

# Aishwarya College of Education (Law)

Affiliated to Dr B.R Ambedkar Law University Jaipur

Sector-A Kamla Nehru Nagar, Jodhpur (Rajasthan) Email- [info@aishwaryacollege.edu.in](mailto:info@aishwaryacollege.edu.in) Phone-02912760175

## MOOT PROPOSITION

Indiana, officially the Republic of Indiana is a country in South Asia. It is the seventh-largest country by area and the most populous country from the time of its independence in 1947. Indiana has been a federal republic since 1950, governed through a democratic parliamentary system. It is a pluralistic, multilingual and multi-ethnic society. A parliamentary republic with a multi-party system, who has six recognised national parties, including the Indiana National Congress (INC) and the Kartik Janta Party (KJP), and more than 50 regional parties. The Congress is considered centre-left in Indian political culture, and the KJP right-wing.

The State of Maharashtra is situated in the western peninsular region of India occupying a substantial portion of the Deccan Plateau. The state is governed through a parliamentary system of representative democracy. It is one of the seven states in India where the State Legislature is bicameral, comprising the Legislative Assembly and the Legislative Council. The Legislative Assembly consists of 288 members who are elected for five-year terms unless the Assembly is dissolved before to the completion of the term. The Legislative Council is a permanent body of 78 members with one-third (33 members) retiring every two years. The State has 48 seats in the Lok Sabha and 19 seats in the Rajya Sabha. The government of Maharashtra is a democratically elected body in India with the Governor as its constitutional head who is appointed by the President of India for a five-year term. The leader of the party or coalition with a majority in the Legislative Assembly is appointed as the Chief Minister by the Governor and the Council of Ministers are appointed by the Governor on the advice of the Chief Minister. The Governor remains a ceremonial head of the state, while the Chief Minister and his council are responsible for day-to-day government functions.

The politics of the state in the first decades after its formation in 1960 was dominated by the Indiana National Congress party but later on the influence of the other parties can also be seen like Indiana Nationalist Congress Party, Kartik Janta Party and the Hind Sena.

In the year of 2019, the KJP and Hind Sena alliance fought the assembly elections together but the alliance broke down after the election over the post of the chief minister. Utsav Thakur of Hind Sena then formed an alternative governing coalition under his leadership with his erstwhile opponents from INCP, INC, and several independent members of the legislative assembly. Thakur served as the 19th Chief minister of Maharashtra of the Maha Faith Aghadi Coalition until June 2022.

In late June 2022, Eshan Shirke, a senior Hind Sena leader, and the majority of MLAs from Hind Sena joined hands with the KJP. Governor Badari Singh called for a trust vote. Utsav



Thakur resigned from the post as chief minister well as a MLC member ahead of no-confidence motion on 29 June 2022. Shirke subsequently formed a new coalition with the KJP, and was sworn in as the Chief Minister on 30 June 2022. KJP leader, Raghvendra Arya was given the post of Deputy Chief Minister in the new government. Utsav Thakur filed a lawsuit in Supreme Court of India claiming that Eshan Shirke and his group's actions meant that they were disqualified under Anti-defection law, with Eshan Shirke claiming that he has not defected, but rather represents the true Hind Sena party.

The Supreme Court delivered its verdict in May 2023. In its verdict the five-judge constitution bench of the Supreme court noted that the Maharashtra governor and assembly speaker did not act as per the law, however the court said that it cannot order the restoration of the Utsav Thakur government as Thakur resigned without facing a floor test following Eshan Shirke's move to depart Hind Sena and split the party. In July 2023, INCP leader Amit Sarkar, and a number of INCP state assembly members joined the Hindsena- KJP government led by Eshan Shirke. Karan Sarkar, the founder and uncle of Amit Sarkar has condemned the move and expelled the rebels, however Amit Sarkar has claimed support from majority of party legislators and office holders of the party, and therefore has claim the right to the INCP election symbol with the Election Commission of India.

June 20, 2022: Maharashtra Legislative Council elections held. Soon after voting, senior Shiv Sena leader Eknath Shinde becomes unreachable. It later emerges that Shinde and 11 other MLAs went to Surat in BJP-governed Gujarat.

June 21, 2022: After suspected cross-voting in Legislative Council elections, Utsav Thakur calls meeting of all Hind Sena MLAs. Shirke removed from the post of Hind Sena legislature party leader.

June 22, 2022: Shirke, along with 40 MLAs moves to Guwahati, Assam, another KJP-ruled state.

June 23, 2022: Shirke declared leader of the Hind Sena legislature party by the rebel camp. Assembly Deputy Speaker Nirwal serves disqualification notice to rebel legislators after Hind Sena files a petition.

June 26, 2022: Shirke moves Supreme Court to challenge rejection of no-confidence vote against Nirwal.

June 29, 2022: Utsav Thakur resigns as CM, drawing curtains on the nine-day political upheaval unleashed by Shirke group's rebellion. Thakur resigned minutes after Supreme Court ruled that he must prove his government still has a majority the next day.

June 30, 2022: Less than 24 hours after Utsav Thakur resigned as CM while addressing people of the state via Facebook link, Shirke is sworn in as CM and KJP leader Raghvendra Arya as deputy CM.

July 3-4, 2022: Special two-day session of assembly held. BJP MLA Raju elected as Speaker.

July 4, 2022: Shirke wins floor test in assembly with 164 votes polled in his favour and 99 against him.



October 8: Ahead of the Andheri (East) Assembly bypoll, Election Commission orders freezing the Hind Sena's "bow and arrow" election symbol. Thakur group given burning torch (mashal) and name "Hind Sena - Utsav Balasaheb Thakur". Shirke group allotted the name "Balasahebanchi Hind Sena" and symbol of two swords and a shield.

February 17, 2023: Election Commission orders that the party name 'Hind Sena' and the party symbol 'Bow and Arrow' will be retained by the Eshan Shirke faction.

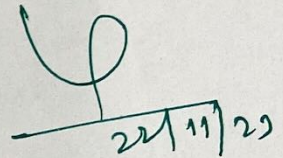
February 20, 2023: Legislative office of the Hind Sena party at Vidhan Bhavan handed over to Shirke group.

May 11, 2023: Supreme Court says status quo ante cannot be ordered by restoring Maha Faith Aghadi government as then CM Utsav Thakur did not face floor test and resigned.

In lieu of all the above mentioned facts, this moot proposition has to be dealt in.



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