

(2010) 08 GAU CK 0051

In the Gauhati High Court

Case No : Writ Petition (C) No. 123 (AP) of 2010

Bengia Menia (Asm Chulyu) and Others

APPELLANT

Vs

Deputy Commissioner, Dist. Lower Subansiri, Zero and Others

RESPONDENT

Date of Decision : 17-08-2010

Acts Referred:

Arunachal Pradesh Local Authorities (Prohibition of Defection) Act, 2003 — Section 3(1), 4, 5, 6
Constitution of India, 1950 — Article 188, 243B, 99

Citation : (2010) 4 GLT 353

Hon'ble Judges : P.K. Musahary, J

Bench : Single Bench

Advocate : P.K. Tiwari, L. Tenzin, A.K. Singh, S. Tapin and K. Saxena, for the Appellant; R.H. Nabam, B.C. Das, D. Majumdar and A. Apang, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Musahary, J.—The facts in this case are as simple as brief, and even uncontroverted.

2. In the year 2009, elections to the Legislative Assembly of the State of Arunachal Pradesh were held. For 16-Yachuli Assembly Constituency, 3 candidates filed their nomination papers, of whom, one belonged to All India Trinamool Congress ("TMC in short) and Anr. beionged to Indian National Congress ("INC in short). On 18.09.2009, the General Secretary, Incharge, Elections, Arunachal Pradesh Congress Committee ("APCC" in short) issued a whip to all the Panchayat leaders to discharge their duties for the victory of the INC nominees in the said election. But defying the said whip, the present Petitioners, except Petitioner No. 7, became the proposers for candidate nominated by TMC party. The Petitioner No. 7 also acted as the counting agent for the said TMC candidate after the poll was over. It may be mentioned that there was a requirement of at least 10 proposers for a candidate for contesting in

the election. In the said backdrop, the Respondent No. 3, in the capacity of Vice-President, APCC, addressed a letter dated 16.10.2009 to the Principal Secretary-cum CEO, Yachuli, Pistana, Lower Subansiri District, requesting him to disqualify the Petitioners and Ors. under the provisions of Arunachal Pradesh Local Authorities (Prohibition of Defection) Act, 2003 (hereinafter referred to as "Prohibition Act" only) and the said letter was forwarded to the Deputy Commissioner, Lower Subansiri District, who is the competent authority under the said complaint under the said Act. The Petitioners and other concerned parties were intimated about the said complaint and on being so informed, the Petitioners placed their respective cases by way of filing affidavits. The Respondent Deputy Commissioner after hearing the parties and on consideration of the materials placed, passed an order on 21.04.2010 holding that the Petitioners have voluntarily given up their membership of INC party and also declaring them disqualified and thereupon, declaring their seats as stood vacant u/s 3(1)(a) of the Prohibition Act, as amended in 2006. However, by a subsequent corrigendum, the order dated 21.04.2010 aforesaid was modified in respect of Petitioner No. 6 Sri Tayo Nibing inasmuch as the Panchayat seat held by him was outside the territorial jurisdiction of Deputy Commissioner, Lower Subansiri District. The aforesaid order dated 21.04.2010 passed by the Respondent Deputy Commissioner, is under challenge in the present writ proceeding.

3. I have heard Mr. P.K. Tiwari, learned Counsel for the Petitioners, Mr. B.C. Das, learned senior counsel assisted by Mr. D. Majumdar, learned Counsel for private Respondent No. 3, Mr. A. Apang, learned standing counsel for Respondent No. 6 viz. State Election Commission and Mr. R.H. Nabam, learned Senior Govt. Advocate, Arunachal Pradesh, for the other official Respondents.

4. Mr. Tiwari, learned Counsel for the Petitioners, calls upon this Court to decide the following issues:

(1) Whether on the ground of Petitioners having acted as proposers or counting agents of TMC candidate in the Assembly Election of 2009, they could be treated to have voluntarily given up the membership of INC party (on whose ticket they were elected as Panchayat leaders) within the meaning of Section 3(1)(a) of Prohibition Act; and

(2) Whether the whip issued by the INC party to work for the victory of the INC Party in the Assembly election of 2009 was a direction within the meaning of Section 3(1)(b) of the said Prohibition Act.

