



## Constitutional Bench Update

**Subhash Desai v. Principal Secretary,  
Governor of Maharashtra & Ors.**

**Disqualification Proceedings against  
MLAs**



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## **Bench:**

**D.Y.Chandrachud J., M.R.Shah  
J., Krishna Murari J., Hima Kohli  
J., P.S.Narasimha J.**

**Case Admitted /Filed on:  
September 07, 2022 / July 08,  
2022**

**Last Date of Hearing:  
September 27, 2022**

**Next Date of Hearing:  
November 01, 2022**

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# Background:

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**21st June, 2022:** Shiv Sena party member Mr. Eknath Shinde, went missing along with a number of party MLAs who then refused to attend a meeting called by Mr. Uddhav Thackeray.

As a consequence, Mr. Shinde was removed from the post of Legislature-Party leader. Mr. Shinde claimed that he had the support of over 40 MLAs, and Mr. Thackeray was no longer the party's chosen representative.

**24th June, 2022:** Mr. Thackeray urged the Deputy Speaker to begin disqualification proceedings against Mr. Eknath Shinde and other rebel MLAs.

Mr. Shinde challenged the proceedings in the SC and got a stay order.

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**28th June, 2022:** The Governor of Maharashtra was requested to direct a floor test in the Assembly and the same was affirmed.

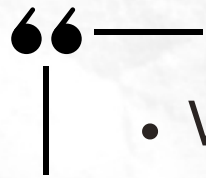
Thackeray faction challenged the floor test but the Apex Court declined to stay it. Thereafter, Chief Minister Thackeray resigned within an hour, making way for the Shinde faction to consolidate power.

The Thackeray faction argued that the actions like disregard for the party whip, appointment of a new Deputy Speaker, call for floor test and insistence of the Shinde faction's majority were acts of defection. Meanwhile, the Shinde faction approached the EC to use the party symbol in upcoming local polls.

**6th September, 2022:** SC announced that the case would be decided by a 5-Judge Constitution Bench

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# Issues under Consideration:



- Whether splitting within a political party can be termed same as defecting from the party?
- Whether rebel within a political party amounts to defection?
- Whether Shinde faction can be subject to disqualification proceedings under the Tenth Schedule?
- Whether disqualification of MLAs vests within the powers of the Speaker?



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