



**RAMA
UNIVERSITY**

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FACULTY OF JURIDICAL SCIENCES

COURSE: BALLB/BBALLB

SEMESTER SUBJECT:

ELECTION LAWS

SUBJECT CODE: BALLB

1004/BBALLB 1004

NAME OF FACULTY: PANKHURI SRIVASTAVA

Lecture-2



LECTURE 2: OTHER CONDITIONS GIVEN UNDE CONSTITUTION OF INDIA

❖ Who decides the question of disqualification?

- The question whether a member is subject to disqualification in all other matters except under 10th schedule (disqualification) is decided by President. However, President should obtain the opinion of the election commission before taking such decision.
- The question of disqualification under Anti-defection / Tenth Schedule is decided by the Chairman in the case of Rajya Sabha {i.e. Vice-President} and Speaker in the case of Lok Sabha.
- The decision of Chairman / Speaker in this condition is subject to judicial review.

❖ Other conditions of vacating the seats

Apart from the disqualification grounds mentioned in Constitution, RoPA 1951 and Tenth schedule, a member of parliament would need to vacate the seat in follow circumstances:

- A member of parliament can resign from his seat. The resignation letter is addressed to Chairman of Rajya Sabha (Vice-President) and Speaker of Lok Sabha.
- The Chairman or Speaker can declare the seat vacated if a member has remained absent from all its meetings for a period of 60 days without permission. While calculating the 60 days, the period for which house is prorogued or adjourned is not counted.
- If a member has been elected as President or Vice-President, or has been appointed as Governor of a state, his seat will be vacated.
- A person cannot be come member of both Lok Sabha and Rajya Sabha at one time. If a person is elected from both the houses, he need to intimate within 10 days to the house of which he

desires to serve. However, if he fails to make such intimation, his Rajya Sabha membership will end.

- If a sitting Lok Sabha member becomes Rajya Sabha member or vice versa, the seat of former house will vacate.
- If a person has contested elections on two seats and is elected on both, he needs to choose one. If he fails to do so, both the seats will get vacated.
- A person cannot be MLA and MP at the same time. If it happens that a person is both an MLA and MP, his MP seat will vacate.
- Party provided he joins such political party of his choices within a period of six months. After that period, joining a political party would lead to defection and disqualification.