5. The board submission of Mr. Tiwari, learned Counsel for the Petitioners is that defection has not been expressly defined in the Prohibition Act but u/s 3(1)(a) of the Act, the conduct of voluntarily giving up the membership of the party on whose ticket a person was elected as a member of the Panchayat body, can be treated to be an act of defection warranting disqualification. Likewise, u/s 3(1)(b), an act of voting in or in abstention from voting in the meeting of the

Panchayat body or intentional absence from the meeting of the concerned Panchayat body contrary to the direction issued by the political party to which the concerned Panchayat member belongs, can be treated to be an act of defection warranting disqualification. These are only two situations under which a Panchayat member could be treated to have defected from his party leading to his disqualification under the Prohibition Act on ground of defection.

6. The Respondent Deputy Commissioner, according to Mr. Tiwari, drew an inference, as reflected from the impugned order, that the Petitioners have voluntarily given up the membership of the INC party and therefore, they are liable to be disqualified. The said inference is without any basis and as such, the impugned order declaring them disqualified has no sanction of law. The aforesaid inference drawn by the Respondent Deputy Commissioner is not permissible inasmuch as there is no positive, express and clear action on the part of the Petitioners of voluntarily giving up their membership of INC party to which they belonged and got elected as members of the Panchayat body. Since the statute does not enumerate various actions and behaviours which would justify drawing of such inference of having voluntarily given up the membership of the party, there is a need to exercise extreme caution and circumspection in treating a certain conduct or misbehaviour as one of having voluntarily given up the membership of the party concerned within the meaning of Section 3(1)(a) of the Prohibition Act. He also submits that the expression voluntarily given up the membership of such party u/s 3(1)(a) of the Prohibition Act must not be construed liberally independent of other provisions, schemes and objects of the said Act as because Section 3(1)(a) is made subsequent to the provisions of Sections 4 (since omitted), 5 and 6 and a conjoined reading of the said Sections is necessary before drawing an inference against the Panchayat members of voluntarily giving up the membership of their party. The precise submission of Mr. Tiwari is that in a case where there is no express, positive and clear action of voluntarily giving up the membership of the party, the drawing of an inference that the situation envisaged in Section 3(1)(a) of the Prohibition Act, has indeed occurred, should be exclusively on the basis of the activities and the conduct of the Panchayat Members relating to affairs of the concerned Panchayat body. However, he submits that a departure from such a literal construction of 3(1)(a) of the Act is permissible only in the extreme situation whether a Panchayat members contests the elections of an MLA or MP on a ticket of a party other than the one on whose ticket he got elected as Panchayat member and a literal construction of Section 3(1)(a) would be open to serious public mischief leading to subversion of democratic spirit and violation of fundamental rights and freedom of speech and expression besides making the Panchayat members vulnerable to arbitrariness of party high command.

7. On the need of harmonious construction of whole statute with the scheme and objects of the statute, reference has been made to *Osmania University Teachers "Association v. State of Andhra Pradesh* reported in AIR 1987 SC 2304 , *Captain Subash Kumar Vs. Principal Officer, Mercantile Marine Department,*

Madras, ,Mohan Kumar Singania v. Union of India reported in AIR 1992 SC 1 and Madanlal Fakirchand Dudhediya Vs. Shree Changdeo Sugar Mills Ltd., . For better appreciation of the expression "voluntarily giving up of the membership of the political party", reference has been made to judgments in Ravi S. Naik v. Union of India reported in 1994 Supp (2) SCC 641 , Sri Rajendra Singh Rana and Others Vs. Swami Prasad Maurya and Others, , G. Viswanathan Vs. The Hon''ble Speaker, Tamil Nadu Legislative Assembly, Madras and another, It has been persuaded by the learned Counsel that the conduct of the Petitioners falls in the domain of breach of party discipline for which they have already been punished in the form of expulsion from INC party because the conduct in question of the Petitioners is not even remotely linked to their activities as members of the Panchayat body and under the law, one can act as proposer or counting agent for a candidate of a different party, without being a member of that political party. To emphasize further, it has been submitted that even after expulsion from the INC party, the Petitioners did not join any other political party till this date, which they could have done so by this time if they had any intention to voluntarily giving up the membership of the INC party.

