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Political Defections and Political Culture: Two Sides of Same Coin in Bengal over a past One Decade and Need to Be Revamped the Anti- Defection Law

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Abstract

Political defection is not new in Indian Political Culture. During late 1960s lot of Legislators changed their political parties very frequently to join with other political parties in India. For instance Haryana MLA Mr. Gaya Lal changed his parties thrice within a fortnight in

1967. In the view of the rampant turncoats Anti-Defection law was made in the Tenth Schedule by the 52nd amendment in 1985. In West Bengal this “the Aya Ram Gaya Ram” culture is going on massively since 2011 assembly election. Although in West Bengal Political Defections can be traced back in the year 1952 when four Forward Bloc MLAs joined with the Congress after Assembly election in the state that led to bye-election. In West Bengal after 2011 assembly election the state witnessed massive defections as many Congress, and Left legislators made a beeline for the TMC. The trend changed following the 2019 Lok Sabha elections, when the BJP, did a remarkable results in Lok Sabha polls, and became an attractive destination for the elected representatives of the TMC expecting the BJP is coming to power in 2011 Assembly election. But the BJP got much less no of seats than what they even people expected. Once again many legislators switched over to the TMC after the Assembly election. Political Parties made allegations and counter allegations or entangled with blame game to one another regarding political defections but each party exploited the anti-defection law or took advantage and benefitted from it. As per anti-defection law on the question of disqualification final decision would be taken by the speaker /chairman of the legislature. There is no time frame in making decision. Even Courts can intervene only after the decision of the presiding officer (Speaker/Chairman). So anti defection laws needs to be revisited and other provisions need to be relooked for the larger interest and sanctity of the democracy.

Key words: Political Defection, Political Culture, Turncoat, Blame Game, Anti-defection Law, Representative Democracy.

Political defections have become regular incidence in West Bengal over the past one decade. Although Political defections is not new in West Bengal. The first incidence of Political defection can be traced back in 1952 when four Forward Bloc MLAs joined with the Congress after Assembly election in the state that led to bye-elections. Former Chief Minister Prafulla Chandra Ghosh decision to walk out of Bangla Congress and the CPI (M)-led United Front government along with 17 MLAs, in 1967. Ghosh and other legislators joined the Progressive Democratic Front (PDF), led to the collapse of the United Front government. Subsequently no major camp change took place till 1998, when a section of Congress leaders formed the Trinamul Congress under leadership of Ms. Mamata Banerjee. Between 1998 and 2001, many Congress MLAs who had joined TMC but voted as per direction of party's whip inside the Assembly to avoid getting disqualified under the anti-defection law but functioned as a TMC leader outside. After 2011, however, the state witnessed massive defections as many Congress, and Left legislators made a beeline for the TMC. The first defections from the Congress happened in November 2012, with Krishnendu Narayan Chowdhury of the English Bazar constituency in Malda district and Humayun Kabir of Rejinagar in Murshidabad joining the TMC. Both the members got the ministerial berths but Mr. Kabir could not retain it by bye- election. The next to defector was Ajoy De, of Shantipur in Nadia. He had won the 2011 elections on a Congress ticket for a fifth straight term but joined the TMC in November 2013. Between 2014 and 2016, 14 legislators switched over to the TMC, of whom two – RSP's Dasharath Tirkey and Forward Bloc's Sunil Mandal – had resigned from the assembly to contest the 2014 Lok Sabha election on the TMC's ticket. The 12 others took time and resigned in March 2016, only after the TMC had named them as candidates for the April-May 2016 assembly election. These dozen leaders were: Abu Naser Khan Chowdhury, Gholam Rabbani, Asit Mal, Imani Biswas, Umapada Bauri and Sushil Roy from the Congress, Chhaya Dolui and Nabin Chandra Bag from the CPI(M), Udayan Guha and Tajmul Hossain from the Forward Bloc and Anantadeb Adhikari from the RSP.

