance of Parliamentary operation as prevailed before 1985 circumstance, then requires a restriction to assure that the purpose of such privileges is protected.

Article 105 states in its provision that the privileges quoted in Article 105 are bound to the provisions of the Constitution, to the rules and standing orders regulating the procedure of Parliament. Which hereby precise that the privileges provided to Members of Parliament is in

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<sup>25</sup> Pepper v. Hart [1993] 1 AC 593

line with the rules and orders which the Parliament may feel necessary for its cordial regulation. Anti Defection Law being enacted by the Parliament as a form of regulation rightly makes the Privileges provided in Article 105 to be bounded.

Shri Alladi Krishnawami Ayyar former Madras General and one of the member of the Drafting Committee of the Constitution said that, ' There is nothing to prevent the Parliament from setting up the proper machinery for formulating privileges. The article leaves wide scope for it. In other respects, the privileges and immunities of members of the Houses shall be such as may from time to time be defined by Parliament by law and until so defined.'<sup>26</sup>

With the above statement, it makes very clear that Parliament is vested with power to enact any rule or order to fluctuate its privileges at any point from time to time to regulate. Privileges provided to the Members of Parliament is not an absolute as quoted in various precedents such as E. Edwig v. TN Legislative Assembly<sup>27</sup>, M.S.M. Sharma v. Sri Krishna Sinha<sup>28</sup>.

## **10.POLITICAL STABILITY REFLECTS SUSTAINABLE**

### **PARLIAMENTARY DEMOCRACY IN INDIAN POLITICAL AREANA:**

Having the above concerns in notice, there are other practical challenges that makes provisions of Anti Defection Law constitutional. Parliamentary Democracy plays a crucial role in establishing the Constitutional Principles of India. Democracy in Parliament only can be maintained when there is stability. Political stability has direct effect on the Parliamentary stability. Switching from one party to other party happens both explicitly and implicitly. Members of Parliament may get monetary or any personal benefit from the other party and work in favour of them being in the original party itself. Which shows disloyalty of the Members towards their party as well as the people by whom they are elected and it is these people who elect them on the ideology and manifesto of the political party.

Parliamentary Democracy envisages that matters involving implementation of policies of the Government should be discussed by the elected representative of the people. Debate, discussion and persuasion are, therefore, the means and essence for the democratic process. Debate and

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<sup>26</sup> Constitutional Assembly Debate of India, Volume VIII, (May 29, 1949)

<sup>27</sup> E. Edwig v. TN Legislative Assembly, W.P. No. 8671 of 2012

<sup>28</sup> M.S.M. Sharma v. Sri Krishna Sinha, 1959 AIR 395

expression of different points of view, thus serve essential and healthy purpose in the functioning of Parliamentary democracy.

In the case of *Kihoto Hollohan v. Zachillu and ors.*,<sup>29</sup> it was given that a political party functions on the strength of shared beliefs. Any freedom of its Members vote as they please independently of the political party's declared policies will not only embarrass its public image and popularity but also undermine public confidence in it which, in the ultimate analysis, is its source of sustenance-nay, indeed. Its very survival. Paragraph 2 (1) (b) of the Tenth Schedule gives effect to this principle and sentiment by imposing a disqualification on a Member who votes or abstains from voting contrary to 'any directions issued by the political party.'<sup>30</sup> The provision, however, recognizing two exceptions: one when the member obtains prior permission from the political party to vote or abstain from voting and the other when the Member has voted without obtaining such permission but his action has not been condoned by the political party. This provision itself accommodates the possibility that there may be occasions when a Member may vote or abstain from voting contrary to the direction of the party to which he belongs.

Paragraph 2 (b) as said by the Hon'ble Supreme Court in the above case, has not completely restricted a Member for giving his opinion, the provision actually facilitates intra party debate and strengthens the idea of the party. A Member finding himself within a Political Party is expected to go in hand with the Party's ideology to maintain stability of the Party and well as to ease Parliamentary Proceedings. Various cases quoted the concept of Intra party debate and shared beliefs as an essential part, such as *Rameshwar Prasad and Ors v. Union of India and anr.*,<sup>31</sup> *K.M. Joseph v. Babychan Malangasseri*,<sup>32</sup> *B. Muhammedkunhi v. K. Abdulla*,<sup>33</sup> *Kunwar Pranav Singh Champion and ors. V. Speaker Legislative Assembly and Ors.*,<sup>34</sup> and more.

### **10.1 Futuristic Suggestion:**

Though political stability matters, the statements considered while dealing with Right to free and honest dissenting opinion cannot be completely ignored. Thus the application of Paragraph

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<sup>29</sup> *Kihoto Hollohan v. Zachillu and Ors.*, (1992) Supp. 2 SCC 651

<sup>30</sup> The Disqualification Of Members (On Ground Of Anti Defection) Rules, 1985.

<sup>31</sup> *Rameshwar Prasad and Ors v. Union of India and anr.*, AIR 2006 SC 980

<sup>32</sup> *K.M. Joseph v. Babychan Mulangasseri*, 2015 (1) KLT SN 112

<sup>33</sup> *B. Muhammedkunhi v. K. Abdulla*, Wp(C) No. 28051 of 2010

<sup>34</sup> *Kunwar Pranav Singh Champion and ors. v. Speaker Legislative Assembly*, AIR 2016 (NOC) 517 (UTR)

2(1)(b) of the Anti Defection Law shall be limited only to the party related issues. The opinion of the members of the party shall be encouraged through deliberation rather than a party whip. The disqualification shall not be extended to genuine dissenting opinion or voting of members against the party direction.

### **11.CONCLUSION:**

The Constitution makers never propose to give any supreme right of freedom of speech to a member of parliament and state legislature. They always intended that it should be supervised and regulated by enacting a separate constitutional law. These privileges enjoyed by the member of the house individually are a mean to ensure and facilitate the effective discharge of collective function. The privilege of the individual member only extends in so far as it aids the Parliament to function without any disturbance. Thus, the house may carry over its function collectively. To conclude, Freedom of Speech of a Member of Parliament is not an absolute Privilege and the privilege provided to the Individual member itself is to function the Collective Privilege. The object behind providing a Fundamental Right as a Privilege to the Parliament is to ensure that the proceedings in the Parliament must be free from any encumbrance from other wings. Thus, the sole motive is to ensure undisturbed functioning of the Parliament. When the Privileges provided to the members found to be misused that amount to breach of Privilege and as per the reasonable restrictions placed, it amounts to disqualification. Hence, the Paragraph 2(b) of the Tenth Schedule does not infringe upon the Privileges outlined in Article 105 of the Constitution, rather it is to maintain the Parliamentary Democracy and Stability preventing from unethical political act. It is by this way of reasoning, the Anti Defection Law and its grounds stand constitutionally valid.