8. It has been submitted for the Petitioners that the instruction of the INC party to work for the victory of its nominees in the Assembly Election of 2009, cannot be treated as a whip or instruction within the meaning of Section 3(1)(b) of the Prohibition Act and as such, for violation of such instruction or whip, the Petitioners cannot be disqualified. In this regard, reliance has been put on a decision rendered in Ananga Udaya Singh Deo v. Ranga Nath Mishra and Ors. reported in AIR 2001 Ori 24 . By placing the judgment in Kihoto Hollohon v. Zachillu 1992 Supp (2) see 651, it has been submitted that the powers exercised by the Respondent Deputy Commissioner under the Prohibition Act cannot be treated at par with the powers of the Speaker of a house under the Tenth Schedule to the Constitution of India and hence, the scope of certiorari jurisdiction against the decision of a Deputy Commissioner is akin to the scope of certiorari jurisdiction available against the orders passed by the Central Administrative Tribunal under the provisions of Administrative Tribunals Act, 1985. It was held so in a constitutional Bench judgment rendered in L. Chandra Kumar Vs. Union of India and others, . On the basis of the said judgment, it has been argued that the decision of the Deputy Commissioner under the Prohibition Act can be challenged on all grounds available under the certiorari jurisdiction of High Court like absence of jurisdictional facts, jurisdictional errors, violation of principles of natural justice, illegality or material irregularity in the decision making process and also on the ground of mala fide exercise of power improving his argument, Mr. Tiwari, submits that in the present case, there are material irregularities in the decision making process which incurably vitiated the impugned decision of the Deputy Commissioner inasmuch as the hearing of the case was concluded before the Respondent Deputy Commissioner on 15.12.2009, and the order was kept reserved and only after 24.12.2009, an additional affidavit was filed by the Block Congress President bringing therein new

allegations and also including the names of 2 more Panchayat members viz. Petitioners Nos. 11 and 12 without providing them chance to file rejoinder affidavits to the aforesaid additional affidavit and opportunity of hearing to them. It is, therefore, evident that the Deputy Commissioner acted in a partisan manner on oblique political consideration. Moreover, after passing the impugned order dated 21.04.2010 the Respondent Deputy Commissioner issued a corrigendum dated 26.04.2010 revoking the order of disqualification of Petitioner No. 6, Sri Tayo Nibing on the ground of inherent lack of jurisdiction from which it becomes evidently clear that the said Deputy Commissioner acted in total non-application of mind. The aforesaid reasons warrant interference with the impugned action of the Respondent Deputy Commissioner and quashing/setting aside the impugned order dated 21.04.2010.

9. Countering the aforesaid submissions of the Petitioners, Mr. Das, learned senior counsel, submits that the admitted conduct of the Petitioners in acting as proposers and counting agent of a nominee of a different political party, namely TMC in the Assembly Election inspite of clear instruction/whip from the INC high command, tantamounts to voluntarily giving up the membership of the party they belonged to i.e. INC, within the meaning of Section 3(1)(a) of the Prohibition Act and the Respondent Deputy Commissioner, after hearing the parties and on consideration of the materials placed, came to a right conclusion that they have voluntarily given up their membership of INC party and consequently, declared them disqualified which needs no interference by the Court of law. Moreover, the Petitioners although expelled from the primary membership of the INC party due to their anti-party activities, have not challenged their expulsion orders and as such, they have accepted the punishment inflicted on them for anti-party activities and therefore, they are estopped from challenging the impugned order of the Respondent Deputy Commissioner taking a ground that they have not so far voluntarily given up the membership of the INC party.

10. It has been submitted by Mr. Das that the expression "voluntarily giving up the membership" has been borrowed by the Legislature of the State of Arunachal Pradesh in enacting the Prohibition Act from paragraph 2(1)(a) of the Tenth Schedule to the Constitution of India. The said phrase came up for consideration in deciding the case of Ravi S. Naik (supra) wherein it has been held, amongst Ors. , that the phrase "voluntarily giving up his membership" are not synonymous with "resignation" and have a wider connotation. A person may voluntarily give up his membership of a political party even though he has not tendered his resignation from the membership of that party. Even in absence of a formal resignation from membership, an inference can be drawn from the conduct of a political party to which he belongs. He further refers to Jagjit Singh Vs. State of Haryana and Others, wherein it has been held inter alia that it would not be a valid plea for a person who may have otherwise joined a political party to contend that he has not filled up the requisite membership from necessary to join a political part or has not paid a requisite fee for such membership. The