After 2016 Assembly elections in second term of TMC defections was dominant component of Bengal politics. Dipali Biswas of the CPI (M) and Tushar Kanti Bhattacharya of the Congress were the first defectors. Dipali Biswas became the Member of the Legislative Assembly in the 2016 assembly election on a Communist Party of India (Marxist) [CPI(M)] ticket from Gajole in Malda district, switched over to the Trinamool Congress (TMC) and stayed with the party till December 2020. Later she joined with the BJP. Although winning on one party's ticket and serving two others did not cause her to lose her membership in the state legislature. This was followed by the defection of the Congress's Manas Bhuniya, a former state unit president, in September 2016. He was supporting and working with TMC despite being elected on congress ticket. He did not vacate his seat until the day before the date of submission of nomination paper for TMC as Rajya Sabha Candidate. In early 2017, Bankura's Congress MLA Shampa Daripa started sitting on the treasury bench in the assembly that is reserved for ruling party legislators. A few months, later Abhishek Banerjee publicly announced that the Bankura MLA had joined

the TMC. The RSP's Direndranath Layek, who joined the TMC following the same path at a public event in Bankura in February 2018. Goutam Das, a Congress MLA from Gangarampur in Dakshin Dinajpur district, and Dulal Bar, a Congress MLA from Bagda in North 24 -Parganas, who switched over to the TMC ahead of the 2018 panchayat elections. The Gangarampur MLA went on to become the TMC's district unit president in 2020, while Bar had joined the BJP in 2019. Neither faced disqualification.

The trend changed following the 2019 Lok Sabha elections, when the BJP, did good result in Bengal in general election, became an attractive destination for the elected representatives of the TMC. The BJP party got 18 seats out of 42 seats in west Bengal. The TMC got a dose of its own medicine with several of its leaders joining with the BJP. Political experts said that she is being paid back in the same coin. The history is repeating itself .The saffron party has engineered an exodus of TMC leaders, with party heavyweight Suwendu Adhikari and 15 other MLAs and an MP, joining the BJP since the 2019 Lok Sabha elections.The TMC witnessed the biggest exodus from the party on a single day when Adhikari, a former state minister, along with 34 other leaders, including five MLAs and an MP, joined the BJP during Union Home Minister Amit Shah's rally at Medinipur meeting on 20th December, 2020.This time political wind was blowing in favour of BJP.

But perhaps the most political debacle happened for BJP in 2021 assembly poll where the party secured only 77 seats out of 292 seats. Ahead of Assembly election the wind was blowing in favour of BJP and everybody began to think that the BJP is coming to power this time by defeating the ruling TMC party with overwhelming majority. Unfortunately that did not happen.

After the 2021 Assembly Election once again loosing or winner candidates of BJP started to change their party allegiance to TMC. Wining BJP Candidates like Babul Supriyo, MP from Asansol in East Burdwan, Mukul Roy MLA from Krishnagar in Nadia, Tanmoy Ghosh, MLA from Bishnupurin Bankura, Soumen Roy, MLA from Kaliagang in Noth Dinajpur, Biswajit Das,MLA from Bagda in North 24 Porgana and loosing candidates like Subhrangshu Roy son of Mukul Roy , Rajib Bandhopadhyay join with TMC .Very recently Arjun sing MP from Barrack pore, joined with TMC . Thus it has been observed that over the past one decade the state witnessed massive defections as not only from Congress and Left legislators to either TMC or BJP but also elected representatives of TMC and BJP switched allegiance over to each other party different times.

The West Bengal Assembly registered not a single case of disqualification on ground of Political defection .In the 16th Assembly alone, around 24 of the 44 Congress MLAs and eight of the 32 Left MLAs had crossed over to either the TMC or the BJP. However, only 12 disqualification pleas were filed by the Congress,one by the CPI (M) against Dipali Biswas, the TMC filed defection plea to the speaker of the Loksobha against kanthi MP Sishir Adhikary and Burdwan East MP Sunil Mondal, and the BJP filed defection application to honourable speaker Biman Banerjee against veteran Leader Mukul Roy won from krishnagar on BJP ticket. As the cases are remained pending and few cases are going

on repeated hearing but no action has been taken against any defector by the speaker. By Expelling any party member problem cannot be solved. But once expelled from a party, a member becomes independent and does not have to face disqualification for the rest of the tenure. Ultimately defectors get free passage. Allegations and Counter allegations, criticisms by political parties to one another regarding role of speaker in making decision on question of political defections is going on. Some parties are saying it has become a “Fashion” in Bengal Politics. Political defections have reached its height stage as political culture by nourishing the ruling party. Political commentators expressed that both ruling and opposition parties are responsible for making anti defection law as mockery.

