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### 1. Maharashtra Speaker gives verdict on Shiv Sena split: what was the case before him

#### Introduction

Maharashtra Speaker Rahul Narwekar on January 10 ruled that the Eknath Shinde faction was the legitimate and "real Shiv Sena", having the support of the majority of the party's MLAs.

He was pronouncing his verdict on 34 petitions, filed by the two rival Shiv Sena factions against each other, seeking the disqualification of 54 MLAs in total arising out of the party's 2022 split.

#### The split

The seeds of the conflict were planted when the Uddhav Thackrey-led (united) Shiv Sena joined the Maha Vikas Aghadi government along with traditional rivals Congress and the Nationalist Congress Party in 2019. While Uddhav became CM and Shiv Sena got a number of key ministries, many within the party felt that ditching the BJP for the MVA diluted the party's identity and ideological position.

Things came to a head on June 21, 2022 when Eknath Shinde and a group of 34 Sena MLAs rebelled against Uddhav. Within hours, Uddhav's side passed a resolution removing Shinde as leader of the party in the Maharashtra House, appointing Ajay Choudhari in his place. At the same time, the Shinde group also passed a resolution affirming Shinde's leadership.

After being unable to placate Sena rebels, Uddhav resigned as Chief Minister on June 29 and his government fell. Shinde took oath as Maharashtra CM a day later, allied with the BJP.

#### Disqualification pleas before the speaker

The very first set of pleas were filed by the Uddhav faction two days after the Sena split, seeking the disqualification of Shinde and 15 other MLAs who allegedly ignored

party whips. Eventually, petitions would be filed for the disqualification of a total of 40 Shinde Sena MLAs.

However, the Shinde Sena claimed that the split was borne out of legitimate grievances held by Sena supporters against the direction that the party took under Uddhav, and thus did not violate legislative rules inviting disqualification. It responded in seeking the disqualification of 14 MLAs of the Uddhav faction instead.

These petitions were challenged in the Supreme Court. Also, the decision of the Maharashtra Governor to call for a trust vote was challenged, the swearing-in of Eknath Shinde as the Chief Minister of the Government with BJP backing, and the appointment of Narwekar as new Maharashtra speaker.

### **The Supreme Court weighs in**

From June 2022, the Supreme Court began hearing a batch of petitions filed by leaders from the Thackeray and Shinde factions. In its verdict on May 11, 2023, the Supreme Court held that the Governor's earlier decision to order the floor test for the MVA government as well as the Speaker's decision to appoint Gogawale was incorrect.

With regards to the disqualifications, the SC ruled that Speaker must consider the version of the party constitution which was submitted to the ECI with the consent of both factions.

Notably, the court told Narwekar to not decide based on which faction possesses the majority in the Assembly, and not as per the Election Commission of India's interim order recognising the Shinde faction as a political party.

The Supreme Court also repeatedly pulled up Narwekar for not deciding on the petitions. It initially set a December 31 deadline, which was later extended to January 10.

### **Speaker backs Shinde, rejects both sets of disqualification petitions**

Narwekar held that the 1999 constitution was the last relevant constitution submitted to ECI. "I hold that the Shinde faction was the real political party when the rival faction emerged on June 21, 2022," Maharashtra Assembly Speaker Rahul Narwekar ruled. "Shinde faction had an overwhelming majority of 37 of 55 MLAs when rival factions emerged," he said.

Consequently, he rejected the disqualification petitions filed by Uddhav's faction against the Shinde Sena. However, he also dismissed the disqualification petitions against Shiv Sena (UBT) MLAs on procedural grounds. "Submissions by the Shinde faction that legislators from the UBT faction were liable to be disqualified cannot be accepted on the grounds that it is mere allegation and assertion that they had

voluntarily given up membership of the party. No material was given to substantiate," Narwekar said.

### **What this all means**

Effectively, this means that the Shinde Sena gets further legitimacy as a political party, after the Election Commission also recognised it. While no MLA was eventually disqualified, Uddhav's side is likely to take up the matter in court.

Politically, however, only time will tell how things will play out. While Shinde's supporters are celebrating the Speaker's decision, for the Uddhav faction, things might not be all too glum either. The decision only gives further ammunition to Uddhav and his supporters in their claims that the BJP is trying to "destroy the Shiv Sena."

Relevance: GS Prelims & Mains Paper II; Governance

Source: The Indian Express

## **2. Centre and Opposition spar over rejection of R-Day tableaux: How tableaux are chosen for the Republic Day parade**

### **Why in news?**

India's Republic Day celebrations are incomplete without colourful tableaux cantering down Kartavya Path (formally Rajpath). Showcasing India's rich and diverse cultural heritage, they add colour to the grand event on January 26.