completion of such formalities would be inconsequential if facts otherwise show that the independent member had joined apolitical party. Mr. Das, learned senior counsel, in the light of the aforesaid judgment submits that the Petitioners became proposers and counting agent of a candidate nominated by a rival political party namely TMC and thereby they have committed an act which is more serious and more apparent than those involved in the aforesaid two rulings of the Apex Court and such conduct leaves no doubt that they have voluntarily given up the membership of INC party and therefore, the impugned decision and order would not be open to judicial review except on the ground of violation of principles of natural justice or found to be ultra vires or mala fide or having been made in colourable exercise of powers based on extraneous and irrelevant consideration, which the Petitioners have failed to established. In the present case, according to him, the allegations made by the Petitioners that the Respondent Deputy Commissioner did not consider the rejoinder affidavit dated 04.02.2010 is not at all correct and the order passed by the Deputy Commissioner itself is manifestly clear that such allegations are misconceived. So also the allegations of the Petitioners that the Respondent Deputy Commissioner adopted a partisan attitude on political consideration are imaginary and without any factual basis. Last of all, it has been submitted that test is not as to whether the Petitioners fulfilled the formalities of joining TMC party but as to whether they have given up their character as members of the INC party and joined the TMC party for all intent and purpose which is to be determined on appreciation of materials on record. As for the present case, the Respondent Deputy Commissioner has come to a categorical finding that the very fact of the Petitioners becoming proposers of a candidate nominated by TMC party amounted to voluntarily giving up the membership of the INC party, having been based on a valid and justified ground, would not fall within any of the parameters of judicial review within the dicta of Kihoto Hollohan (supra) and as such, there is no scope for interference by a writ Court.

11. From the above submissions of the learned Counsel for the parties, it is quite comprehensible that the Petitioners are seeking protection against disqualification u/s 3(1)(b) while the Respondents are justifying Petitioner"s disqualification u/s 3(1)(a) of the Prohibition Act. It may be noted that the Prohibition Act has been enacted by the State to prohibit defection by the members of the Zilla Parishad/Anchal Samity from the political parties by which they were set up as candidates. In the similar line and for the purpose as provided in Tenth Schedule of the Constitution of India, the Respondent-State has enacted the Prohibition Act making provision for disqualification of the members of the Panchayat bodies on ground of defection from the political parties. Para-2 of the Tenth Schedule to the Constitution and Section 3(1)(a)(b) of the Prohibition Act provide for ground of disqualification of members of houses in the Parliament and State Legislature and the Panchayat bodies respectively. For a comparative discussion and consideration both the provisions in the Tenth Schedule and the Prohibition Act are quoted below:

2. Disqualification on ground of defection- (1) Subject to the provisions of [paragraphs 4 and 5], a member of a House belonging to any political party shall be disqualified for being a member of the House-

(a) If he has voluntarily gives up his membership of such political party; or

(b) If he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority uthorized by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

Explanation: For the purposes of this subparagraph,-

(a)An elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member;

(b)A nominated member of a House shall,-

(i) Where he is a member of any political party on the date of his nomination as such member, be deemed to belong to such political party.

(ii) in any other case, be deemed to belong to the political party of which he becomes, or, as the case may be, first becomes, a member before the expiry of six months from the date on which he takes his seat after complying with the requirements of Article 99 or, as the case may be Article 188.

Prohibition Act

3.(1) Subject to the provision of Sections 4, 5 and 6 a member, belong to any political shall be disqualified for being such member;

(a) If he has voluntarily given up his membership of such political party; or

(b) If he votes or abstains from voting in or intentionally remains absent from any meeting of the Zilla Parishad or Anchal Samiti or Gram Panchayat contrary to any direction issued by the political party to which he belongs or by any person or authority authorized by it in this behalf without obtaining the prior permission of such party, person or authority and such voting abstention or absence has not been condoned by such political party, person or authority within fifteen days from the date of voting or such abstention or absence.

Explanation: For the purpose of this Sub-section a person elected as a member shall be deemed to belong to the political party, if any by which he was set up as a candidate for election as such member.

