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UNIVERSITY**

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FACULTY OF JURIDICAL SCIENCES

COURSE: BALLB/BBALLB

SEMESTER SUBJECT:

ELECTION LAWS

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NAME OF FACULTY: PANKHURI SRIVASTAVA

Lecture-10



LECTURE 10: ANTI- DEFECTION LAW: WHAT EXACTLY IT STATES

The anti-defection law enshrined through the introduction of the Tenth Schedule in the Constitution of India comprises 8 paragraphs. The following is a brief summary on the contents of the law:

- **Paragraph-1: Interpretation.** This section handles the definitions of distinct terms applied in laying out the legislation.
- **Paragraph-2: Disqualification on grounds of defection.** This section deals with the crux of the legislation, specifying factors on which a member could be disqualified from the Parliament or the State assembly. Provisions in para 2.1(a) provide disqualification of a member if he or she "voluntarily gives up the membership of such political party", whereas paragraph 2.1(b) provisions, addresses a situation when a member votes or abstains from any crucial voting contrary to the directive circulated by his/her respective political party. Paragraph 2.2 states that any member, after being elected as a representative of a certain political party, shall be disqualified if he/she joins any other political party after the election. Paragraph 2.3 states that a nominated member shall be disqualified if he/she joins any political party after six months from the date he/she takes his seat.
- **Paragraph-3:** Omitted after amending the schedule by the Ninety-first Amendment act – 2003, which exempted disqualifications arising out of splits with one-third of the members defecting from a political party.
- **Paragraph-4: Disqualification on ground of defection not to apply in case of merger.** This paragraph excludes from disqualification in the case of mergers of political parties. Provided if the said merger is with two-thirds of the members of the legislative party who have consented to merge with another political party.
- **Paragraph-5: Exemption.** This paragraph provides exemptions to the Speaker, Chairman and Deputy-Chairman of various legislative Houses.

- **Paragraph-6: Decision on questions as to disqualification on ground of defection.** This provision mandates the Chairman or the Speaker of the respective legislative house to be the ultimate decision-making authority in case of any disqualification that arises.
- **Paragraph-7: Bar of jurisdiction of courts.** This provision bars any court jurisdiction in case of disqualification of a member under this schedule. However, this schedule does not bar court intervention under articles 32, 226, and 137 of the Constitution of India.
- **Paragraph-8: Rules.** This paragraph deals with framing the rules for disqualification. The schedule allows the Chairman and the Speaker to frame rules concerning their respective legislative houses to deal with the disqualification of members of their various houses of the legislature