The root problems lie in the provisions of anti -defection laws made by the parliament. It was added to the constitution as tenth schedule by the 52nd amendment in 1985. The purpose of the law was to prevent MPs/MLAs switching over to other political parties and discouraging the people representatives changing political parties. If we look at the present Anti-defection law then we will see that an elected member can be disqualified on the ground of political defections -

- a) If the member voluntarily gives up his membership of a political party.
- b) If he votes or abstains from voting in such House contrary to any direction issued by his political party or anyone authorised to do so, without obtaining prior permission. As a pre-condition for his disqualification, his abstention from voting should not be condoned by his party or the authorised person within 15 days of such incident.
- c) If any independently elected member joins any political party.
- d) If any nominated member joins any political party after the expiry of six months. There are some exceptions of political defections which are:

1. If the two-thirds members of a political party decide to merge into another party, neither the members neither who decide to join nor the ones who stay with the original party will face disqualification. (The 91st Constitutional Amendment Act, 2003)

2. If any member is elected as chairman or speaker, he/she can resign from his/her party, and re-join the party after leaving the post.

The Speaker/Chairman acts as the presiding officer on hearing of defections plea file by parties. The decision of the Speaker /Chairman on questions as to disqualification on ground of defection is final. However, the law does not provide a time-frame within which the presiding officer has to decide a defection case or there is no time limit for him to arrive at any decision. A party cannot move court, but only after the speaker has announced his decision. Most of the cases presiding officer takes initiatives considering political aspects. There is question of Political biasness in the case to case. . Although speaker’s decision is subject to ‘review’ (Kihoto Hallohnan Vs Zachillho and Others, 1992) as the speaker is functioning as a tribunal that is judicial functions and it should be under scrutiny of court. The Supreme Court upheld that the speaker holds pivotal position in parliamentary democracy and guardians of the rights and privileges of the house. That is why the matter

should be left in the court of speaker. Until or unless decision is taken by the speaker/chairman the court can not intervene it. The petitioner has to wait till the decision of the presiding officer (Speaker/Chairman). As it goes for unlimited timeline the matters becomes contentious and farce. So for the sanctity of democracy it is the need of the hour to revisit or relook the anti-defection law. The law needs to be revisited, as the realities of Indian politics have undergone a sea change since 1985. There should be a fixed time frame for the speaker to decide on disqualification pleas Different alternative suggestions coming from different corners relating to rectification of Anti defection law. Such as

1. Make the President/Governor the decision-maker with respect to disqualification subject to binding advice from the Election Commission the lines of disqualifications based on the Representation of Peoples Act's provisions regarding the Office of Profit.
2. The Election Commission should be the deciding authority in defection
3. The President and Governors in place of speaker /chairman, should hear defection Pleas/ petitions.
4. The courts observed that there have been several cases where the Courts have expressed concern about the unnecessary delay in deciding such petitions

In a few cases, there have been situations where members who had defected from their political parties continued to be House members, because of the delay in decision-making by the Speaker or Chairman.

There have also been instances where opposition members have been appointed ministers in the government while still being members of their original political parties in the state legislature.

The Supreme Court opined that Parliament should set up an independent tribunal headed by a retired judge of the higher judiciary to decide defection cases swiftly and impartially.

To conclude, In the light of past decade of West Bengal “Aya Ram Gaya Ram” (the phrases gained popularity in the Indian polity after MLA from Haryana, Gaya Lal changed his party thrice within the same day) culture there is very necessary for revision of exiting loopholes of anti-defection law after 37 years. Besides political parties have to be strict and keep morality in inducting members into the parties for the widest interest and sanctity of the democracy.

There should have a minimum time frame, ideally within three month at arriving at a decision. End of the day, it is a matter of political will.

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