12. Defection of members in the houses of Parliament and State Legislature, known as horse trading in common parlance, has been posing as a great threat to the functioning of the democratic institutions like Parliament and Legislative Assembly. Tenth Schedule to the Constitution was incorporated to prevent such

danger to democracy. The said schedule has been declared by the Apex Court as constitutionally valid in the *Kihoto Hollohon* (supra) and thereafter country has witnessed some restraint on the unethical defection of members. It was felt necessary by the State Respondent to take similar steps against defection of members in the Panchayat bodies due to similar trend of defection therein. It must be noted that due importance has been given to the Panchayat Raj System by incorporating Part-IX in the Constitution of India for constitution and administration of Panchayat vide Constitution (73rd Amendment) Act, 1992. The said amendment was brought after consideration of recommendations made by various committees constituted at various times by the Government of India. Amongst them, the Thungon Committee 1988, for the first time recommended the need for constitutional recognition for strengthening the Panchayat Raj Institutions in India. Under Article 243B, States are bound to constitute Panchayat at village, intermediate and district levels. By these provisions under the Constitution of India, Panchayats are treated as key institutions in the democratic republic of India and they have been sought to be utilized as institutions of self government in rural areas providing chance of participation to the rural masses with more response and accountability. This is a revolutionary step towards decentralization of power and building new leadership in the rural areas to bring about faster development. This is how the importance of election in the Panchayat is gaining more importance and that is why the trend of defection of members in the panchayat bodies is also taking place necessitating prevention of such defection by enacting laws by the States.

13. Under the Tenth Schedule as well as Prohibition Act disqualification of members can be ordered on ground of voluntarily giving up membership of the political parties to which they belong or abstaining from voting in the house contrary to any direction issued by the respective political parties. By the impugned order, the Petitioners have been disqualified on the ground of voluntary resigning from INC by which they were nominated and returned to the panchayat bodies. The Petitioners have denied the accusation of voluntarily giving up membership from INC party because they have not so far resigned or given up the membership by way of communicating to the party or by expressing anything from their end to that effect. There is no express or implied action by which the Petitioners can be treated as giving up the membership of INC. As per the decision of the Apex Court, if the words "voluntarily given up his membership" are not synonymous with "resignation" and it should be given wider connotation, the impugned order disqualifying the Petitioners could be saved inasmuch as the Petitioners have admittedly acted in the assembly election for making rival candidate nominated by TMC returned violating the direction of the party high command to work for returning the INC candidate. If the said admitted anti-party activities of the Petitioners are taken into consideration, it would amount to resignation or voluntarily giving up their membership by their conduct and by implication in "wider connotation" to save the most important democratic institutions like Panchayat. It cannot be denied by anybody that the

Tenth Schedule has been incorporated in the Constitution of India so much so the Prohibition Act has been enacted to save the democracy and its institutions like Parliament, State Legislatures and the Panchayats. The erring members may try to justify their unbecoming conduct like proposing a member of a rival political party as candidate to contest the assembly election but it has already worked against the democratic norms and the democratic institutions sought to be protected by effecting amendment to the Constitution of India in response to popular will. Such important democratic institutions may turn to a sterile woman or prostitute at the hands of the immoral and unethical members, who shift their party loyalty in the cheapest manner to serve the individualistic interest and their conduct has not only cost the party they belong to but also the entire nation.

14. It may apparently be correct that the anti-party activities of an elected member of the Panchayat would not attract disqualification u/s 3(1)(a) of the Prohibition Act unless he violates the conditions set forth u/s 3(1)(b). The object of the Prohibition Act visa vis the Tenth Schedule does not allow such interpretation in narrow connotation. Once the person is nominated as a party candidate and returned to the Panchayat body he becomes a trust of the electorate and his conduct and activities must conform to public trust and moral within or outside the house; be it Parliament, Legislature or Panchayat body, because he is a member of the democratic institution elected by the people who have faith in democracy and its institutions. Equally he must be committed to the party by which he was nominated and the electorate as well till the terms of election or the terms of the body is completed. In this context, one may appropriately refer to Kihoto Hollohon (supra), wherein it is observed that the provisions in Tenth Schedule give recognition to the roof of political parties in the political process. A political party goes before the electorate with a particular programme and it sets up candidates at the election on the basis of such programme and a person who gets elected as a candidate set up by political party, is so elected on the basis of the programme of that political party. The provisions of Para 2(1)(a) proceed on the premise of the political propriety and morality demands that if a person, after the election "changes his affiliation" and leaves, the political party which had set him up as a candidate at the election, then he should give up his membership of the legislature and go back before the electorate.

