

Legal Fiction in Party Mergers - Supreme Court Reaffirms Limits Under Anti-Defection Law

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Legal Fiction Latest News

- The Supreme Court's March 2026 ruling in the cooperative societies case has renewed focus on the legal doctrine limiting deeming clauses, with implications for how party mergers are interpreted under the anti-defection law.

Understanding Legal Fiction

- Legal fiction is a device in law where ***something is assumed to be true even though it may not be factually accurate, for the purpose of applying a legal rule.***
 - Common examples include treating an adopted child as the natural child of adoptive parents, or recognising a registered company as a legal "person" capable of suing and being sued.
- Sir Henry Maine, in his classic work **Ancient Law** (1861), described legal fiction as one of the three great agencies, alongside **equity** and **legislation**, through which law adapts to changing societies.

- However, legal scholars have also cautioned against its misuse. Lon Fuller, in his 1967 Stanford monograph **Legal Fictions**, argued that **a fiction is legitimate only when its falsity is openly acknowledged**.
- Once people begin treating the pretence as fact, it becomes dangerous and loses its utility.
- The essential discipline is that a legal fiction must be confined to the specific purpose for which it was created and must not be extended beyond its legitimate field.

The Bengal Immunity Doctrine

- The foundational Indian authority on the scope of legal fiction is **Bengal Immunity Co. Ltd. vs State of Bihar (1955)**, decided by a seven-judge Constitution Bench.
- The case involved a Calcutta-based company that manufactured vaccines and sold them to buyers in Bihar.
- Bihar sought to tax those sales by relying on a deeming clause that treated a sale as having occurred where goods were delivered for consumption.
- The Supreme Court rejected Bihar's argument. Acting Chief Justice S.R. Das laid down the governing principle: **a legal fiction is created for a definite purpose, must be limited to that purpose, and must not be extended beyond its legitimate field**.
- This principle was reinforced by the House of Lords in *East End Dwellings Co. Ltd. vs Finsbury Borough Council* (1952), where Lord Asquith held that **one must imagine the necessary consequences of a fiction but must not let imagination "boggle" beyond them**.
- The Indian Supreme Court adopted this formulation in *J.K. Cotton Spinning and Weaving Mills Ltd. vs Union of India* (1987), confining a deeming fiction in the Central Excise Rules to its stated purpose.

Supreme Court's March 2026 Ruling

- The relevance of the Bengal Immunity doctrine was reaffirmed on March 10, 2026, in *Registrar Cane Cooperative Societies vs Gurdeep Singh Narval*.
- The case involved two sugarcane growers' cooperative societies, Bajpur and Gadarpur, whose villages had fallen partly in Uttar Pradesh and partly in Uttarakhand after the new state was carved out in 2000.
- A member of the Bajpur society argued that his society had automatically become a "Multi-State" cooperative society on the date of bifurcation by virtue of a deeming clause in Section 103 of the **Multi-State Cooperative Societies Act, 2002**.
- Justices P.S. Narasimha and Alok Aradhe rejected this argument. They held that the deeming fiction in Section 103 had a defined purpose, to govern societies whose stated objects extended to more than one state.
- It could not be stretched to undo a completed reorganisation of societies whose objects were confined to a single state.

Implications for the Anti-Defection Law

- The doctrine has significant implications for Paragraph 4 of the **Tenth Schedule** of the Constitution, which deals with disqualification on grounds of defection.
- Paragraph 4 protects legislators when their original political party merges with another party, provided two-thirds of the legislative party agrees to the merger.

- The merger of the original party is the substantive condition; the two-thirds threshold is the verifying count.
- Paragraph 4(2) states that a merger “*shall be deemed to have taken place if, and only if*” the two-thirds requirement is met.
- Applying the Bengal Immunity principle, this deeming clause tells the adjudicator how to verify a merger that has already happened in the original political party, not that the legislators’ assent itself constitutes the merger.

Judicial Precedents on Party Mergers

- This distinction was settled by a Constitution Bench in **Rajendra Singh Rana vs Swami Prasad Maurya (2007)**.
- The Court held that a legislature-party threshold alone cannot satisfy the substantive event in the original party.
- It further clarified that the **Speaker has no independent power under the Tenth Schedule to recognise either a split or a merger**.
- The Punjab and Haryana High Court applied this principle in *Speaker, Haryana Vidhan Sabha vs Kuldeep Bishnoi* (2011), ruling that legislators alone cannot effect a merger; the original political party itself must take the substantive decision.

Recent Controversies

- Despite these precedents, recent practice has witnessed distortions.
- In April 2026, the Rajya Sabha Chairman accepted, by administrative decision, the merger of seven Aam Aadmi Party (AAP) MPs with the BJP based on the same interpretation. A disqualification petition by AAP has been filed challenging this decision.
- Legal experts argue that applying the Bengal Immunity and Rana rulings would have led to the opposite conclusion in these cases.

The Doctrinal Danger

- The core issue is doctrinal. If a deeming clause is read as constitutive, meaning it creates the legal effect rather than merely verifying it, it ceases to be a fiction.
- Instead, it becomes a substantive grant of power: the power of a faction of legislators to declare a merger that the parent political party has not authorised.
- This is precisely the danger that Lon Fuller identified and that Acting Chief Justice S.R. Das addressed in *Bengal Immunity*, that legal fictions must be confined to their definite purpose and not allowed to expand beyond their legitimate scope.

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