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'Decisions taken by Speaker should not be open to review'

Need For Framework, Says Om Birla

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Dehradun: Decisions taken by the Speaker of a state assembly or Lok Sabha should be final and not open to judicial review. This was the consensus that emerged from the two-day conference of Presiding Officers of legislative bodies in India, where over 18 speakers, including Lok Sabha Speaker Om Birla, asserted that there is a need for a "framework" within which the Anti-Defection Law, contained in the Tenth Schedule, must work.

Making their submissions in the backdrop of recent decisions by speakers of Karnataka and Uttarakhand assemblies being challenged in Supreme Court, several speakers emphasised the need for greater clarity and the need to plug gaps in the law to prevent judicial scrutiny.

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Sukanta Mukherjee

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to collate concerns raised by different states and present a report. "To ensure that the speakers' decisions are not challenged, if state assemblies need to tweak rules, that will be done. And in case the committee recommends some bigger changes that need a Constitution amendment, we will recommend those to the government."

Sources who attended the conference told TOI that Bihar Speaker Vijay Chaudhary cited several instances when the "judiciary overstepped its bounds" while deliberating on decisions taken by presiding officers. Referring to the recent instance of 17 MLAs re-

signing from the Karnataka assembly and bringing down the Congress-JD(U) government in the process, Chaudhary said the judiciary had to step in to explain the law, because its existing provisions are silent on the issue of resignations. "There are loopholes that allow the intent of the law to be circumvented," he said, adding that the Anti-Defection Law was silent on whether it will be applicable when a party issues a whip to its members, or after legislators defy it.

Speaker of the Rajasthan assembly, CP Joshi, said the office of the Presiding Officer must not be politicised and ar-

gued that the power of disqualifying legislators should not be vested in the Speaker. Instead, he favoured disqualification of legislators by the Election Commission following a recommendation by the party president. Joshi also said the two-thirds rule — that if two-third members of a party defect, the anti-defection law will not apply — is problematic because it allowed "wholesale defections" and was particularly dangerous for smaller parties whose existence was threatened by such mass moves.

Raising the question of voluntary resignations and a party's whip working inside or outside the House, Gujarat speaker Rajendra Tiwari also sought clarity on the time-frame within which Speakers must decide on the issue of defections. While Tiwari argued that disqualified legislators should not be allowed to contest for five years, his Haryana colleague, Gyan Gupta said disqualified legislators should not be given ministerial berths. Birla also batted for uniformity in Rules and regulations governing legislatures and said a committee would deliberate on the matter and submit its opinion.