15. In the present case, the Petitioners having indulged themselves in anti-party activities have demonstrated change of their affiliation to INC party. The Petitioners no doubt did not leave the INC party by resigning from the membership or informing the party leadership about their intention to leave the party but they have, during the last general assembly election, indicated expressly their changing of affiliation or allegiance to the INC party by which they were set up for the Panchayat election and got returned. This changing of affiliation, allegiance or loyalty to party, if considered under the provisions of Section 3(1)(a), would amount to giving a scope for drawing an inference that they have, by implication, if not expressly, given up their membership of INC

party. The result of express and implied resignation from party or giving up membership of a political party would be same, which obviously, is disqualification u/s 3(1)(a) of the Prohibition Act.

16. The aforesaid inference of change of affiliation by the Petitioners leading to disqualification is a result of legal fiction provided in the Explanation 1 to Section 3(1) of the Prohibition Act. This is a provision under which the existence of a fact of voluntarily giving up of a political party can be presumed for the purpose of assuming the existence of a fact, which is yet to exist in fact openly but admitted to have existed. It is well settled by now that the legislature is competent to enact a deeming provision for the purpose of assuming existence of a fact which does not even exist. The deeming provision permits the Court to assume such state of affairs exist as real. I do not find any valid reason why the aforesaid principle of law cannot be applied to the present case on the face of the admission of the Petitioners that they proposed a candidate set up by a different political party as candidate for legislative assembly and worked for his success defying the direction of the INC party to which they belong and shown their express disloyalty to their own party. The shelter taken by the Petitioners u/s 3(1)(b) of the Prohibition Act is too abstract and the same cannot be availed by them because this protection is meant for those members who are not found changing their loyalty to the party to which they belong and elected as members of the Panchayat but for some reasons, they decide to abstain or vote in the house as per the direction of the party u/s 3(1)(b) of the Prohibition Act. Here is a case where the Petitioners as members of the Panchayat body, before any proceeding has taken place in the house, have already changed their affiliation/loyalty to INC party by their conduct by way of proposing TMC candidate for assembly seat and working for his return, which they have done in their own violation without being compelled by the INC party. There is no statement to the effect that they were compelled by the INC party to propose/set up a TMC candidate for membership in the assembly and worked for his success. The voluntariness of their anti-party activities is not only apparent but also admitted. So also their changing of party affiliation or loyalty before commencement of any proceeding in the panchayat body is found admitted although they have not communicated the same in writing to the party high command. Once it is found that the Petitioners have changed their affiliation or loyalty to the party, it is not necessary for the party high command to wait for an occasion to happen as contemplated u/s 3(1)(b) of the Prohibition Act i.e. abstention from the meeting or voting etc. contrary to direction of the party. The shifting of party affiliation/loyalty is the root of the political defection creating chaos in the functioning of the democratic institutions and the Parliament earnestly sought to remove the said evil. This would be evident from the statement of objects and reasons appended to the bill introducing the constitution (Fifty-second Act, 1985). To quote-

The evil of political defection has been a matter of national concern. If it is not combated, it is likely to undermine the very foundation of which democracy and the principles which sustain it. With this object, an assurance was given in the

Address by the President to Parliament that the Government intended to introduce the current session of Parliament an anti-defection Bill. This Bill is meant for outlawing defection and fulfilling the above assurance.

17. The focus is on "political defection". Defection is the ultimate manifestation of disloyalty to the party or change of mind or affiliation. Therefore, the argument advanced by Mr. Tiwari, learned Counsel, that the Petitioners have not yet resigned or left the party although their memberships have been suspended, would hold no water. The question of providing principle of law adhering to strict principle of natural justice, in my considered view, would not be applicable to the present case for the simple reason that they have not denied their anti-party activities and that they have, thereby impliedly or by implication given up the membership of INC party by changing their affiliation or loyalty to INC party by which they were set up as candidates and returned as members to the Panchayat bodies. I find no infirmity or illegality in the findings and decision of the Respondent Deputy Commissioner and accordingly, I refrain from interfering with the impugned order dated 21.04.2010. The writ petition is rather found devoid of any merit and the same is liable to be dismissed. It is accordingly dismissed without any order as to cost.

I part with the records referring to what Shakespeare said, no legacy is so rich as honesty.