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News: Convicted Lakshadweep MP Faizal disqualified

- The Lok Sabha Secretariat has disqualified Lakshadweep MP Mohammed Faizal after he was jailed in an attempt to murder case. Mr. Faizal, and three others were sentenced to 10 year rigorous imprisonment early this week for attacking Mohammed Salih of the Congress during the 2009 Lok Sabha election.

Disqualification of Member of Parliaments and Legislative Assemblies

- Article 102 of the Constitution establishes conditions for a member of either House of Parliament to be disqualified. If the member fails to comply with the rules, he or she will be disqualified.
- He holds a profit-making office (within the Government of India or any State government) that is not listed in the law of parliament.
- If he is found to be mentally ill by a competent court,
- If he is discovered to be an unsolved insolvent;

- If **he is not an Indian citizen**, or if he has deliberately gained the citizenship of another country, or if he has pledged allegiance or commitment to another country;
- If **any law passed by Parliament disqualifies him**.

Disqualifications Grounds

- If a **person is found guilty of rigging elections**.
- If the **person is guilty of specific crimes**, such as the IPC, the Civil Rights Act of 1955, the UAPA Act of 1967, and so on.
- If **the person is guilty of a crime that carries a sentence of at least two years in jail**. The **sentence clause would be reduced to 6 months if the sentence is related to bribery**.
- If the **person is fired from their government job**.
- If a person is **disqualified due to a violation of the tenth schedule**.
- In the event of such disqualification, the **President's judgment (Article 103) is final for MPs**, while the **Governor's decision (Article 192) is final for state legislators**.
- Before making any decision in this regard, **the President and Governor will seek the advice of the Indian Election Commission**.
- Such disqualifications might be **challenged in high courts**.

Article 101 - Provides for the following grounds for disqualification:

- If a person is elected as both a Member of Parliament and a Member of the Legislative Assembly, he must give up one of his memberships. He'd be disqualified for both seats if he didn't do so.
- If he resigns from his position by notifying the presiding officer of his decision.
- If he is absent without giving the presiding officer notice for more than 60 days.

Disqualification on Grounds of the Anti-Defection law

- Giving up one's membership in a political party voluntarily.
- Abstain from voting or acting in opposition to his or her political party's directives.
- After being elected as an independent member, he joins a political party.
- If he or she is a nominated member and joins a political party after the six-month period has expired.
- The 91st Constitution Amendment Act of 2003 states that if two-thirds of a political party's members join another political party, they will not be disqualified. (Previously, it was one-third)
- In such a case, the Speaker's and Chairman's decisions are definitive.

Exceptions of Anti-Defection law

The above mentioned disqualification for defection does not apply in the following two situations:

- If a member leaves his party as a result of the party merging with another party.
A merger only occurs when two-thirds of the members of a political party agree to it.
- If a member, having been elected as the presiding officer of the House, voluntarily gives up or rejoins his party membership after leaving that post.
Because of the dignity and impartiality of this position, this exemption has been granted.
- The section in the Tenth Schedule pertaining to exemption from disqualification in the event of a split by one-third of the legislature party has been repealed by the 91st Amendment Act of 2003. It means that defectors are no longer protected on the basis of splits.