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# Explained: In Maharashtra political crisis, powers of Governor, floor test law in spotlight

As the Maharashtra political crisis continues to play out, the Governor's powers under the Constitution to call for a floor test takes centrestage.

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Supporters of rebel Shiv Sena leader Eknath Shinde outside his residence in Thane on Wednesday. (Express Photo: Deepak Joshi)

As the Maharashtra political crisis continues to play out, with the Shiv Sena headed for a split and **Chief Minister Uddhav Thackeray possibly losing majority**, the Governor's powers under the Constitution to call for a floor test takes centre stage.

Article 174(2)(b) of the Constitution gives powers to the Governor to dissolve the Assembly on the aid and advice of the cabinet. However, the Governor can apply his mind when the advice comes from a Chief Minister whose majority could be in doubt.

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In 2020, the Supreme Court, in **Shivraj Singh Chouhan & Ors versus Speaker, Madhya Pradesh Legislative Assembly & Ors**, upheld the powers of the Speaker to call for a floor test if there is a prima facie view that the government has lost its majority.

“The Governor is not denuded of the power to order a floor test where on the basis of the material available to the Governor it becomes evident that the issue as to

whether the government commands the confidence of the House requires to be assessed on the basis of a floor test,” a two-judge bench of Justices D Y Chandrachud and Hemant Gupta said.

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Under Article 175(2), the Governor can summon the House and call for a floor test to prove whether the government has the numbers. In a detailed judgment, the Court also explained the scope of the power of the Governor and the law revolving around floor tests.

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The Madhya Pradesh Governor was faced with a similar situation when MLAs in the Jyotiraditya Scindia camp had defected to the [BJP](#) and the then Congress Chief Minister Kamal Nath had asked the Governor to dissolve the Assembly.

The Governor instead called for a floor test.

When the House is in session, it is the Speaker who can call for a floor test. But when the Assembly is not in session, the Governor's residuary powers under Article 163 allow him to call for a floor test.

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In its 2020 ruling, the Supreme Court had also discussed the right of a political party to access “captive” MLAs who were whisked away to a resort. While the Court did not allow such a right, it underlined that the MLAs are entitled to “decide for themselves as to whether they should continue to be Members of the House when they lack faith in the incumbent government in the state.” But that, the Court said, has to be done on the floor of the House.

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“The spectacle of rival political parties whisking away their political flock to safe destinations does little credit to the state of our democratic politics. It is an unfortunate reflection on the confidence which political parties hold in their own constituents and a reflection of what happens in the real world of politics. Political bargaining, or horse-trading, as we noticed, is now an oft repeated usage in legal precedents,” the Court had said.

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