Figure 1 Tableau of Uttar Pradesh during 2023 Republic Day Parade

In the lead up to this year's Republic Day, however, the Centre and several Opposition-ruled states are at loggerheads over the rejection of their states' tableaux. So far, Punjab, Karnataka, Delhi and West Bengal have protested the rejection of their tableau.

Karnataka Chief Minister Siddaramaiah called the decision “an insult to Kannadigas”. Punjab CM Bhagwant Mann regarded it as a reflection of the Centre’s “anti-Punjab syndrome”.

The Centre, on its part, has stuck to its decision. Here is all you need to know about how Republic Day tableaux are chosen.

### **First, who can send tableaux to the Republic Day parade?**

According to a Ministry of Defence (MoD) circular dated October 30, 2023, each year, a select number of “State Governments/UT Administrations/Central/Ministries/Departments” send their tableaux to the Republic Day parade. There is a rigorous application process which begins with interested parties submitting a concept note, along with design blueprints to the MoD. The deadline for submissions to participate in this year’s parade was November 10, 2023.

### **How does the selection process work?**

The tableaux proposals received are evaluated by a committee of experts appointed by the MoD, comprising prominent persons in the field of art, culture, painting, sculpture, music, architecture, choreography, etc. The selection process happens in a phased manner.

**STAGE 1** involves the assessment of the initial proposals and the design sketch/blueprint. The Committee sits alongside official representatives of the participants and suggests modifications, if necessary. A number of proposals may be rejected in this stage itself.

**STAGE 2** involves assessment of three-dimensional models of the proposals. If the Committee is satisfied with the model, then the tableau is selected and further sent for fabrication. The Committee can also suggest changes to models before selection.

Crucially, while the process is envisioned to be collaborative, the Committee has the final say on which tableaux are chosen, and can order any modifications they feel are required.

### **What is the basis of selection?**

As per the above-quoted document, “selection depends upon a combination of factors including but not limited to visual appeal, impact on the masses, idea/theme of the tableaux, degree of detailing involved in the tableaux, music accompanying the tableaux, local artists used etc.”

Each year, the MoD comes up with an overarching theme, under which, participants can showcase elements relevant to their respective state/UT/department in their

tableaux. This year's theme is "Viksit Bharat" (Developed India) and "Bharat: Loktantra ki Matrika" (India: the Mother of Democracy).

The Defence Ministry also shares the basic guidelines about what all the tableaux can or should include. The participating entities must engage "young qualified designers from renowned institutions", electronic display walls for a bright display of images or content, moving elements using robotics or mechatronics, 3D printing could be used for certain elements, use of augmented or virtual reality, and special effects to improve the optics and visual effects of the tableau. Extra weightage is given to tableaux which conform to these guidelines.

Importantly, the tableaux of two different states/ UTs must not be too similar, and eco-friendly material must be used for their construction.

### **So, why have tableaux from Opposition-ruled states been rejected?**

While no official reasons have been given, there could be many factors behind the Centre's decision.

MoD sources told news agency PTI that Punjab and West Bengal's tableaux were ultimately rejected due to them not aligning with the "broader theme". Punjab had reportedly submitted three proposals, including themes like "Punjab's history of sacrifices, women empowerment with Mai Bhago's story, and the state's rich cultural heritage". It is unclear what Bengal's proposal entailed.

With respect to Karnataka, BJP state president B Y Vijayendra on Wednesday (January 10) said that "As far as the tableau issue is concerned, Karnataka has had an opportunity for the last 14 years. Since every state has to get the opportunity, Karnataka has missed this time." He added that Karnataka would get an opportunity next year.

AAP spokesperson Priyanka Kakkar alleged that the Delhi government was not provided any reason for its exclusion. She said that Delhi CM Arvind Kejriwal wanted to present the state's model of governance to the country in the form of a tableaux.

Relevance: GS Prelims & Mains Paper II; Governance

Source: The Indian Express

### **3. Why has South Africa taken Israel to the International Court of Justice?**

#### **Why in news?**

Starting January 11, the International Court of Justice (ICJ) will hold a two-day hearing to decide whether it will order "provisional measures" (the equivalent of seeking urgent interim relief in pending cases in Indian courts) in a case that South Africa has filed

against Israel for violating its obligations under the Genocide Convention in relation to Palestinians in Gaza.

### **First, what is the International Court of Justice?**

The ICJ is the principal judicial organ of the United Nations that settles legal disputes between States in accordance with international law. It is not a criminal court, and it does not try individuals. That is the role of the International Criminal Court (ICC). Both courts are in The Hague, the Netherlands.

The ICJ cannot automatically decide all cases involving breaches of international law. It can only decide cases that are brought before it by States that consent to its jurisdiction.

This consent can be expressed in different ways. In this case, the consent stems from an article in the Genocide Convention that states that disputes between parties relating to the interpretation, application, or fulfilment of the Convention, including disputes relating to the responsibility of a State for genocide, shall be submitted to the ICJ at the request of any of the parties to the dispute.

Both South Africa and Israel are parties to the Convention.

### **And what is the Genocide Convention?**

The Convention on the Prevention and Punishment of the Crime of Genocide is an international human rights treaty that codified the crime of genocide for the first time. The Genocide Convention was the first human rights treaty adopted by the UN General Assembly on December 9, 1948, and has been in effect since January 12, 1951.

The Convention defines genocide as five acts — (i) killing members of a group; (ii) causing serious bodily or mental harm; (iii) inflicting on the group conditions of life calculated to bring about their physical destruction; (iv) imposing measures intended to prevent births within a group; and (v) forcibly transferring children of the group to another group — committed with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group.

There are, therefore, two elements: the physical acts; and the specific intent “to destroy, in whole or in part” a specific group. Committing these acts, however widespread, is not enough to make a claim of genocide. The specific intent to destroy (*dolus*

specialis) is what distinguishes genocide from war crimes, ethnic cleansing, and crimes against humanity.

Also, the commission of war crimes, ethnic cleansing, and crimes against humanity do not provide an avenue for States to approach the ICJ because the court does not have automatic jurisdiction over those crimes.

### **What is South Africa's case against Israel?**

South Africa alleges that Israel has committed several of these acts, and that the evidence of Israeli State officials' specific intent (*dolus specialis*) to commit and persist in committing genocidal acts or to fail to prevent them has been significant and overt since October 2023. This, when combined with the level of killing, maiming, displacement and destruction on the ground, together with the siege "evidence an unfolding and continuing genocide".

South Africa has set out nine pages of statements by senior Israeli Officials, including its President, Prime Minister, and Ministers, to show the existence of specific intent. Also, South Africa states, Israel has failed to prevent genocide and to prosecute the direct and public incitement to genocide, and that it "has engaged in, is engaging in and risks further engaging in genocidal acts against the Palestinian people in Gaza".

### **So what is South Africa asking for?**

South Africa argues that urgent relief is necessary to protect against further, severe, and irreparable harm to the rights of the Palestinian people which continue to be violated, and to prevent any aggravation or extension of the dispute.

Accordingly, it has asked the court to order Israel to immediately suspend all military operations in Gaza; abide by its obligations under the Convention to prevent genocide; desist from expulsion and forced displacement, the deprivation of access to adequate food and water, access to humanitarian assistance, medical supplies and assistance, and the destruction of Palestinian life in Gaza.

It has also asked the court to direct Israel to not commit any further acts, including engaging in direct and public incitement to commit genocide, conspiracy, attempt to commit, or complicity in genocide, and to prevent the destruction of evidence, including by not denying access to fact-finding missions.

It wants Israel to report on the measures taken to implement the court's order, and to refrain from acts which might aggravate the dispute.

### **What will happen now?**

South Africa's case appears to meet the threshold for the court to make a provisional measures order. The Court must be satisfied it has *prima facie* jurisdiction; there is a

“plausible” link between the rights asserted by South Africa and the measures it requests; and a risk of irreparable harm and urgency.

That order will come within weeks, and will have legal significance for all States that are parties to the Genocide Convention because such an order is binding on all States, even though the court lacks enforcement mechanisms.

Israel has called the case “baseless” and a “blood libel”, and called on the international community to reject it. The United States, Hungary, and Guatemala have done so.

Palestine has welcomed South Africa’s case, as have the 57 Organisation of Islamic Cooperation (OIC) countries, Malaysia, Turkey, Jordan, Bolivia, Venezuela, Mexico, Bangladesh, Namibia, Nicaragua, and some others.

France has stated that it will support the court’s decision. India has not issued a statement.

### **How often do such cases come before the ICJ?**

This is not the first case the court will hear under the Genocide Convention. In 2022, Ukraine filed a case against Russia, and in 2019, the Gambia filed a case against Myanmar with respect to the Rohingya.

The Myanmar case was the first time that a State invoked the court’s jurisdiction to seek redress for genocidal acts committed against the citizens of another state. The court agreed that the Gambia had standing to bring the case.

Like the Gambia, South Africa has based its jurisdiction under obligations erga omnes partes — that is, as a party to the Convention, it can bring this case because of its community interest in preventing genocide.

Relevance: GS Prelims & Mains Paper II; International Organisations

Source: Indian Express